The Committee will meet at 9.30 am in Committee Room 5.

1. **Decision on taking business in private**: The Committee will decide whether to take items 5 and 6 in private.

2. **Protection of Workers (Scotland) Bill**: The Committee will consider its approach to the scrutiny of the Bill at Stage 1.

3. **Banking issues**: The Committee will discuss correspondence received relating to banking issues in Scotland.

4. **Energy inquiry - update from the Scottish Government**: The Committee will consider a progress note from the Scottish Government on the delivery of the recommendations made as part of the Committee's inquiry.

5. **A fundamental review of the purpose of an enterprise agency and the success of the recent reforms**: The Committee will consider its approach to the inquiry.

6. **Draft Budget Scrutiny 2011-12 - appointment of adviser**: The Committee will consider a draft remit, person-specification and a list of candidates for the post of budget adviser.
The papers for this meeting are as follows—

**Agenda item 2**

Note by the clerk

PRIVATE PAPER

**Agenda item 3**

Note by the clerk

**Agenda item 4**

Note by the clerk

**Agenda item 5**

PRIVATE PAPER

**Agenda item 6**

PRIVATE PAPER
Protection of Workers (Scotland) Bill – Stage 1 approach

Background

1. The Protection of Workers (Scotland) Bill (SP Bill 47) (“the Bill”) was introduced by Hugh Henry MSP in the Scottish Parliament on 1 June 2010. The original title of this Bill was the Workers (Aggravated Offences) (Scotland) Bill.

2. Copies of the Bill and the accompanying documents have been distributed to Members of the Committee.

3. On the recommendation of the Parliamentary Bureau, the Economy, Energy and Tourism Committee was designated on 8 June 2010 by the Parliament to be the lead committee to consider the Bill at Stage 1. Following exploratory discussions between officials, it is suggested that a date of the Christmas recess would be likely for completion of the Stage 1 consideration of the Bill. It should be noted, however, that the final decision on the timing for Stage 1 is a matter for the Parliament on a recommendation of the Bureau. Members may wish to express any views they have on this matter at this stage.

4. This approach paper has been prepared in order to enable the Committee to consider a proposed timetable for consideration of the Bill and to agree on those witnesses to invite to give evidence during Stage 1 consideration of the Bill.

The Bill

5. The purpose of the Bill is to create a new offence of assault against workers whose employment involves dealing with members of the public to any extent (but only where the worker is physically present in the same place as members of the public and is either interacting directly with, or providing a service to, the public). The offence covers assaults while such workers are acting in the course of their employment and also assaults that take place at other times but which relate to their employment.

6. The Bill does not seek to extend the scope of the criminal law – any behaviour which could be prosecuted under the proposed offence could also be prosecuted under existing criminal offences (e.g. the common law offence of assault). However, by creating a specific offence, the Bill seeks to strengthen the protection available for a particular group of workers. The policy memorandum draws parallels with the Emergency Workers (Scotland) Act 2005 (the EWA), which provides protection to some emergency service and health care workers. The penalties in this Bill mirror those of the EWA, which are a maximum jail term of 12 months and/or a monetary fine of £10,000 (these are the current penalties under the EWA following changes introduced as part of the Criminal Proceedings etc (Reform) (Scotland) Act in 2008).
7. According to the member in charge, the Bill is being introduced in response to recognition that there are many workers who provide a service to the public, but who are not covered by the EWA, and therefore are vulnerable because of their occupation.

8. The Bill provides for summary prosecution only, although more serious cases may still be tried under solemn procedure using the common law offence of assault. The Bill applies to private and public sector workers.1

9. The Policy Memorandum expresses a hope that “… the Bill will have a deterrent effect, reducing the number of attacks on workers and their equipment.”2

10. SPICe has published a briefing on the Bill, which has been issued with the papers for today’s meeting.

11. The Presiding Officer has ruled that no financial resolution is required for this Bill.

Proposed approach and timing

12. At Stage 1 of the legislative process, the Committee is required to report to Parliament on the general principles of the Bill. It is, therefore, proposed that the Committee take oral evidence from key stakeholders. It should be noted that the member in charge of the Bill has already consulted on his proposals. Copies of the original written submissions in response to his consultation have been made available by the member in charge of the Bill to the clerks.

13. It is proposed to take evidence at Stage 1 at four meetings. The following proposed panels are indicative of the types of witnesses that may be called to give oral evidence. In drawing up these suggestions, attention has been given to ensuring a balance between organisations and individuals in favour or against the Bill or certain key provisions.

22 September 2010

A panel or panels of trades unions or other representative bodies consisting of all or some of the following:

- CFOAS - Chief Fire Officers Association Scotland
- Scottish Police Federation
- STUC – Scottish Trades Union Congress
- UNISON
- UNITE
- EIS – Educational Institute of Scotland
- RMT or ASLEF.
- USDAW - Union of Shop, Distributive and Allied Workers

1 The Protection of Workers (Scotland) Bill, Policy Memorandum, paragraph 10
2 The Protection of Workers (Scotland) Bill, Policy Memorandum, paragraph 39
A couple of individuals with direct personal testimony of incidents of assault/violence where they felt that a law such as this would have been more beneficial, consisting of people in the following sectors:

- Retail; and
- Transport.

29 September 2010

Panel 1 (employer representatives, including witnesses such as)
Employers (ACPOS, FSB, Capability Scotland – all of whom have provided written evidence)
A cross section of local authorities
Queen Margaret University (QMU) researchers

Panel 2 (legal or criminal law fraternity, including witnesses such as)
The Law Society of Scotland
Individual legal experts

5 October 2010
Cabinet Secretary for Justice and his officials

3 November 2010
Hugh Henry MSP and possibly also representatives of the Govan Law Centre with whom Mr Henry MSP has been working closely with on the Bill.

14. A call for evidence for the Protection of Workers (Scotland) Bill was sent by the clerks to relevant stakeholders who had shown a previous interest in the Bill and was also published on the Committee’s web pages during summer recess. The published deadline for submitting written evidence was 3rd September 2010.

15. Written evidence submissions have been received from a number of organisations and are attached at Annexe B. A response has not as yet been received from the Scottish Government and is expected on Monday 13 September 2010. Once a response has been received a copy will be sent to members of the Committee.

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3 NHS Health Scotland commissioned a survey and report by QMU on the experiences of abuse in public-facing jobs of young Scottish workers aged between 16 and 24 years old. QMU published their findings in March 2010. Please click on the link below to view the report: http://www.healthscotland.com/documents/4583.aspx.
Action

16. The Committee is invited to discuss the proposed timetable and—

- comment on and agree the proposed timetable for taking oral evidence, subject to any changes that may need to be made should other business arise or events change;

- suggest any additional or alternative witnesses that should be invited to give oral evidence;

- delegate the final decision on any changes to the agreed witness list to the Convener and also the payment of any associated witnesses expenses; and

- agree to take the consideration of any draft report at Stage 1 on the Bill in private.

Diane Barr
Assistant Clerk to the Committee
September 2010
Annexe A

ECONOMY, ENERGY AND TOURISM COMMITTEE

Protection of Workers (Scotland) Bill

CALL FOR WRITTEN EVIDENCE

Closing date for submissions – 3 September 2010

Introduction
The Economy, Energy and Tourism Committee is the lead committee for the Protection of Workers (Scotland) Bill. This is a Member’s Bill and was introduced by Hugh Henry MSP on 1 June 2010.

The Bill, together with accompanying documents (including a Policy Memorandum and an Explanatory Note) can be found on the Scottish Parliament’s website.

- Protection of Workers (Scotland) Bill, Policy Memorandum and Explanatory Note

The Committee is seeking written evidence on the general principles of the Bill and invites all interested parties to submit views on the Bill. The Committee will take oral evidence from September to December 2010.

Background
The purpose of the Bill is to create a new offence of assault against a worker whose employment involves dealing with members of the public to any extent (but only where the worker is physically present in the same place as members of the public and is either interacting directly with, or providing a service to, the public). The offence covers assaults while such workers are acting in the course of their work and also assaults that take place at other times but which relate to their work.

The Bill aims to provide protection to these workers by applying similar principles to those applied in the Emergency Workers (Scotland) Act 2005 (the EWA), which provides protection to some emergency service and health care workers. The penalties in this Bill mirror those of the EWA, which are a maximum jail term of 12 months and/or a monetary fine of £10,000 (these are the current penalties under the EWA, after a modification order in 2008).

The Bill is in response to wide recognition that there are many workers who provide a service to the public, but are not covered by the EWA, and therefore are vulnerable because of their occupation.

How to submit written evidence
Evidence should be reasonably brief and typewritten (normally no more than 4-6 sides of A4 in total).
The deadline for the receipt of written submissions is **Friday 3 September 2010**. Late submissions will only be accepted with the advance agreement of the Clerk to the Committee.

We welcome written evidence in English, Gaelic or any other language.

The Committee prefers to receive written submissions electronically (preferably in Microsoft Word format). These should be sent by e-mail to:

`protectionofworkersscotlandbill@scottish.parliament.uk`

You may also send a hard copy of written submissions to the:

Economy, Energy and Tourism Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
EH99 1SP

**Policy for handling written evidence**

Before you submit your views, please ensure that you have read our [policy for handling information received in response to calls for evidence](#) (15KB pdf). Written submissions will be handled in accordance with this policy.
Annexe B

ECONOMY, ENERGY AND TOURISM COMMITTEE

Protection of Workers (Scotland) Bill

WRITTEN EVIDENCE SUBMISSIONS

SUBMISSION FROM ACPOS (Association of Chief Police Officers in Scotland)

Q1. Are there any other groups of workers that you think should be captured in the Bill?

The proposal to extend the Bill to all workers who provide a face to face service to the public, would in essence, represent the vast majority of those employed in the extensive public and private service sectors. There would therefore, be no recommendation for further extension.

Q2. How effective have you found the Emergency Workers Act 2005?

Application of this legislation is now well established throughout Scotland and the legislation provides a useful statutory tool to be considered when dealing with such crimes.

There is little evidence to suggest that assaults on emergency workers have increased since the Act’s inception and a dip sample of court disposals for such cases (ranging from assaulting / obstructing ambulance personnel) in one Force, showed outcomes ranging from offenders being admonished to receiving up to 4 months imprisonment.

It is worth noting that the provisions of the 2005 Act were introduced to recognise the key roles played by all emergency services. This reflects the fact that emergency workers may find themselves subjected to abuse, violence or be exposed to the risk of injury when attempting to assist individuals or save lives. The sanctions detailed within the Act recognise that this type of behaviour will not be tolerated against those individuals who seek to deliver a unique service. Additionally, it should be noted that emergency workers have no option to refuse service provision, as compared to other workers.

The definition of emergency within the legislation does not cover the day to day activities of emergency services, and the penalties imposed reflect the serious nature of such offences and the detrimental impact they have on these workers’ ability to respond to emergency situations.

The Act was modified in 2008 to include medical practitioners, midwives etc engaged in their “daily activities” in hospital premises. This exception to emergency circumstances was deemed necessary, due to the importance of these roles and the particular situations such workers may encounter.
Q3. Do you think there will be additional cost associated with this Bill?

No additional costs were anticipated in relation to the proposed Bill.

Q4. Are the penalties proposed in this document sufficient, and if not, what penalties would you propose?

