JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE

JOINT MEETING

AGENDA

Justice 1 Committee
15th Meeting, 2004 (Session 2)
Justice 2 Committee
14th Meeting, 2004 (Session 2)

Wednesday 21 April 2004

The Committees will meet at 10.15 am in Committee Room 1.

1. **Budget process 2005-06**: The Committees will take evidence from—

   Stephen Woodhouse, Director of Finance, Shona Barry, Team Leader Policy Group, and John Dunn, Head of High Court Unit, Crown Office and Procurator Fiscal Service;

   Cliff Binning, Director of Operational Policy and Planning, Nicola Bennett, Director of Finance, and John Anderson, Principal Clerk of Session and Justiciary, Scottish Courts Service;

   Val Bremner, Secretary, and Jim Caldwell, member, Procurators Fiscal Society.

Alison Walker
Clerk to the Justice 1 Committee
Tel: 0131 348 5195

Gillian Baxendine / Lynn Tullis
Clerks to the Justice 2 Committee
Tel: 0131 348 5054
The following papers are enclosed for this meeting:

**Item 1 – Budget process 2005-06**

- Note by Adviser (PRIVATE)  
  J1/S2/04/15/1  
  J2/S2/04/14/1  
- Note by Adviser to the Justice Committees  
  J1/S2/04/15/2  
  J2/S2/04/14/2  
- Guidance to Subject Committees  
  J1/S2/04/15/3  
  J2/S2/04/14/3  
- Extract from the Annual Evaluation Report 2005-06  
  J1/S2/04/15/4  
  J2/S2/04/14/4

**Forthcoming Joint Meetings:**
- Wednesday 28 April – Joint meeting (morning)
- Tuesday 4 May – Joint meeting (afternoon)
- Tuesday 11 May – Joint meeting (afternoon)
JUSTICE 1 COMMITTEE

Late papers for the 15th Meeting of Justice 1 and 14th Meeting of Justice 2, 2004 (Session 2)

Wednesday 21 April 2004

I attach the following papers:

**Agenda item 1**

Note from the Scottish Court Service

J1/S2/04/15/5

J1/S2/04/14/5

19 April 2004

Tony Reilly
Introduction

1. The purpose of this note is to:
   - provide a brief commentary on the Scottish Executive’s Annual Evaluation Report (AER) 2005-06\(^1\);
   - remind the Committees of the main points made in their October 2003 report to the Finance Committee on the draft 2004-05 budget; and
   - summarise the key points on which the Finance Committee would welcome advice from subject Committees at Stage 1 of the 2005-06 Budget Process.

Annual Evaluation Report 2005-06

2. As the following table shows, the Justice and COPFS spending plans for 2005-06 shown in the AER are broadly similar to those outlined in the draft 2004-05 budget which the Committees considered last Autumn:-

\[
\begin{array}{l|ccc}
& 2003-04 & 2004-05 & 2005-06 \\
\hline
\text{Justice} & & & \\
\text{Draft 2004-05 Budget} & 755.29 & 783.97 & 792.52 \\
\text{AER 2005-06} & 755.29 & 785.01 & 801.49 \\
\end{array}
\]

\(^1\) Scottish Executive, Annual Evaluation Report 2005-06, available online at the following website: http://www.scotland.gov.uk/library5/government/aer06-01.asp
3. This is of course a Spending Review year and the draft budget for 2005-06 and the subsequent 2 years which the Scottish Executive will publish in September will include the Barnett formula consequentials of any increases which are agreed for England as part of the Review. Although Professor Midwinter warned the Committees when he gave evidence that the overall public expenditure situation would be tighter than at the time of the 2002 Spending Review, the Chancellor of the Exchequer announced in his recent Budget, significant increases in Health and Education expenditure for England for the 2004 Spending Review period, so there is little doubt that there will be some growth in the Scottish Budget.

<table>
<thead>
<tr>
<th></th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>COPFS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Draft 2004-05 Budget</td>
<td>87.90</td>
<td>87.59</td>
<td>88.0</td>
</tr>
<tr>
<td>AER 2005-06</td>
<td>87.90</td>
<td>86.98</td>
<td>88.99</td>
</tr>
</tbody>
</table>

Justice Committees’ Report on Draft 2004-05 Budget

4. In the light of the Minister for Justice’s comment when giving oral evidence that, not only the Justice budget but also for example, the Education and Communities budgets, contributed to the Executive’s priority of tackling crime, the Committees recommended that budget information should be provided on a “programme” rather than Departmental basis.