Q5. Do you have any other comments or views on extending the tougher penalties contained in the Emergency Workers Act 2005, to workers providing a face to face services to the public?

In general terms, the principle that persons who work in public facing roles should expect adequate protection by the law should they fall victim to crime, is a sound and accepted one. At present there are provisions under common law to protect these individuals.

The current Standard Police Report (SPR2) provides the opportunity to highlight fully the circumstances of an assault, be it upon a ‘shop worker’ or whomever, and provides the Crown with sufficient evidence and information to ensure the Sheriff (etc) is sighted on the particulars of each case to pass an appropriate sentence.

Any penalties imposed by such a Bill would have to reflect the detrimental impact to the service of each individual service provider. For the reasons highlighted above in response to Q2. In relation to the unique role of emergency services, to compare or attempt to reflect the penalties imposed by the Emergency Workers (Scotland) Act 2005 would be inappropriate.

Q6. In what ways will the proposed Bill extend equal opportunity provisions and should it go further?

It would not appear to be the case that the Bill would extend equal opportunities. Any legislation to deter and punish individuals, who assault etc those who provide any public service, should be progressed on its merits, as opposed to attempting to mirror the Emergency Workers (Scotland) Act 2005.

Q7. Should hindrance and/or obstruction of the workers specified in the proposal be included in this proposed bill in the same way as is in the Emergency Workers Act?

The interpretation of which workers are, or are not, protected by the Bill could be extremely problematic with the phrase, ‘providing a service face to face with the public’, being wide ranging.

There may also be significant issues with extending the use of the offences of hindrance / obstruction when applied to general public facing employees. The interpretation of what would merit hindering or obstructing a bus driver or shop worker for example, is open to interpretation and in some cases could criminalise extremely minor acts. The work being carried out by a paramedic or fire-fighter...
responding to an emergency situation or assisting a critically injured person and being obstructed or hindered from doing so, is obviously far more easily defined.

There is also a danger that by encompassing such offences for all public-serving workers, this may devalue the aggravating nature of the current legislation to protect emergency service personnel.

As you will be aware, Violence is recognised as a very high priority in the Scottish Control Strategy, with crimes and offences in the category covered by the proposed legislation clearly falling within this area and receiving a considerable amount of attention and scrutiny. Additionally, forces, as active participants in the Campaign against Violence, have already put into place additional processes and initiatives to address this type of offending behaviour.

In conclusion, whilst the general principle that people working in public facing roles should expect appropriate protection under the law is agreed, ACPOS believes that current common law provisions and Forces’ priorities adequately protect such workers, without the need for further legislation.

ACPOS would therefore not support the proposed Bill.

August 2010
Protection of Workers (Scotland) Bill

1. As the largest trade union for nurses, nursing assistants and nursing students, the Royal College of Nursing (RCN) Scotland welcomes the opportunity to comment on the Protection of Workers (Scotland) Bill at Stage 1.

2. RCN Scotland supports the principle of all workers serving the public being offered extra legislative protection from assaults and abuse. RCN Scotland fought long and hard for the introduction of the Emergency Workers (Scotland) Act and the extension that was made in 2008 to cover healthcare workers based in our communities. This was because assaults against healthcare staff – and a lack of subsequent prosecutions – had almost come to be seen as part of the job, particularly for staff working in accident and emergency departments.

3. However, while our members feel that the Act affords them some protection and serves as a deterrent to some would-be offenders, there is some concern that health boards are not giving staff appropriate levels of support to report assaults to the police and are not necessarily pushing for prosecutions under the Act. Given this concern, RCN Scotland is pleased that the approach taken by Hugh Henry MSP will result in separate legislation to protect other workers serving the public, rather than extending the Emergency Workers Act to cover all types of worker serving the public. This will mean that the existing legislation will not be diluted and there will still be an impetus for health boards to improve the level of support they give to staff who would like to see perpetrators of violence prosecuted under the Emergency Workers Act.

4. RCN Scotland believes that the principle of everyone serving the public being afforded additional legislative protection from assaults is robust and as such we support the principles behind the Protection of Workers (Scotland) Bill.

RCN Scotland
August 2010
1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK’s largest train driver’s union representing approximately 18,000 members in train operating companies and freight companies as well as London Underground and Overground.

2. ASLEF welcomes the fact that Hugh Henry MSP has raised the issue of worker protection and hope this will lead to a proper debate on the issue of assault on transport workers. We also support the proposal that will lead to stricter sentences for those who attack staff providing a service to the public.

3. The primary role of a trade union is to protect its members. This takes many forms the most important of which are the welfare and physical health of members. ASLEF has continuously campaigned to improve the health and safety within the rail industry. The railways have the potential to be extremely dangerous working environments. Through joint working with employers and various agencies, the union has significantly improved the health and safety environment of many of our members. As a result of this one of the biggest threats to our members safety is, in fact, the travelling public whom they serve.

4. ASLEF would point out that the SRM (Safety Risk Model) estimates that 11% of all workforce risk is due to assaults. Three quarters of this risk is from physical assaults. The remainder comprises shock and trauma arising from verbal abuse and threats. In 2009/10, the British railway workforce had to endure eight major injuries, 527 minor injuries, and 727 cases of shock/trauma to the workforce, as a result of assault. ASLEF believes that one injury due to violence is one too many and this problem must be alleviated.

5. As would be expected, regarding this issue the welfare of our members is our main priority. However, there are other consequences of assaults on staff. It can also lead to major disruption to the rail network which will affect passengers and in turn revenue. It may also lead to the perception that rail travel is unsafe and prevent people using rail services in the future.

6. There are of course many measures which could be introduced to prevent such crimes and there should be a new offence created to deal with this. ASLEF strongly agrees with the proposals that tougher sentencing should be introduced as a preventative measure. The union agrees with the new offence carrying a prison sentence of up to 12 months and a fine of £5000.

7. The union does not believe that there would be a significant cost associated with this bill. In fact, as previously mentioned, crime on the rail network can lead to reduced revenue due to delays and lower passenger numbers. Therefore a reduction in staff assaults would lead to higher revenues. In addition, the union feels that there should be no cost cutting measures when it comes to the safety of train drivers who provide an essential service.

8. We would additionally point out that in 2009/2010 there were 1776 physical assaults on railway staff along with 683 threats and 2413 verbal assaults. These incidents had a significant impact both on the staff involved as well as
the operation of rail services. In the average week, for instance, four to five workers will suffer injury from an assault which will lead to at least one day’s absence from work. Of those assaults resulting in absence, 26% will be over a week and 11% lead to over 5 weeks away from work. This causes a great strain on the railways which simply cannot function if understaffed.

9. ASLEF believes that it is essential that workers who deliver a public service are given the same protection as those covered by the Emergency Workers Act. An attack on either can affect public services and in turn public safety. ASLEF therefore strongly supports the bill and hopes it can make progress in ensuring that the 4872 assaults to railway staff in 2009/10 dramatically reduce over the coming years.

ASLEF

August 2010
SUBMISSION FROM UNISON SCOTLAND

Introduction

1. UNISON is Scotland’s largest trade union representing over 160,000 members working in public services. We represent those working in the public sector, for private contractors providing public services and in the essential utilities. They include frontline staff and managers working full or part-time in local government, health, and education, as well as police staff, those working in the electricity, gas and water industries and those in the voluntary sector.

2. UNISON Scotland welcomes the opportunity to participate in the Call for Written Evidence on the Protection of Workers (Scotland) Bill

General Comments

3. UNISON Scotland is very pleased to support the aims of the Protection of Workers (Scotland) Bill, which we believe will provide greater protection for many of our members who are not covered by the Emergency Workers (Scotland) Act (EWA).

4. UNISON Scotland campaigned for and welcomed the introduction of the EWA in 2005. We would have wished to see legislation much wider in scope than the Bill as originally drafted. We favoured a Bill covering public service workers with similar scope to that set out in the Lord Advocate’s guidance and it remains our view that the Bill should have given statutory effect to that guidance, recognising that workers providing a service to the public should be given specific legal protection.

5. Since the introduction of the Emergency Workers Act (EWA) in 2005 UNISON Scotland has sought to widen the scope of the provisions to incorporate a wider group of public service workers. In January 2005, the Scottish Government promulgated a Modification Order that extended the Act to a limited number of additional health staff. Whilst welcoming any extension we argued that this was only a limited provision that did not cover the main groups of staff at risk of violence and resulted in a two-tier level of protection for staff.

6. We followed up our concerns with the Minister for Public Health and later the Cabinet Secretary for Justice who now has responsibility for general matters in relation to the Act. We are currently in discussions with Fergus Ewing, Minister for Community Safety, but these discussions are proceeding at a very slow pace.

7. One of the main advantages of the EWA was the clause that provided for “hindrance and/or obstruction of the workers specified in it” to be an offence and we believe that any new legislation or amendments should include this principle.

8. There were significant objections to the Emergency Workers (Scotland) Bill including the Law Society and Faculty of Advocates who argued that the common law and other statutory provisions cover most of the Bill’s provisions. It was even claimed that there would be no successful prosecutions. However, the Act has been used extensively with well over 1000 prosecutions to date and a number of cases attracting publicity, primarily at local level.
9. UNISON Scotland is pleased that successive Scottish Governments have recognised the nature and the scale of the problem in relation to violence against workers in the public services. We view legislation as only one part of a wider package of measures to achieve a reduction in violent incidents.

10. UNISON Scotland has been concerned at the level of violence reported by our members over a number of years. In 2002 research was commissioned and a survey of members carried out to ascertain the level of assaults, both physical and verbal, experienced by the group of workers who took part in the survey. The resulting, *Trauma 2003* Report highlighted some horrific instances of assault, across all parts of the public sector.

11. Since that time, the issue of workplace violence has been moved higher up the public agenda and deliberate acts of violence on public service workers is, rightly, condemned by most members of the public. However, there is a reluctance on the part of some employers and even some staff, to acknowledge assaults by “looked after people”, e.g. children, elderly people, or those with learning disabilities, as there are in some instances perceptions that these types of assaults are just part of the job and have to be tolerated. Since 2003, however, the Scottish Government has accepted the extent of violence against public sector workers and has been working with trade unions to examine ways to tackle the problem.

12. In 2006 UNISON undertook a survey of public service employers under the Freedom of Information Act on assaults against public sector workers and based on the responses, published a major report. This identified some 20,000 violent incidents that year in the NHS and local government alone. This has been followed up with annual surveys that show that the numbers of violent incidents remain high. This may of course partly reflect greater awareness and better reporting, however, it is clear the problem is not going away. The 2006 report highlighted significant failings at employer level over the quality of local violence at work policies, their implementation and most importantly, the lack of adequate monitoring statistics. There has been some strengthening of measures in NHS Scotland since then and work has been undertaken with representatives of Scottish local authorities to develop best practice guidelines. As a result of this work, guidelines for local government were published early in 2010, entitled “*Managing occupational violence in the workplace*”.

13. UNISON Scotland believes that attacks on any staff delivering public services should be treated under the law as serious assaults, not just attacks on emergency workers. We believe that in practice it is impossible to make a distinction between the risks faced by an emergency worker (e.g. paramedic) and a non-emergency worker (e.g. a porter).

14. The experience of our membership and the results of crime surveys inform us that the most vulnerable workers are not necessarily emergency services workers – all workers who deal with the public are at risk. Care workers faced twice the national average risk of assault and nurses four times. The current EWA list with its emphasis on ‘blue light’ services has the consequence of providing protection to predominantly male groups of workers. This is an equal opportunities issue.
15. The following groups of our members face daily risks when facing the public, but are not covered by the EWA and we believe that the proposed Bill would protect them:

- **Healthcare:** The EWA list restricts this category to those with a professional registration but there are many healthcare workers who are not part of this category. In addition, the ‘assisting’ provisions would not cover them. The main group would be nursing assistants but it would also include a range of ancillary staff including security and porters, as well as Professions Allied to Medicine who also work in A&E and other emergency settings.

- **Social care:** Many social care staff including social workers and those in mental health and childcare protection roles regularly respond to emergency situations, but are not covered by the EWA. We also need to remember that a range of health and social care staff in the voluntary sector are at equal risk.

- **Environmental:** Several groups of environmental workers work in potentially violent situations. Some SEPA staff, port authorities, housing, environmental health, pest control, roads and even some Leisure services staff including pool attendants are regularly faced with violent members of the public.

- **Utilities:** Scottish Water staff and workers in the energy companies regularly respond to potentially dangerous situations. This is not limited to National Grid Transco but includes gas workers employed by other energy companies and electricity line and response staff.

- **Police:** With the increasing civilianisation of the police force a range of police staffs other than constables are faced by violent members of the public. Similar provisions apply to community wardens who are usually employed by local authorities.

16. All of the above workers and others are, in the words of the Minister who promoted the EWA, justification for the definition, “out in the community protecting life and limb. They are out there to protect us and any hindrance to them puts other people’s lives at risk”.

17. Our preference would be for a generic definition of public service worker operating “in the performance of their duties”. This would ensure that all public service workers were offered the same level of legal protection.

**Protection of Workers (Scotland) Bill**

18. As stated above, UNISON Scotland is pleased to support the introduction of this Bill. However, we believe there are areas where it could be strengthened and we will endeavour to effect this during the Second reading of the Bill.

19. In particular, there needs to be a definition of what is meant by “a member of the public” [S 1(1)], as well as what is meant by an assault.

20. The EWA concept of ‘hinder or obstruct’ is particularly useful in circumstances where a strict assault may be difficult to prove. We believe that more consideration
will be required about applying this in the context of the wider public service grouping envisaged in the Bill.

21. We require clarification about Clause 1(3) (a) which states that a worker should be “physically present in the same place and at the same time as one or more members of the public”. This would rule out, for example, phone rage, as the worker would not be “physically” present, but could still experience verbal abuse over the telephone. In addition, there could be occasions when workers experience abuse over the internet or through the e-mail system, but again, would not be physically present with the abuser. The Committee will be aware that the Scottish Government, working closely with the trade unions, under the project, Safe at Work, introduced guidance on phone rage in 2007. They agreed with the HSE advice that “physical attacks are obviously dangerous but serious or persistent verbal abuse or threats can also damage employees' health through anxiety or stress”.

22. Other statements in section 1 (3) also appear to contradict paragraph 2 of the Policy Memorandum accompanying the Bill which states that “The offence covers assaults . . . “that take place at other times but which relate to their work”. Clause (3) (b) (i) and (ii) of the Bill imply that any assault has to take place while the worker is engaging with the member of the public or providing a service whilst at work. UNISON Scotland believes that there can be occasions when workers are attacked outwith their work but as a result of carrying out their duties on another occasion. One obvious example of this would be a worker in a pub who could be attacked after his or her shift, if they had perhaps ejected a customer from the premises. The assault would be as a result of carrying out duties in the pub, but occur after the shift had finished.

23. UNISON Scotland will aim to amend these anomalies at a later stage in the passage of the Bill.

Conclusion

24. UNISON Scotland is happy to support the introduction of the Protection of Workers (Scotland) Bill as we believe the current provision in the Emergency Workers (Scotland) Act does not begin to cover the extent of our membership who suffer violent attacks in the course of their work. We believe that the proposals contained in the Bill will provide far greater protection for our members and we welcome its introduction.

25. As we have said previously, there are points in the bill which require further clarification or amendment, but these can be examined during the later stages of the Bill.

26. We would urge the Committee to support the Bill through its various stages.

UNISON Scotland
September 2010
SUBMISSION FROM UNITE SCOTTISH REGION

1. **Overview**

1.1 Unite represents around 200,000 working people and their families throughout Scotland. We are the UK’s largest trade union with 2 million members in a range of industries including transport, energy, construction, financial services, manufacturing, print and media, the voluntary and not-for-profit sectors, local government and the NHS.

1.2 As Scotland’s largest and most industrially diverse trade union, we are acutely aware of the problems many of our members face with regards to the threat of and actual incidence of physical violence while they try to earn a living and provide quality services to the general public. Unite therefore welcomes the opportunity to contribute to this call for evidence by the Scottish Parliamentary Economy, Energy & Tourism Committee.

1.3 The Bill itself represents a positive and necessary step forward in the progress of statutory coverage that would provide improved health and safety protection for workers providing a public service in Scotland. It would also send out a clear message to the Scottish public that physical and verbal violence against any worker who provides a public service will not be tolerated and such actions could lead to prosecution under law.

2. **The Need for Further Legislation**

2.1 The need for further legislative intervention is urgent and the case is compelling. In 2007/08 there was a 9% increase on the previous year’s figure for assaults against public sector workers in Scotland. As the author highlights, the British Retail Crime Survey report detailed an alarming 50% increase in physical assaults against shop workers compared to the 2006 figure.

2.2 The Emergency Workers (Scotland) Act (EWA) of 2005, and its subsequent extension in 2007, represented an important step forward. A public sector trade union reported that in 2007/08 the number of assaults on health workers fell by more than 1000 on the 2006/07 figure and suggested this decline could be attributed to the introduction of the EWA provisions. The EWA’s impact is further evident in the Scottish Government’s statistics of increase of persons successfully prosecuted in the Scottish courts under the Act in the immediate period following its introduction (categorised by Policy Authority):
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</table>

2.3 While this statistical snapshot indicates both the positive impact and value of the legislation as a deterrent to assaults on these workers the fact remains that such rights should not be exclusive to a specific industry or occupational classification providing a public service - these rights should be extended to all workers defined as providing a public service.

2.4 Given the ‘success’ of the EWA we would warmly welcome the extension of these protections to every worker in Scotland who provides a public service. This must not only be restricted to the parameters of the public sector, it must include coverage to the likes of the transport, finance and retail sectors for example. The underlying principle should be that if dealing with the public or serving the public is part of the job specification then the protection is applied.

2.5 More serious offences made by the public against workers should still be tried under solemn procedure but the introduction of legislation which enshrines the possibility of a maximum 12 month jail sentence or significant financial penalty for any incident of physical or verbal abuse would serve as a further deterrent and tackle the rising tide of violence against workers.

2.6 Until greater protective measures are introduced the vast majority of public service workers employed outside the parameters of the Emergency Workers Act will continue to be more prone to incidents of violence.

3. Unite Case Study – SPT Subway

3.1 The extension of the Emergency Workers Act provisions could have a significant impact on the everyday lives of workers like those employed SPT on the Glasgow Subway. Over the last four years workers on the subway have had to contend with a marked rise in the number of anti-social behaviour and assault incidents made against them by members of the public.

3.2 This level of incident peaked in 2007 when approximately 65% of all accident and incident statistics involving employees were of an anti-social / assault nature. This level decreased in 2008 to 33 reported incidents but this still accounted for over 50% of all incidents reported.
### Year 2005 2006 2007 2008

<table>
<thead>
<tr>
<th>Reported Incidents of Anti-Social Behaviour / Assault against Employees</th>
<th>11</th>
<th>50</th>
<th>51</th>
<th>33</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of all Incidents Reported</td>
<td>38%</td>
<td>54%</td>
<td>65%</td>
<td>51%</td>
</tr>
</tbody>
</table>

Source: SPT Subway Accident & Incident Statistics 2008

3.3 Unite members at SPT have worked hard with their employer in order to tackle the scourge of violence against workers and these efforts have yielded some success after a recent peak in such incidents, as the statistics show. However, our members are clear that voluntary initiatives alone are insufficient to sustain a challenge on the incidence of anti-social and violent behaviour on the subway.

3.4 Unite Convenor at SPT Subway Harry Copland insists that, "If the public are aware that any incidence of abuse - physical or verbal - will not be tolerated and such actions could result in a set criminal conviction or significant financial penalty enshrined by law, I believe you would see a further decline in the levels of violence against our staff."

3.5 The Emergency Workers Act has had a very positive impact in reducing incidents of violence against workers in the health sector and ensuring that perpetrators are prosecuted. It stands to reason that similar legislation covering workers like ourselves in the transport sector would have the same positive impact and it is needed.

3.6 It would be in everyone’s interests. Workers would be more secure in their jobs, employers would have an even more productive workforce and the public experience of the subway service would be further enhanced with a reduced rate of violent incidents."

3.7 In the last year, there have been 18 incidents of anti-social behaviour / assault reported. These range from instances of subway drivers being verbally abused, spat on and Community Safety Officers (CSOs) on the subway being physically assaulted by members of the public.

### 4. Conclusions

4.1 This call for evidence creates a welcome platform for debate, not only in the Scottish Parliament but in the wider context of the Scottish workforce. It also begs the question on why we have a de facto two-tier legislative system for workers who provide a service to the public.

4.2 Unite welcomes any legislative proposal that makes the world of work a healthier and safer experience and this Bill would help work towards this objective. The concluding remarks are best left to the workers who would benefit from these proposals:
4.3 “We believe Protective rights such as the Emergency Workers (Scotland) Act, while welcome, should not be exclusive to a specific industry or occupational classification providing a public service - these rights should be extended to all workers defined as providing a public service.

4.4 Violence and aggression is an issue which mars the working life of many workers providing a public service – including my own members in local government. Sometimes because we work with challenging or vulnerable people whose reactions to stressful situations is to lash out. Sometimes we are just seen as an easy target to people wanting to vent their frustrations.

4.5 Our branch has had to handle a pattern of frequent violent and aggressive incidents at some times. The worst incidents involved very serious injuries, both physical and mental, hospitalisation, and job redeployment and in the worst instance the premature end to a career.
If this Bill can help send a message out that violence and aggression towards our members wherever they work is simply unacceptable then clearly that’s a benefit.”

Kim Smith, Unite Branch Secretary, Dundee Local Government
August 2010
SUBMISSION FROM SCOTTISH TRADES UNION CONGRESS (STUC)

Introduction

1. The STUC is Scotland’s trade union centre. Its purpose is to coordinate, develop and articulate the views and policies of the trade union movement in Scotland; reflecting the aspirations of trade unionists as workers and citizens.

2. The STUC represents over 650,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace.

3. Our representative structures are constructed to take account of the specific views of women members, young members, Black/minority ethnic members, LGBT members, and members with a disability, as well as retired and unemployed workers.

4. We believe that all workers have the right to work in a safe and healthy working environment and to be treated with dignity and respect by colleagues and members of the public they come across during the course of their work.

5. The STUC is pleased to provide the following evidence to the committee on the proposals from Hugh Henry MSP in the Protection of Workers (Scotland) Bill.