5. While a number of budgets - not only Education and Communities, but also, for example, Sport & Recreation, Health and Enterprise - undoubtedly play a part in the general fight against crime, I suspect that in practice it would be difficult for the Executive to say how much of those budgets could be allocated specifically to tackling crime. But this is clearly a matter which the Committees will wish to pursue with Executive officials and with the Minister when they give oral evidence.

   a) So that spending trends can be clearly seen, a consistent time-series of budget data going back at least 5 years should be made available.

6. At the meeting on 16 March, Professor Midwinter indicated that the Executive had undertaken to provide a 10-year time series of budget data but that the Executive’s timescale for the publication of this

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2 Professor Arthur Midwinter, Justice 1 and 2 Committees, 16 March 2004, Oral Evidence, OR Col 128
3 Report to the Finance Committee by the Justice Committees October 2003
information was not clear.\(^4\) Again this is something the Committees may wish to pursue with the Minister.

a) Funding and responsibility of secure accommodation should be aligned by relocating the budget from the Education Department to the Justice Department.

b) The area of Justice should be treated as the priority it is declared to be by increasing spending on (a) alternatives to custody, (b) the Fire Service, (c) the Police Service and (d) COPFS.

c) Steps should be taken to address serious funding difficulties of pension provision in the Police and Fire Services.

d) Consideration should be given to earmarking an undisclosed amount in the contingency reserve against the cost of modernising the Fire Service.

e) Performance targets for both the Scottish Prisons Service and the COPFS should reviewed.

Questions which Finance Committee would like subject Committees to address

7. In its guidance on Stage 1 of the 2005-06 Budget Process, the Finance Committee has suggested that there is little scope to re-allocate resources for 2005-06 and has asked subject Committees to consider their priorities for 2006-07 and 2007-08. Committees have been asked to respond to the following specific questions when reporting to the Finance Committee:-

a) Has satisfactory progress been made regarding recommendations in last year’s report on the draft 2004-05 budget?

b) Does the Committee(s) wish to recommend any realignment of the 2005-06 budget within the expenditure limit for the Department concerned (see Departmental Expenditure Limit figures in Table 0.03 on page 12 of the AER)? Any proposed increase must be balanced by a compensating reduction.

8. The Finance Committee’s advice is clearly that there is no point in recommending an increase in the overall level of either the Justice or COPFS budget for 2005-06. However, if the Committees wished, they could recommend a re-distribution of resources within each of

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\(^4\) Professor Arthur Midwinter, Justice 1 and 2 Committees, 16 March 2004, Oral Evidence, OR Col 132
those budgets provided in each case the impact was neutral in expenditure terms.

a) Which programme(s) does the Committee think should be given priority in the 2004 Spending Review? If more than one programme is recommended for priority, the priorities should be ranked and the case for priority made. Committees are also asked to say whether any programmes should be given a low priority and, if so, why.

9. On the basis of question 7. b) above, it would appear that this question is aimed mainly at the second and third years of the Spending Review - namely, **2006-07** and **2007-08**.

a) Against the background that the Executive’s budget strategy has been extensively revised and focused on cross-cutting themes (growing the economy, delivering excellent public services, etc - see pages 1-9 of the AER), the Committee is asked to comment on whether or not it is content with this new strategy and on its relevance to the Committee’s responsibilities.

b) The Committee(s) is also asked to comment on the performance reporting material in the AER - that is, the progress so far in meeting targets (see pages 15-17 of the AER for the Justice Department and pages 21-23 for the COPFS). How does the Committee view that progress? Are the targets challenging enough and appropriate? Are there any gaps in the targets?

10. The Committees may wish to bear these questions in mind when taking evidence from witnesses and when considering written evidence.