Background

6. The STUC welcomed the introduction of the Emergency Workers (Scotland) Act 2005 as we were firmly of the view that the law as it stood was not seen as having a deterrent effect on those that carry out attacks on workers, especially those who are providing potentially life saving services in communities throughout Scotland. However, along with many of our affiliated organisations we felt that many groups of workers who face verbal and physical abuse as part of their work had been excluded from the protection that the new Act would provide. The previous administration agreed to work with the STUC to introduce a package of non-legislative measures to raise awareness of the issues on workers and the general public. This included publicity campaigns and support for individual trade union initiatives. This approach proved to be extremely successful but cuts in publicity budgets has to a great extent ended this work.

7. The STUC continues to work with the Scottish Centre for Healthy Working Lives, our affiliates and other stakeholders to develop innovative ways to ensure workers are protected against violence, the most recent example involved working with local authorities to develop a toolkit to help manage violence and aggression.

8. Initiatives, such as this are useful in providing employers with resources to protect staff and workers with a greater awareness of the issue but legislation provides the only mechanism where the perpetrators of these attacks are held
accountable for their actions. The STUC believes that where the Emergency Workers Act applies, on the whole attacks are in decline. One caveat to this view would be that we have concerns that attacks against the “blue light” emergency services still appear to be viewed as sport by an element in our society as the recent example of fire-fighters in Edinburgh having hoses slashed exemplifies.

Emergency Workers (Scotland) Act 2005 (EWA)

9. Figures from the Scottish Government show that since the legislation was introduced prosecutions under the Act have increased steadily from 232 in 2005-06 to 524 in 2008-09. A total of 2021 cases have been reported to the COPFS of which 1656 have resulted in court proceedings, out of which 1159 have resulted in convictions with further proceedings continuing at the end of the financial year, 5 April 2010.

10. Around 500 convictions are secured under Section 5 of the Act following assaults of health workers in hospital premises, approximately 300 following assaults on police, fire and ambulance workers and a similar amount following assaults on the remaining categories of workers covered by the legislation.

Protection of Workers (Scotland) Bill

11. The STUC welcomes the Bill being proposed by Hugh Henry MSP as we do not believe that any civilised society can afford to sit back and not take action when over 30,000 citizens are being subjected to unacceptable behaviour that, in some cases, would result in prosecution of the perpetrator had the attacks happened in some other environment other than the workplace.

12. If legislation is not introduced then our fear would be that attacks will continue to increase and verbal and physical abuse against workers delivering services to the public will continue to increase and will result in a greater public acceptance of this type of behaviour. This may result in services being withdrawn from local communities with businesses closing down as a result of rising violence against owners and their staff.

13. As outlined above the amount of prosecutions under the Emergency Workers Act have increased since its introduction. Unison reports a reduction in attacks in public sector workplace they organise where their members, primarily health workers, are covered by the EWA. Where their members are not covered they have witnessed an unacceptable rise in incidents. The STUC believes it would be wrong to assume that this rise can be attributed solely on better reporting procedures. A 50% increase in attacks on local government workers may be partly explained by more effective reporting but we would argue is more likely to reflect a general increase in attacks.

14. The STUC believes that the Government has to decide that all attacks against workers serving the public are unacceptable and should be easier to prosecute. The level of proof for such an offence should include impeding workers delivering public facing services. This is something that has been
omitted at this stage of the process and would deliver more effective prosecution of the offence.

15. Evidence from PCS raises concerns that any legislation arising from the Bill may not cover verbal assaults. From discussions with PCS and other affiliates verbal assaults can be extremely threatening and quite often place workers in a state of fear and alarm. These threats include workers being told that the perpetrator knows where they live and what time they finish work. Many see incidents of verbal abuse as being at the lower of violent attacks but incidents where individual workers are being personally threatened have to be within the scope of criminal prosecution.

16. The evidence provided from our affiliate ASLEF provides an example of the scale of assaults on their members, the impact it has and also the level of disruption faced by members of the public. We believe that introducing similar definitions for offences committed under the Emergency Workers Scotland Act and those proposed in the Protection of Workers (Scotland) Bill are justified and logical. It should then be left to the powers of the judiciary to balance the seriousness of attacks against workers carrying out life saving services against other workers when sentencing offenders.

17. The evidence provided to the STUC so far indicates a widespread problem of verbal and physical abuse. The STUC believes that the general public would be appalled if this level of crime was occurring elsewhere in our society and public policy decisions, including to introduce legislation, were not being taken to ensure that the law acts as an effective deterrent in these cases.

18. We believe that attacks against workers are not being prosecuted under existing legislation as some commentators appear to believe. We also to hear unhelpful views expressed that for more serious cases adequate deterrence is provided by the law on common assault and these cases can be tried under solemn procedure with stiffer penalties available. This view only confuses the issue of assaults against workers of the type this Bill seeks to protect.

19. We are fully aware that for more serious assaults, for example those involving weapons and serious injury, then perpetrators will face stiffer penalties in excess of those available under the Emergency Workers Act. This has never been in dispute by trade unions and we would expect this to be the case.

20. The STUC notes from the explanatory notes that there might be an anticipated cost saving on resources as a result of less attacks on public facing workers. As the notes rightly state this should not be the primary purpose of this legislation. However, the STUC believes that consideration should be given to the positive financial impact that effective legislation may have, not just on individuals but also as a result of workers not having to access health services and employers not having to access sick pay or other welfare benefits.
Conclusion

21. The STUC believes that legislation is now necessary to protect all workers who serve the public. We do not agree that the sole purpose of this legislation is to send out a message to the public that this type of behaviour is unacceptable although that will undoubtedly be a welcome consequence of the Scottish Parliament introducing effective legislation.

22. Legislation is required to address the rising number of attacks against workers. It is wrong to say that this increase is only attributable to better reporting, an outcome of the package on non legislative measures that the STUC supported wholeheartedly.

23. Introducing effective legislation to protect workers serving the public meets some of the Government’s key objectives for a safer and fairer Scotland; workers will feel safer in the work environment and in their communities knowing attackers are more likely to face prosecution. We would envisage fairer communities with public businesses less likely to withdraw services from trouble spots, often deprived communities. In light of the figures provided by ASLEF and Unison we would also envisage a healthier Scotland if levels of absences from work and ill health reduce in line with lower levels of assaults on staff.

Scottish Trades Union Congress
September 2010
SUBMISSION FROM THE LAW SOCIETY OF SCOTLAND

GENERAL COMMENTS

1. The Committee previously responded to the Scottish Executive consultation entitled “Protection of Emergency Workers” in February 2004 and also responded to the public consultation by Hugh Henry MSP entitled “Workers (Aggravated Offences) (Scotland) Bill” in August 2009.

2. The Committee remains of the view that, with regard to assaults upon workers employed in professions involving face to face contact with the public, educational programmes and awareness raising events are essential in reinforcing the message that any assault on a public facing worker, especially those in the emergency services, is clearly unacceptable and should be dealt with by the Court severely. The Committee maintains the view that the position with regard to common law at present providing protection from assault for everyone and allowing aggravating circumstances such as whether or not it was an assault of a worker in the course of that worker’s employment can be taken into account, both in determining the forum for prosecution and the level of sentence upon conviction.

3. In its response to the public consultation by Hugh Henry MSP in August 2009, the Committee then stated that it was unclear whether an assault on a worker providing a service to the public and doing so coming into face to face contact with the public would be libelled as an aggravation of common law assault, or indeed would be libelled as a separate new offence. The Committee now notes that, in terms of the Bill, it is the intention to libel such an assault as a separate new offence.

4. The Committee again refers to paragraph 3 of the Scottish Executive consultation paper entitled “Protection of Emergency Workers” published in 2004, at which consideration was given to public service workers in non emergency situations.

5. In particular, paragraph 3.5 of the consultation paper stated:

   • “While for the reasons outlined in this consultation paper we do not consider that the proposed legislation should extend beyond emergency workers, nor introduce a statutory aggravation, the Executive will be taking forward, in partnership with the STUC, other Unions and representative bodies, and relevant agencies, a wider package of measures to educate the public and to reinforce the message that attacks on public service and other workers are totally unacceptable. This is likely to include increased use of CCTV, evidence sharing and partnership working, and wide awareness and educational campaigns.

6. The Committee, believes that such non legislative measures would be more effective in reinforcing the message that it is unacceptable to assault a public service worker, especially those in non emergency services as referred to above."
SPECIFIC COMMENTS

Section 1 – Assault of Workers

7. The Committee notes the definition of worker at Section 1(3) meaning a person whose employment involves dealing with members of the public, to any extent, but only if that employment involves –

(a) being physically present in the same place and at the same time as one or more members of the public, and

(b) (either or both) –

(i) interacting with those members of the public for the purposes of employment or

(ii) providing a service to either particular members of the public or the public generally.

“employment” means any paid or unpaid work whether under a contract, apprenticeship or otherwise.

8. With regard to the defence as outlined at Section 1(2)(a) of the Bill, while proof of knowledge on the part of the accused may not be problematic in cases where there is a recognisable uniform worn by an emergency worker, this may be more problematic with regard to other workers whose employment involves dealing with members of the public.

9. Accordingly, the evidential burden of proof under a statutory offence such as the one proposed here may therefore be greater and, conversely it may be more difficult to secure a conviction.

10. The Committee also notes an offence of assault on a worker by reason of that worker’s employment and that no offence is committed unless the assault is motivated, in whole or in part, by malice towards the worker by reason of the worker’s employment.

11. Again, there is an evidential burden of proof for the Crown to establish that the assault was by reason of that worker’s employment and also motivated, in whole or in part, by malice towards the worker by reason of the worker’s employment.

12. The Committee in its response to the Workers (Aggravated Offences) (Scotland) Bill public consultation last year referred to the then Lord Advocate’s comments made to the Scottish Parliament on 15 January 2004, at which the Emergency Workers (Scotland) Act 2005 was debated.

13. The Committee should like to reiterate those comments which were as follows:-
“The Lord Advocate referred to a 19th century Scots lawyer who recognised that “assault may be aggravated by it being committed on an official performing a public duty”.

The Lord Advocate further stated that “In the 21st century the principle has developed to recognise the special position of all workers who provide a public service, embracing a vast variety of services on which we as a society now rely. The flexibility to which I have referred has allowed our Criminal Justice system to keep pace with the times, offering effective means of dealing with new or emerging blights on society. Our courts have been able to get on with the business of bringing to justice those who fail to respect people who delivery valuable services to society without getting caught up in the technical arguments about who does or does not fall to be protected in such a way. I suggest that that would inevitably be the result of prescribing in statute the particular category of workers who are entitled to special protection”.

14. The Lord Advocate offered MSPs the following practical example:-

“A bus driver stops a bus at a bus stop and a youth gets on. There is an altercation and a dispute about the youth paying. As a result the youth is asked to leave the bus. Before he does so, he spits at the bus driver – a nasty, disgusting offence that deserves to be punished. As the youth gets off the bus, an old lady in the street remonstrates with him about what he has done. He spits at her and then leaves. Those who argue for a statutory aggravation in those circumstances would have the court impose a greater sentence for the spitting at the bus driver than for the spitting at the old lady in the queue. To some people, that might be appropriate because the first victim was a bus driver. However, I think that most people would suggest that the punishment in both cases should be equivalent. That is the problem of having an aggravation.

15. The Committee endorses these comments.

Section 2 Penalties

16. The Committee notes that the statutory penalty proposed for the new offence of assaulting a worker is, on summary conviction, to imprisonment for a period not exceeding twelve months or to a fine not exceeding the prescribed sum within the meaning of Section 225(8) of the Criminal Procedure (Scotland) Act 1995 or to both.

17. The Committee notes that this penalty is identical to the penalty for any common law offence in terms of Section 5 of the Criminal Procedure (Scotland) Act 1995 as amended by section 43 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007.

18. The Committee further notes that Section 225(8) of the Criminal Procedure (Scotland) Act 1995 which prescribes the standard scale of fines for offences triable only summarily (“the standard scale”) is now, in terms of Section 28 of the 2007 Act, £10,000.
19. The Committee notes that the creation of this new statutory offence with identical penalties to assault at common law tried summarily detracts from flexibility and imposes evidential burdens upon the Crown which would not of course apply at common law.

**Section 3 Savings for certain offences**

20. The Committee notes that Section 41 of the Police (Scotland) Act 1967 and the Emergency Workers (Scotland) Act 2005 remain unaffected by this proposed legislation.

The Law Society of Scotland

*September 2010*
SUBMISSION FROM CAPABILITY SCOTLAND

1. BACKGROUND

1.1. Capability Scotland is one of Scotland’s leading providers of employment, education and support services to disabled people, their families and carers.

1.2. The organisation’s direct service provision is combined with campaigning, consultancy and advice to ensure that the organisation functions as an ally of disabled people as they strive to gain full equality, choice and control in their lives.

1.3. Capability employs approximately 1,000 staff across a broad range of occupational disciplines from social care and nursing through to shop work, marketing and campaigning.

1.4. Capability Scotland is committed to taking all reasonable precautions necessary to secure the health and safety of all employees carrying out work activities, including helping to combat violence and aggression.

1.5. Capability recognises that the likelihood of experiencing challenging behaviour, which may lead to injury and/or verbal abuse in the workplace, is a genuine concern for many of our staff.

1.6. It is also recognised that the nature of the services Capability provides may sometimes place particular groups of staff at risk.

1.7. Capability supports staff with effective use of personal planning and risk assessment to seek to remove, minimise or manage the risks and effects of challenging behaviour.

1.8. Our staff have the right to involve the police if they have been assaulted or feel that their personal safety is in jeopardy as a result of a service user’s challenging behaviour or the behaviour of a member of the public.

1.9. We are aware that the Economy, Energy and Tourism Committee are considering evidence on the general principles of the Protection of Workers (Scotland) Bill.

1.10. This Bill seeks to create a specific statutory offence dealing with assaults on people whose work brings them into contact with members of the public.

1.11. Capability Scotland is pleased to provide written evidence in relation to this draft Bill.

1.12. We are broadly supportive of the general principles of the bill and are very pleased to see unpaid workers included within the scope of the legislation.
2. SPECIFIC COMMENTS

2.1. We are aware that there has been significant debate in the Scottish Parliament around the necessity for additional legislation in this area given the protections already offered to public-facing workers under the common law of assault and the common law of breach of the peace.

2.2. As an organisation Capability Scotland is pleased that successive Scottish Governments have recognised the nature and the scale of the problem in relation to violence against workers in the public services.

2.3. We believe extending protections provided by the EWA to all public-facing workers will send a clear public policy message that violence against workers who are serving the public should not be tolerated.

2.4. Our specific comments relate however to the need for the following in any extension of EWA protections to public-facing workers:

- clarification as to who would constitute a member of the public
- assurances that provisions within the draft Bill would apply suitably to the care settings that many of our workers operate in
- clarification as to whether non-physical assault would be covered by this legislation if it led to obstruction of a service (verbal assaults/threatening behaviour that can be physically damaging to a worker for example)
- clarification as to whether hindrance and/or obstruction of workers will be proposed in the same way in this Bill as it is in the EWA.

BILL SECTIONS

1.1. Section 1(1) of the draft Bill makes it an offence for a person, defined as a member of the public, to assault a worker during (a) the course of that workers employment or (b) by reason of that worker’s employment. At present the Bill does not elaborate on who this might exclude from the scope of the offence. We would welcome clarification about who would be covered by the definition of member of the public – would this new offence cover disabled people who use our services and their families and supporters if they assaulted a member of our staff?

1.2. Section 1(2) of the draft Bill states that no offence is committed unless the person who assaults knows or ought to know that the worker is acting in the course of the workers employment. If our service users are covered in the definition of member of the public, it may be difficult to establish prior knowledge or malice towards a worker’s employment in this context particularly when there are doubts over a person’s capacity.
1.3. Non-physical assault, principally threatening or violent verbal abuse towards staff that leads to staff absence and sick leave can be as obstructive to service delivery as a physical assault in some cases. Are there any plans to apply tougher penalties to breaches of the peace directed at public facing workers?

1.4. In relation to hindrance and/or obstruction of workers, will this be proposed in the same way in this Bill as it is in the EWA? We are unclear that hindrance and obstruction would apply as readily to the delivery of services that we provide as to the provision of an emergency service.

Capability Scotland,

September 2010
SUBMISSION FROM SCOTTISH CHILDREN’S REPORTER ADMINISTRATION (SCRA)

1. Introduction

1.1 SCRA welcomes the opportunity to provide written evidence to the Economy, Energy and Tourism Committee on the Protection of Workers (Scotland) Bill.

1.2 We are pleased to note that assaults on SCRA staff by members of the public are extremely rare but nonetheless we welcome the Bill’s extension of the protections granted by the Emergency Workers (Scotland) Act to other workers providing public services, whether on a paid or voluntary basis.

2. Detailed response

2.1 We understand that the Bill would cover SCRA staff members including Reporters, reception staff and support staff whose role involves face to face contact with members of the public.

2.2 However, SCRA has a question about the definition of “in the same place, at the same time” contained in s.3(a) of the Bill and whether a narrow interpretation of this part of the Bill might unreasonably withhold protection from a cohort of staff who provide a valuable public service. As an example, our Glasgow office includes a number of Hearings suites on the lower floors where children and families come to attend Children’s Hearings. The upper floors accommodate our staff who enter the building by a separate entrance. There are a number of staff members who do not have direct face to face contact with members of the public in the course of their work, but do deal on a regular basis with families over the phone in situations that can often be emotionally highly charged. Should one of them be assaulted leaving the office due to having been identified as an SCRA staff member, it is difficult to see how the provisions of the Bill would apply unless the definition of “in the same place at the same time” was fairly broad. We would not wish to see a lesser degree of protection applied to such staff members and hope that the Committee will consider how this situation might be remedied.

3. Conclusion

3.1 SCRA welcomes the provisions of the Protection of Workers (Scotland) Bill, subject to the comments made above in relation to s.3(a).

SCRA
September 2010
SUBMISSION FROM THE FEDERATION OF SMALL BUSINESSES

Introduction

1. The Federation of Small Businesses is Scotland’s largest direct-member business organisation, representing around 20,000 members in every sector of the economy and every area of the country. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper.

2. Given that our members play an integral role in their communities by delivering important services, we welcome the opportunity to submit our comments to the consultation on the Protection of Workers (Scotland) Bill.

Background

3. The Emergency Workers (Scotland) Act 2005 introduced tougher criminal penalties for those who assault, hinder or obstruct specified emergency service workers in the course of their work. Others who also provide a service to the public, such as shop workers and bus and taxi drivers, were not covered and so this Bill aims to extend a similar protection to them.

4. This, we believe, is a most laudable objective. A range of workers provide essential services – from transport to retail – without which communities would not remain viable. Thus, we welcome moves to send a strong message that violence against people delivering those services is completely unacceptable and to extend to them the same protection enjoyed by emergency workers.

5. The FSB responded to the consultation on the Workers (Aggravated Offences) (Scotland) Bill in September 2009. In that response, we raised a question about whether the self-employed / owner-managers would be covered by the legislation. It is on this issue that we would again seek clarification.

FSB Research

6. A recent FSB/ICM survey of FSB members found that 28 per cent of respondents in Scotland had experienced threatening behaviour, intimidation or aggression in the course of the last year. We feel that these findings are relevant to this response. (Details of full survey results are available on request.)
Q4 In the course of your business activities have you suffered from any of the following crimes in the past year?

Base: All respondents

<table>
<thead>
<tr>
<th>Crime</th>
<th>Total</th>
<th>England (j)</th>
<th>Scotland (k)</th>
<th>Northern Ireland (l)</th>
<th>Wales (m)</th>
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<td>984</td>
<td>123</td>
<td>49**</td>
<td>61*</td>
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<tr>
<td>NET: Any mention/crime</td>
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<td>617</td>
<td>79</td>
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<tr>
<td></td>
<td></td>
<td>64%</td>
<td>63%</td>
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<td>61%</td>
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<tr>
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<td>21%</td>
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<tr>
<td>aggression</td>
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<td></td>
<td></td>
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<tr>
<td>Shoplifting</td>
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<td>Crime</td>
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Proportions/Means: Columns Tested (5% risk level) - a/b/c/d/e/ f/g/h/i/k/l/m - j/k - j/l - j/m - o/p

* small base; ** very small base (under 30) ineligible for sig testing

Prepared for The Federation of Small Businesses by Guided Insight & ICM Research
Definition of ‘worker’ and ‘employment’

7. Section 1(3) defines the individuals to whom the provisions of the Bill will apply. Essentially, “worker” is defined as a, “person whose employment involves dealing with members of the public”. “Employment” is then defined as, “any paid or unpaid work whether under a contract, apprenticeship, or otherwise.”

8. Thus, the section will cover employees, contractors, agency workers, volunteers and apprentices. However, we are unclear whether the term “or otherwise” will include the self-employed or business owners.

9. Looking to the policy memorandum for evidence of intention, examples of the sort of occupations which are key to communities include taxi drivers, who in many cases will be self-employed.

10. The FSB, therefore, would like to see the self-employed and business owners explicitly included on the face of the Bill. This would give our members, such as shop owner/managers, an assurance that they enjoyed the same protection as other individuals within the business who happen to be employees.

Conclusion

11. Small businesses provide vital services (and, of course, the consequent jobs) in communities across Scotland. Indeed, the local pub, shop or Post Office can often be the glue which binds vulnerable rural and urban communities together. The FSB therefore backs any move to recognise the importance of these businesses and their staff and to protect them from violence and intimidation at work.

12. To be equitable and truly effective, however, this Bill must apply to those who are delivering services while self-employed. The FSB therefore calls for the inclusion, on the face of the bill, of confirmation that the protection will extend to the self-employed and other business owners.

Federation of Small Businesses
September 2010
Economy, Energy and Tourism Committee

24th Meeting, 2010 (Session 3), Wednesday, 15th September 2010

Banking Inquiry – update paper

Background

1. During the latter half of 2009 and early 2010, the Economy, Energy and Tourism Committee conducted an inquiry into the banking and financial services sector in Scotland and published the report, *The way forward for Scotland’s banking, building society and financial services sector* on 18 March 2010.