Ken McKay
Budget Adviser to the Justice Committees
13 April 2004
Finance Committee

Stage 1 of the 2005-06 Budget Process

Guidance to Subject Committees

1. At the first stage of the annual budget process, the terms of which have been approved by the Parliament, subject committees are asked to consider and report on the future spending priorities within their responsibilities. At this stage, there is little scope to reallocate resources for 2005-06 and as this is a Spending Review year, Committees are asked to consider their priorities for the period to 2007-08.

2. The new Annual Evaluation Report (AER) is in a revised format. The Finance Committee had recommended that the format should be altered and this has been accepted by the Executive. This revised format refocuses Stage 1 on strategy and performance issues as originally envisaged in the Financial Issues Advisory Group (FIAG) report, and recognises the centrality of the Spending Review process in planning and allocating resources. The AER now contains a new statement of strategy and priorities; an assessment of performance against the portfolio targets set out in previous budgetary documents; and an updating of the expenditure plans for 2005-06. As this is a novel approach, Committees will recognise it has further scope for improvement.

3. In particular, Committees should recognise that it has not been possible to provide a financial report, as the first year of the SR2002 Budget cycle – 2003-04 - only ended on 5 April. The Finance Committee will discuss with Ministers how this can be included in future years. In addition, the targets too only represent an interim report as these were set to cover the period to 2005-06 and beyond, in some cases. Finally, the AER has no sections covering portfolio priorities, what the Budget does, and what the Executive will do with the money as these will appear in the Draft Budget in September/October. Committees can, however, refer back to Draft Budget 2004-05 as necessary.

4. Those developments apart, the arrangement whereby the Executive will cost any specific spending options Committees want to pursue, if these go beyond the simple identification of Levels 2 and 3 programmes as priorities, will continue. Parliament’s recommendations will be discussed by Cabinet in the summer. The Finance Committee will assess Committee recommendations against the revised budget strategy. Subject Committees should ensure that their advisers are
aware that whilst they may raise process issues in their advice, the format of the documents needs to be consistent with the agreement between Parliament and the Executive, and responsibility for the process remains with the Finance Committee.

5. The Finance Committee recognises that there may be budgetary issues which are internal to their subject area, and Committees can address these directly with the Ministers concerned. The Finance Committee, however, shall receive a corporate response from the Executive regarding the overall issues raised in its Stage 1 Report. It would therefore welcome responses from the subject Committees on the undernoted key questions:

- Is the Committee satisfied that progress has been made over any outstanding issues made in its recommendations last year?

- In the context of the 2005-06 budget, does the Committee wish to recommend any realignment of resources within the Departmental Expenditure Limit (DEL)*? Committees should note that any increase proposed for programmes must be balanced by a compensating reduction from other programmes within their portfolio.

- In the context of the forthcoming Spending Review which is expected to provide for a lower rate of growth in real terms than SR2002, which programme(s) should be given priority in the allocation of resources? If Committees recommend more than one programme (at Level 2 or 3) these should be ranked and the case for the priority made. If the Committee feels any programme should be a low priority within the portfolio, it should state which and why. Finally, if the Committee wishes to identify a specific proposal below Level 3, it can do so, and the Executive will cost this if necessary.

- As the Executive’s budget strategy has been extensively revised and focussed on crosscutting themes, the Committee’s view on this approach and its relevance to its responsibilities would be welcome. In short, is the Committee content with the new strategy?

- The performance reporting material sets out progress so far against portfolio targets. How does the Committee view that progress; does it consider the targets are challenging enough and are they appropriate?; and does it feel there are any gaps in the targets?

- What written evidence is available to the Committee in making its recommendations, and from which individuals and organisations did it take evidence?
* Committees will notice there have been significant increases in Annual Managed Expenditure (AME) but this is ring-fenced
1 **Key purpose & objectives**

To provide, in co-operation with the Judiciary, ready access to justice through the speedy, efficient and cost-effective administration of the courts and office of public guardian. In support of this there are key objectives covering staff, services, accommodation and best value.