   [http://www.scottish.parliament.uk/s3/committees/eet/reports-10/eer10-03-vol01.htm](http://www.scottish.parliament.uk/s3/committees/eet/reports-10/eer10-03-vol01.htm)

2. The Committee stated in this report that it intended to “maintain a watching brief on the financial sector in Scotland”. The purpose of this paper is to provide the Committee with an update on the developments in the financial sector since the report was published and to determine whether the Committee wish to take any further action at this time.

Recent Developments

3. The most significant development since the Committee’s report has been the establishment of the new coalition government in the UK. The UK Government agreed and published the *Programme for Government* document in May 2010. [http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf](http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf). This document contained 11 specific commitments in relation to the banking sector, which are listed below. Please click on the link below to access the full document:

   i. We will reform the banking system to avoid a repeat of the financial crisis, to promote a competitive economy, to sustain the recovery and to protect and sustain jobs.

   ii. We will introduce a banking levy and seek a detailed agreement on implementation.

   iii. We will bring forward detailed proposals for robust action to tackle unacceptable bonuses in the financial services sector; in developing these proposals, we will ensure they are effective in reducing risk.

   iv. We want the banking system to serve business, not the other way round. We will bring forward detailed proposals to foster diversity in financial services, promote mutuals and create a more competitive banking industry.

   v. We will develop effective proposals to ensure the flow of credit to viable SMEs. This will include consideration of both a major loan guarantee scheme and the use of net lending targets for the nationalised banks.
vi. We will take steps to reduce systemic risk in the banking system and will establish an independent commission to investigate the complex issue of separating retail and investment banking in a sustainable way; while recognising that this will take time to get right, the commission will be given an initial time frame of one year to report.

vii. We will reform the regulatory system to avoid a repeat of the financial crisis. We will bring forward proposals to give the Bank of England control of macro-prudential regulation and oversight of micro-prudential regulation.

viii. We rule out joining or preparing to join the European Single Currency for the duration of this agreement.

ix. We will work with the Bank of England to investigate how the process of including housing costs in the CPI measure of inflation can be accelerated.

x. We will create Britain’s first free national financial advice service, which will be funded in full from a new social responsibility levy on the financial services sector.

xi. We take white collar crime as seriously as other crime, so we will create a single agency to take on the work of tackling serious economic crime that is currently done by, among others, the Serious Fraud Office, Financial Services Authority and Office of Fair Trading.

Progress on the UK Government commitments

4. Since the document was published, some progress has been made in relation to the banking sector commitments.

- Establishment of the Independent Commission on Banking
  The Independent Commission on Banking was established in June 2010 with a remit to “consider the structure of the UK banking sector, and look at structural and non-structural measures to reform the banking system and promote competition”. It is chaired by Sir John Vickers and tasked with producing a final report by the end of September 2011. The report will be sent to the Cabinet Committee on Banking, chaired by the Chancellor of the Exchequer, the Rt Hon George Osborne MP, with the Rt Hon Dr Vince Cable MP, Secretary of State for Business, Innovation and Skills as Deputy Chair. Other members of the Committee are Lord Chancellor, Secretary of State for Justice (The Rt Hon Kenneth Clarke QC MP), Chief Secretary to the Treasury (The Rt Hon Danny Alexander MP), Minister of State – Cabinet Office (The Rt Hon Oliver Letwin MP) and Financial Secretary to the Treasury (Mark Hoban MP). The Commission’s terms of reference can be found here:


  The Independent Commission on Banking held its first meeting on 12 July 2010 and agreed a forward work programme which included the intention to publish “an Issues
Paper during the autumn, in order to stimulate public debate and invite submissions of evidence”.

Sir John Vicker’s secretariat has contacted the Committee to suggest a meeting in Edinburgh in the autumn.

- **Launch of the Green Paper on Business Finance**
  In response to concerns that the current system is not adequately delivering finance to small, growing businesses that are vital to the future of the economy, Chancellor George Osborne and Business Secretary Vince Cable launched a Green Paper on business finance on 26 July 2010. The paper, *Financing a private sector recovery*, started a consultation with business on ways to access funding to help them expand and create new jobs to grow the economy. It has a closing date of 20 September for submissions. A copy of the consultation document can be found here:


  In this document, the UK Government outlines and asks for comments on potential proposals to provide sustainable finance to enable businesses to invest and grow in a stable macroeconomic environment.

  The proposals include ways to:

  - increase regulation;
  - diversify finance products;
  - promote competition;
  - limit bonuses and dividend payouts to pre-crisis and 2009 levels respectively to generate capital for lending; and a range of proposed measures to
  - assist small and medium-sized enterprises to access finance such as an extension of £200 million to the Enterprise Finance Guarantee scheme, the launch of a new Enterprise Capital Fund, investment in the UK Innovation Investment Fund, the creation of the Growth Capital Fund and the introduction of broader tax-based schemes like the Enterprise Investment Scheme and Venture Capital Trusts to encourage equity investment in small companies.

  For mid-sized businesses HM Treasury and the Department for Business, Innovation and Skills have been seeking to promote debt capital markets to diversify the sources of funding.

  Existing measures outlined in the consultation document include:

  - the introduction of the banking levy;
  - the commitments the UK Government secured from Lloyds Banking Group and the Royal Bank of Scotland in March 2010 which will see both banks
lend a total of £94 million to businesses on commercial terms, over the 12 months to February 2011;
• the banking industry SME charters, statements of support and 6 commitments made by the industry which were announced in the June budget; and
• the OFT’s current review of barriers to entry, expansion and exit in retail banking and banking for SMEs.

• **Introduction of the Banking Levy**
The Chancellor announced as part of the Budget that the UK Government will introduce a banking levy from 1 January 2011. It is proposed that the levy will be set at 0.07 per cent of targeted liabilities, which is expected to raise over £2 billion annually. The levy is intended to encourage banks to move to less risky funding profiles. The UK Government believes that banks should make a fair contribution in respect of the potential risks they pose to the UK financial system and wider economy. The UK Government will consult over the summer and final details of the levy will be published later this year, following that consultation.

**Other Developments**

• **Santander’s acquisition of 318 RBS branches**
The Government Relations and Public Policy Manager from Santander UK plc, Mr Rob Hailey, wrote to the Convener in response to the Committee’s specific comments about Santander as part of its financial services inquiry discussion. The letter referred to Santander’s recent tender for the purchase of 318 RBS branches. Since that letter was received, Santander has been successful in their bid to purchase 311 RBS-branded branches in England and Wales, and 7 NatWest branches in Scotland. As Santander already owned the former Abbey, Alliance & Leicester and Bradford & Bingley operations, with this sale it has now overtaken HSBC to become the fourth-largest bank in the UK. The sale is expected to be completed by December 2011 and to increase Santander’s market share of lending to the SME sector from 3% to 8%.

• **AEGON**
On 12 August, AEGON announced a further improvement in sales and profits but gave no further guidance on its plans to take £80 million in costs out of the UK business and the potential loss of up to 600 jobs in Edinburgh. AEGON are conducting a review at present which is expected to conclude at the end of September. On 9 September it was reported that as part of its restructuring programme AEGON was to close half of its regional sales centres. This included its Edinburgh sales office, resulting in 11 redundancies.

The Convener wrote on behalf of the Committee to John Swinney to ask what steps the Scottish Government and the finance sector jobs task force were taking to protect jobs in the financial services industry in response to the AEGON announcement. Mr Swinney responded that he had met with the Chief Executive of AEGON UK, Mr Thoresen, who had stressed that AEGON would work closely
with the Scottish Government and keep it fully informed of its plans. SDI was to meet AEGON and discuss what it could do to mitigate the potential effect on the workforce of the budget cuts planned by AEGON. However, it was too early to involve the Finance Sector Jobs Taskforce at that time. A copy of the letter is attached at Annexe A.

- **RBS**
  Mr Stephen Hester, Chief Executive of RBS, gave a speech to the European Economic Association at the University of Glasgow on 24 August 2010 in which he expressed the view that the Independent Commission on Banking “provides a valuable opportunity for a thorough assessment”, that the reforms underway “will significantly reduce the probability of failure, but rightly not remove its possibility” and that “financial institutions can be safely resolved and if bailed out, it should be by shareholders and creditors not the state.” A full copy of the speech is attached at Annexe B.

RBS has announced that 2,000 job losses could be expected in the year ahead, in preparation for the sale of their insurance businesses, which they were ordered to sell by December 2013 by the European Commission. RBS Insurance is set to close 14 of its 27 offices by 2013. The places earmarked for closure include the Direct Line call centre in Glasgow, which would affect around 640 positions, with 240 staff to be given the offer of relocation. The Convener has written, on behalf of the Committee, to John Swinney to ask what the Scottish Government is doing to minimise job losses and has also written to Stephen Hester, Chief Executive of RBS, to ask to be kept informed of developments. A response letter is attached at Annexe A.

- **Standard Life**
  The Convener has requested information on behalf of the Committee from the Cabinet Secretary for Finance and Sustainable Growth, on what the Scottish Government is doing to minimise the reported 480 job losses that Standard Life are reported to make over the next 15 months.

- **Green Investment Bank**
  The UK Government is to bring forward proposals for the establishment and funding of the Green Investment Bank (GIB) after the spending review in the autumn. No decision has yet been made on the proposed location. The Committee is invited to note the opinion expressed by some members of the Committee on the location of the GIB, most notably the Deputy Convener’s view that it should be based in Scotland. The Green Investment Bank Commission was set up by the Chancellor to advise the UK Government and produced its first report on 29 June 2010. Its report can be found here: [http://www.climatechangecapital.com/thinktank/ccctrinktank/publications.aspx](http://www.climatechangecapital.com/thinktank/ccctrinktank/publications.aspx)

- **UK Government’s response to the House of Commons Scottish Affairs Committee Inquiry into Banking in Scotland**
  In July 2010, the UK Government published its response to the conclusions and recommendations in the Scottish Affairs Committee report on Banking in Scotland.
Key commitments include the UK Government taking action to tackle unacceptable bonuses, supporting the new industry principles that UK banks should follow to better promote lending to SMEs and considering debt advice support as part of the October 2010 Spending Review.

Responses to Correspondence

5. As agreed at the Committee’s meeting of Wednesday 23 June 2010, the Clerk to the Committee sent letters on behalf of the Committee over the summer recess to various organisations with specific requests for information on banking and financial services matters.

- **Rt Hon Vince Cable MP**
  A letter was sent to the Secretary of State for Business Innovation and Skills, the Rt Hon Vince Cable MP, outlining the Committee’s views in relation to reform of the financial sector and raising some specific concerns, such as the current divestment process and how he and UKFI could influence the process to ensure promotion of further competition in the Scottish banking market. The letter also included a request to the Secretary of State to meet with the Committee to discuss these concerns.

  The response received indicated that the “Committee’s recommendations are broadly in line with the aims of the Coalition Agreement” and included an encouragement for the Committee to engage with the Independent Commission on Banking. Mr Cable also accepted the invitation to visit the Scottish Parliament and meet with Committee members.

- **FiSAB**
  A letter was sent to Mr Mark Tennant, Chairman of Scottish Financial Enterprise (SFE), asking whether FiSAB and/or Scottish Financial Enterprise would be making a submission to the Banking Commission and, if so, whether they would provide a copy to the Committee. Mr Tennant responded on 29 June 2010 that SFE was still considering whether to respond directly to the Banking Commission. He indicated that the First Minister had requested advice from FiSAB on a possible response to the Commission from FiSAB and that that was in hand. There was an assurance that the Committee would receive a copy of any submission in due course.

- **The Office of Fair Trading**
  A letter was sent to the Chairman of the OFT, Mr Philip Collins, asking how it plans to respond to the call from both the Committee and the Scottish Government for a formal investigation into competition in banking in Scotland in personal current accounts, home loans and business banking.
The OFT response referred to their current review, *The barriers to entry, expansion and exit in retail banking in the UK*. They indicated that they had published a call for evidence on 26 May 2010 with a deadline of Thursday 8 July 2010 for submissions and that they planned to publish the findings of the study in the autumn. They indicated that as the Independent Commission on Banking is examining the wider issues surrounding the banking sector including "promoting competition in both retail and investment banking" it would be inappropriate for them to conduct a separate review at this time. They stated that they aimed to ensure that their work fitted into the Commission’s work and have already drawn attention to the particular concerns about competition in banking in Scotland. They encouraged the Committee to establish contact with the Commission on Banking and have also written to Jim Mather in similar terms. Details of the OFT’s review can be found here:

http://www.oft.gov.uk/OFTwork/markets-work/othermarketswork/review-barriers/

- **John Swinney, Cabinet Secretary for Finance and Sustainable Growth**

A letter was sent to Mr Swinney asking if the Scottish Government intended to make a submission to the Independent Banking Commission and if so, if they would be willing to provide the Committee with a copy of their submission. It included a request for the Scottish Government’s quantitative and qualitative analysis of the extent to which competition has increased in the markets in Scotland for personal current accounts, home loans and business banking since the merger of Lloyds TSB with HBOS and also asked whether the Scottish Government is planning to carry out a further survey in relation to access to finance issues.

The Cabinet Secretary for Finance and Sustainable Growth responded that the Scottish Government does plan to make a submission to the Independent Commission on Banking after their call for evidence in early September and would ensure that any submission would be made available to the Economy, Energy and Tourism Committee. Mr Swinney confirmed the Scottish Government’s intention to update the Access to Finance Survey in autumn 2010, which will provide an update on the market analysis for the SME sector in Scotland and to ensure that the Committee is provided with the subsequent report of the survey.

For full details of all responses received please see Annexe C.

**Action/Recommendations**

6. Members are invited to discuss and agree—

7. • Whether or not they wish to continue with their watching brief and receive feedback at future Committee meetings on relevant developments and, if so, agree the type of information they wish to receive;

• As previously agreed, the Committee will make a submission to the Independent Commission on Banking based on the Committee’s recent inquiry
report. The Committee is invited to note that this will be brought to a future meeting for approval.

- Whether members wish the clerks to draft a submission to the Green Paper on Business Finance before the closing date of 20 September 2010 or to decide on a course of action once the consultation has been completed and responses evaluated;

- Whether members wish the clerks to draft a submission to the UK Government’s consultation on the proposed banking levy which is to be concluded by the end of summer, or to decide on a course of action once the consultation has been completed and responses evaluated;

- Agree that the Convener and the clerk should continue to liaise with the Scottish Government on their response, and that of the Finance Sector Jobs Taskforce and the Partnership Action for Continuing Employment, to minimise job losses in relation to AEGON and Direct Line plans and report back to the committee; and

- Note the future meeting with Vince Cable and agree to raise further issues and concerns with him in person.
LETTER FROM JOHN SWINNEY TO THE COMMITTEE

Iain Smith MSP
Convener
Economy, Energy and Tourism Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Thank you for your letter of 22 June about the recent press speculation around the jobs at risk at AEGON in Edinburgh.

I was made aware of AEGON’s intention to make an announcement the day before it made its announcement when I spoke to Otto Thoresen, Chief Executive of AEGON UK. Mr Thoresen stressed that AEGON would work closely with the Scottish Government and would keep us fully informed of its plans throughout this period and will engage with Scottish Development International as appropriate. For its part, SDI is arranging to meet AEGON and discuss what it can do to mitigate the potential effect on the workforce of the budget cuts planned by AEGON.

AEGON is determined to work with its employees and the unions to minimise job losses and, in particular, compulsory redundancies. You will appreciate that, at this time, AEGON is unable to offer more clarity on numbers or timescale of any proposed reductions in job numbers but has emphasised that figures that have appeared in the media are merely speculative. Given the stage at which AEGON is in this process, it is too early to involve the Finance Sector Jobs Taskforce but they are aware of the situation and will engage directly with the company at the right time.

I agree with you about the importance of the Scottish financial services industry and the contribution it makes to our economy. The Scottish Government will continue to work to help it maintain its strengths and adapt to change through collaboration with both the industry and our partners in the public sector.

JOHN SWINNEY
LETTER FROM PAUL GEDDES, CHIEF EXECUTIVE, RBS

Paul Geddes
Chief Executive

7 September 2010

Mr Iain Smith MSP
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr Smith

Subject: the proposed closure of our Direct Line call centre in Glasgow

Thank you for your letter dated 1 September regarding the proposed closure of our Direct Line site in Glasgow. This decision was an extremely difficult one for RBS Insurance, particularly because of our long lasting links with the city of Glasgow.

Unfortunately, the European Commission has left us with very few options in this case. Their ruling has come at time when the insurance division of RBS has become uncompetitive. Its cost base is too high compared to its competitors and for that reason, these measures were wholly necessary.

On a positive note, I can tell you that I’ve met with Scottish Government Civil Servants and Scottish Enterprise, under the auspices of the Scottish Jobs Taskforce, about the impact of these plans on Glasgow. I can assure you that we’ll be working hard to mitigate the impact of job losses through redeployment within RBS and by connecting affected staff to other opportunities in Glasgow. We’ve also been working with Tesco, BarCap, John Lewis and Morgan Stanley about job matching. We’re going to be running outplacement surgeries with Job Centre, Careers Scotland and other employers. It’s our hope and expectation that any staff leaving RBS will be quickly re-employed.

Of the 800 staff at our Atlantic Quay office, we’ll be moving a significant number into our building in Cadogan Street. This building will become a centre of excellence for ‘claims handling’. As you will understand, I can’t give you the exact number of job losses because we don’t know yet how many people will decide to change jobs and move over to Cadogan Street and elsewhere. We’ll be doing everything we can to minimise compulsory redundancies. I can also tell you that we have an ongoing commitment to our Accident Repair Centre based in Glasgow which remains a sizeable employer in the area.

As you have requested, I will keep you abreast of any developments with the proposed closure of our Glasgow site. In the meantime, our public affairs team would be delighted to assist you and your EET Committee in any way. You can contact Bob Toal on 0208 285 3671 or by email: bob.toal@rbs.co.uk.

Yours sincerely

[Signature]

Paul Geddes
Chief Executive
SPEECH BY STEPHEN HESTER TO THE EUROPEAN ECONOMICS ASSOCIATION CONGRESS AT THE UNIVERSITY OF GLASGOW ON 24 AUGUST 2010

Safer banks, stronger economies: establishing an appropriate framework for banking reform

A speech by Stephen Hester, Group Chief Executive, RBS Group to the European Economics Association Congress in Glasgow

Tuesday 24th August 2010

In case we needed a reminder, this summer has already provided us with a warning of the economic dangers still existing, as sovereign debt concerns led to a renewed bout of financial market turbulence. All the same, I think we are now at a point where it may be timely to offer some thoughts on banking reform, always bearing in mind that we still have a challenging recovery phase ahead of us. My focus today is on the macro-prudential debate on how to make banks “safer” without jeopardising the imperatives of growth and a well functioning economy.

Initial assessments have been coloured by a great deal of anger directed at the banking industry. That anger is understandable, but it has led a lot of the debate straight towards possible remedies, without stopping to understand the problems those remedies are intended to address. If we are to rebuild a financial system that is more robust and stable, and yet still capable of performing those functions that are beneficial, indeed vital, to the wider economy, then a more systematic approach to the problem is needed. The Independent Commission on Banking set up by the British Government, which you, Sir John, are chairing, provides a valuable opportunity for a thorough assessment.

Understanding the problem

At the heart of the financial crisis was a massive and excessive expansion of leverage within the financial system. But that expansion itself resulted from huge global imbalances, with too much borrowing and consumption by western households, companies and governments, financed to a considerable extent by Asian savings. Banks were, of course, integral players in this, but not the only players. Consumers were happy to watch the value of their houses rise while their consumption increased; investors were equally happy to see companies taking on more leverage and distributing capital through share buybacks; governments were happy to increase public spending on the back of buoyant tax receipts.

Recent financial turbulence has its roots in structural economic imbalances and it is a mistake to frame the issue narrowly as a banking problem. Policy-maker forbearance in those countries where major economic imbalances were building, and perhaps encouraged, is also one of the lessons we must learn from.

However, reforming banking is a necessary part of a wider effort to bring balance and stability to our economy. It is important to get the diagnosis right. I believe the analysis will show that these four elements were central to the bank failures and near failures of the last three years:
• Too much leverage
• Too much dependence on wholesale funding
• Inadequate risk controls
• Shortcomings in management, governance and culture.

Our plans to reduce the balance sheet leverage of RBS by almost a half in the next 5 years and the Bank’s associated reliance on wholesale funding, reflect this diagnosis rather than a simplistic notion that size determines the probability of default.

We must reflect on the fact that the most vulnerable institutions were those whose principal exposures were in countries with major economic imbalances. Highly geared banks in highly geared economies were an explosive mixture. Size, shape and business mix were not themselves determinants of banking failure. We should of course consider if it is harder to allow a bigger and more diversified financial institution to fail. But in calmer economic times, very big failures can be absorbed, while in more troubled times even a much smaller institution can trigger a cascade of dominos. The fact that seemingly small and narrow institutions became systemically important at the point of crisis makes the case for an effective resolution mechanism, irrespective of the size and shape of a bank.

It is also important to note that increased proprietary risk-taking was not a central issue except in its most literal sense. Even the most elementary form of banking – lending to customers – involves proprietary risk. Accounting rules may have meant that trading book assets were marked to market, so losses crystallised sooner than they did for assets held on the banking book, but if one looks over the full span of this crisis, some of the greatest losses are coming from customer lending and its related securitisation – mostly to companies and individuals and especially to finance residential or commercial property.

In my view these are among the red herrings swimming around in this debate, and if we are to come up with the right remedies, they need to be netted out.

**Appropriate reform**

Let me turn instead to the common factors, the elements that I believe do need to be addressed.

On leverage and liquidity, much has been done already and much more is under way, notably through the Basel Committee. Bank capital ratios are now significantly stronger than they were at the onset of the crisis. RBS’s own Core Tier 1 ratio today stands at 10.5%, two and a half times higher than it was at the start of 2008, and in fact that understates the degree of change – regulators have significantly tightened a number of definitions in the Basel framework, so a ratio of 10.5% prospectively would, on the definitions that prevailed in 2008, have been several percentage points higher. The proposed Basel III reforms raise the bar further, and will introduce new rules for gross leverage and for liquidity. If we hit our published targets, RBS will have reduced its gross assets by £750 billion. Use of short-term wholesale funding will have halved and be more than wholly covered by liquid asset reserves and collateral.
These measures are in hand, and will greatly reduce the probability of bank failure. The remaining issues in this area revolve largely around calibration and timing. We have to be clear that there is a difficult trade off between higher capital and liquidity ratios, the cost of capital and the supply and demand of loan funding. The most difficult trade-offs are in those countries, like the UK, where the desire to borrow exceeds the domestic supply of savings, meaning the banks have to resort to wholesale funding to meet loan demand.