2 **Expenditure profile**

2.1 **Analysis of operating spend**

<table>
<thead>
<tr>
<th>Description</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of maintaining/supporting the estate ((^\text{Note 1}))</td>
<td>32.5</td>
</tr>
<tr>
<td>Expenditure directly relating to court proceedings ((^\text{Note 2}))</td>
<td>6.1</td>
</tr>
<tr>
<td>Staff and associated service costs of running courts and Office of Public Guardian</td>
<td>38.9</td>
</tr>
<tr>
<td>Civil fees ((^\text{Note 3}))</td>
<td>(16.9)</td>
</tr>
<tr>
<td></td>
<td>60.6</td>
</tr>
</tbody>
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**Notes**

1 This includes buildings’ capital, maintenance and cost of capital and is net of £2.8m from Crown Office for rent of PF accommodation.
2 Includes jurors’ expenses, translation fees, doctors’ reports
3 This projection assumes a reduction in income due to the exemption of fees for predominantly legally aided cases. As a result, the £2.2m would need to be separately funded.

2.2 **Analysis of capital spend**

<table>
<thead>
<tr>
<th>Description</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings</td>
<td>7</td>
</tr>
<tr>
<td>Information Communications technology</td>
<td>2.9</td>
</tr>
<tr>
<td>Other</td>
<td>0.4</td>
</tr>
<tr>
<td></td>
<td>10.3</td>
</tr>
</tbody>
</table>

The cost of running our estate (53 court buildings, 83% of which are listed) at £32.5m consumes over 50% of available resources. This includes approximately £20m for capital charges.

£6.1m is also required for meeting the unavoidable costs that are necessary to support legal proceedings – i.e. juror payments, interpretation services, doctor’s reports. These costs are committed by decisions of the court (and legislation) – there is no discretion for the agency over this spend.

90% of staff are directly involved in front line service delivery.
3. Spending priorities
The main drivers of expenditure for SCS relate to core business (mainly solemn & summary crime) and partnership commitments such as high court reform and delivering service improvements for court users such as vulnerable witnesses. The allocation of expenditure for 2005/6 is informed by analysis relating to core business activity – projections suggest that criminal business brought before the courts will rise by around 5% year on year. It represents an allowance for High Court reform including improved court facilities. It provides a resource for SCS to pursue a Best Value agenda driven by Chartermark, IIP, phased roll-out of systems improvement including electronic service delivery, diversity (including development of our race equality plan) and joint working with criminal justice partners in systems improvement.

The capital investment of £10m largely relates to the refurbishment of the Supreme Courts in Parliament House. The balance will fund improvements relating to High Court reform /Vulnerable Witness legislation and a continuing programme to comply with Disability Discrimination legislation.

The provision assumes the following performance:

<table>
<thead>
<tr>
<th>TARGETS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 85% of summary criminal cases disposed of within 20 weeks of first calling in court</td>
</tr>
<tr>
<td>• Achieve the administrative targets set by the Lord President and Sheriffs Principal.</td>
</tr>
<tr>
<td>• Achieve a court user satisfaction level of 80% by 2007-8</td>
</tr>
</tbody>
</table>

Impact of sentencing changes
The Scottish Court Service carried out detailed analyses of the potential impact of the change in sentencing powers. This was informed by an initial sampling exercise which indicated a transfer of business from the High Court to the Sheriff Courts in the order of 20%. Recognising the difficulty in arriving at a precise forecast, further analyses assessed the impact across a range of between a 20 and 30% transfer and applied the potential redistribution across all 49 Sheriff Courts.
We concluded that the change could be accommodated in most courts without undue difficulty; and with careful planning and management of resources all Sheriff Courts would be able to accommodate the change. The change is therefore provided for in the 2005/06 budget allocation.

Review of Summary Justice
The Executive is currently consulting on the report of the review of summary justice carried out by an independent Committee chaired by Sheriff Principal John McInnes. Consultation ends in mid – July. It is not possible at this stage to reach firm conclusions as to the potential impact of recommendations which may be implemented.
In the main, the report makes recommendations in three key areas bearing on SCS – process (mainly around diversion and increasing speed and efficiency) procedural (court proceedings) and structures (unification, fines recovery and composition of the bench). The most significant impact on the Scottish Court Service would be associated with the structural changes. We are, however, currently assessing the implications for the agency of all the report’s proposals; much more detailed examination and assessment will be needed before firm financial conclusions can be drawn.

Our budget allocation for 2005/06 does not include specific provision for outcomes of the review of summary justice.

Scottish Court Service
15 April 2004