It will also be important for regulators to keep a close eye on the extent to which banking reforms may simply push financial activity beyond the boundary of regulation into the shadow banking area where financial stresses could build less visibly but with equal risk.

Better risk controls within banks are harder to legislate for, but there has been considerable progress in this area too, notably in the management of counterparty risk. It follows from my point about customer loan losses that we need to up our game in credit analysis and seek continuous improvement.

It is even harder to demonstrate tangible change in management and culture, but I believe the harsh lessons learnt in the crisis have not been forgotten as quickly as some would have you think. Banks and bankers went through a humbling experience. As some of you may know, I re-entered the banking sector post crisis and across the industry I see genuine and healthy efforts to reconnect with customers, to become more transparent, to take risk seriously in all its forms.

There is naturally much more to do but no-one who has managed or worked for a bank over the last three years could lightly draw the conclusion that they enjoy a one-way bet.

**Resolution**

I have discussed a number of measures that, taken together and properly implemented, should go a long way towards reducing the incidence of banking failures - that is, the probability of default. But banks will still be able to fail and if the Lehman crisis taught us anything it is that bank failures need better handling tools. Indeed, it is important to the proper functioning of the market that we do not remove that possibility of failure – that would embed entirely the wrong incentives around risk-taking. The next, and in many ways the most difficult step, then, is to ensure that banks can fail, but in ways that minimise the impact of that failure on the wider economy.

The first step in this involves preparation for the possibility of failure. Regulators are developing frameworks for major financial institutions to set out recovery and resolution plans, sometimes called “living wills”.

But we also need the right mechanisms to implement a resolution plan of this kind, when the moment arises. When an industrial company runs into trouble, there are mechanisms for enabling it to be restructured in a way that will allow the viable parts of the business to continue – Chapter 11 bankruptcy in the US, the less formal London Approach, where a company’s debt will be restructured with the, often reluctant, agreement of its creditors. These creditors have to give up a portion of their claim, or translate it to a different form but with time and some banging together of heads they can often be persuaded to do so, because it represents better value than a full-scale insolvency.
With banks, you don’t have that element of time, because if confidence is called into question, the creditors will run very quickly – and they may very well run from other institutions too, causing damage to the whole system. Where inter-connectedness presents a problem, a solution must be found. Reforms to the over-the-counter derivatives market through central clearing houses is a step in that direction.

In order to allow something similar to Chapter 11 to take place at speed for banks, we will also need a clear mechanism to extend losses, when necessary, beyond equity to unsecured creditors – and without requiring state subsidy. In the recent crisis there was something of a political preoccupation with one class of unsecured funder – the retail depositor. In fact, these are the least problematic creditors to deal with – retail deposits are generally protected by insurance funded by the banks, not the Government. Unprepared though we were for this crisis, the regulators still managed to find a home for the retail deposit books of failing institutions. The macroeconomic reality of course is that we have a funding gap in retail and commercial banking in the UK because of our national desire to borrow more than we save. That gap was, and still is, filled by wholesale unsecured creditors and this where a new resolution regime has to be at its most effective.

This is not an easy problem. Converting debt into equity can address bank capital problems, but it wouldn’t in itself address funding issues. Rushing in without care could at worst actually trigger exactly the sort of liquidity withdrawal that would plunge the financial system back into crisis. It may therefore take some time to introduce a working mechanism, but it is important that we establish the direction of travel and begin to make real progress.

There are some prominent voices in the debate who argue that it is beyond our ability and imagination to design an effective resolution regime. That “break-up” options are required because others are beyond the wit of regulators. I find this a counsel of despair. It is incumbent upon us to work to design an effective regime.

Until progress can be demonstrated, however, the increased industry taxes proposed either through higher capital requirements or more direct levies are not easy to argue with.

**Economic function**

Getting all this right is important, because in future the banking industry cannot expect and would not wish to need government support in the way it has over the last three years.

But it is important also because of the role the banking industry plays in the wider economy. Questions have been raised in some quarters about the “social usefulness” of much of the financial services industry, and banks have, frankly, not done a very good job of explaining what it is they do, and how they serve the public interest – and not just the interest of the 1 million plus people who work in financial services in this country and who, incidentally, add economic value per head that is more than double the UK average.

Most people have some understanding and appreciation of the services high street banks provide. This understanding has its limits, however. I have spoken on other
occasions about the “Hovis” view of banking – a view that, like the nostalgic advertising for the Hovis loaf, conjures up a past that never was. That was an age when fewer than 40% of the British working population even had a bank account, compared with 97% today. Where lending was too often based on whom the bank manager knew rather than a dispassionate analysis of a business plan. Credit rationing in this world almost certainly stopped positive NPV projects being funded and retarded economic growth.

I don't think our society today would stand for that. Our customers expect to be able to bank online or by telephone, to withdraw cash at every street corner and to make payments anywhere in the world with appropriate currency protection. They want products and services that help them access business opportunities all over the world. They want us to keep up with these changes, not look backwards.

It was also an age when households and businesses, in aggregate, deposited more than they borrowed, and when banks could essentially fund themselves at base rate. Today, banks are seeking – and are required by their regulators – to build up their longer term funding in order to match the duration of their assets. At the same time, providers of wholesale funds have become much more risk averse and are charging significant credit premia over and above visible market benchmark rates. Of course, if funding is more expensive for banks, across the board, that is likely to feed into loan pricing for customers. That's how it should be in a market economy. Adam Smith's invisible hand is alive and well in this regard.

**Investment banking**

If there is misunderstanding over high street banking, then investment banking can prompt outright confusion. Investment banking has come to be associated in many minds with speculation, and the label “casino banking” has stuck.

That is regrettable, because investment banking is every bit as vital to the modern global economy as retail and SME banking, and every bit as interconnected with the real economy.

Without investment banks, governments - large and small - would not be able to finance their public deficits as efficiently.

Without investment banks, homeowners in countries like the US, the UK and Spain, where demand for credit far outstrips the supply of local savings, would not be able to refinance their mortgages.

Without investment banks, corporates would not be able to support their suppliers with supply chain finance facilities of the sort we provided for a large supermarket group last year.

Without investment banks, retailers would not be able to finance their customers through securitisation programmes like those RBS has arranged for Shop Direct, a business that supplies 5 million middle and lower income Britons with clothing and household goods on extended payment terms.

Without investment banks, farmers would not be able to hedge their crop prices and the agricultural support payments they receive in euros from the European Union.
Investment banking activity is overwhelmingly a customer-driven business. The second quarter results of the investment banks demonstrated as much. They were sharply lower than the previous period because customers sat on the sidelines when economic confidence worsened not because a few proprietary traders had an off-day.

While separation of retail and investment banking attracts lively debate, it has been rejected as a solution so far in other countries. I believe that this is because it is not clear that separation would address the causes of financial instability, given many of the high profile casualties of the recent financial crisis did not combine investment and retail banking. Furthermore, while business and funding diversity has important benefits, retail insured deposits are not directly used to fund investment banks nor have they been lost in investment banking failures. Policymakers face dilemmas with all banking failures – the retail connection is a red herring. That is not to say that universal banking is the right business model. In fact, both narrow and broad models can and do flourish alongside each other. But my contention is that this should be a matter of shareholder and customer choice not the by-product of a debate on banking failures without proven causality.

**Conclusion**

I could go on…

But all of this is simply to underline how much is at stake.

In the end, there is a great deal of common ground. We all want stronger economies and safer banks. Almost all commentators agree that there is no single solution to the problems raised; the answer is likely lie in a combination of approaches. The extensive reforms to capital, liquidity and risk now underway will significantly reduce the probability of failure, but rightly not remove its possibility.

The essential complement then is to ensure that financial institutions can be safely resolved and if bailed out, it should be by shareholders and creditors not the state. My analysis of what has just happened and my experience of banking tell me that size is probably not the key issue. With an effective resolution scheme, banks should not have to call on state support. Without such a scheme and in troubled times the danger comes from systemic risk and “too big to fail” can apply regardless of size. The parallel with the sovereign debt crisis is striking. When contagion is in the air, even a small country is deemed too big to fail.

It is important that we get banking reform right – that we address the right problems with the right remedies, and that we think through carefully not just the benefits of those remedies, but also their costs.
ANNEXE C

RESPONSES TO LETTERS ON THE REFORM OF THE FINANCIAL SERVICES SECTOR

• FiSAB
• Secretary of State for Business, Innovation and Skills, Vince Cable
• OFT
• Santander
• Cabinet Secretary for Finance and Sustainable Growth, John Swinney.

29 June 2010

Iain Smith MSP
Convener
Economy, Energy and Tourism Committee
The Scottish Parliament
Edinburgh
EH1 2JQ

Dear Iain,

Thank you for your letter of 24 June.

SFE is still considering whether to respond directly to the Banking Commission but we are, as always, mindful of the fact that nearly all of our members are also members of sectoral organisations like the British Bankers' Association. So we are thinking about how best to contribute with that in mind.

The First Minister has indicated that he would like some advice from FiSAB on a possible response to the Commission, and that is in hand. I will, of course, ensure the Committee receives a copy of any submission in due course.

I am copying this letter to the First Minister.

Yours sincerely,

[Signature]

Mark Tennant
Chairman

cc: First Minister
Thank you for your letter of 24 June, inviting me to Edinburgh to meet with you and the Committee.

I hope you will agree that your Committee’s recommendations are broadly in line with the aims of the Coalition Agreement. We said that the Government will take steps to reduce systemic risk in the banking system, foster diversity in financial services, promote mutuals and create a more competitive banking industry.

To that end, the Chancellor and I have established an Independent Commission on Banking to investigate the complex issue of separating retail and investment banking in a sustainable way and recommend how banking in future will provide positive benefits to power the recovery.

Sir John Vickers has agreed to chair the Commission, which will look at the structure of banking in the UK, the state of competition in the industry and how customers and taxpayers can be sure of the best deal. He will be supported by four other commissioners, Martin Taylor, Claire Spottiswoode, Martin Wolf and Bill Winters.

They had their first meeting the week before last and announced their intention to publish an Issues Paper in the autumn in order to stimulate public debate and invite submissions of evidence. I encourage you and the Committee to engage in this debate. The Government looks forward to receiving their report next year.
As you say, ongoing work at the Office for Fair Trading (OFT) will also shed some light on these issues. In particular the OFT has work underway on a review of barriers to entry, expansion and exit in retail banking and banking for SMEs and a potential market study on equity underwriting and associated services. This work will improve general understanding of competition in the market and the Government welcomes this contribution to the debate.

As for the European Commission decision on RBS and Lloyds divestments, it is worth noting that individual mergers and acquisitions are matters for the competition authorities. The OFT or European Commission will consider each case on their competition merits, including levels of concentration in the market.

Clearly, all this will take time and careful analysis. I would be happy to accept your invitation to speak with you and the members of the Committee on these issues. I am due to visit Scotland again in October and would be pleased to meet with you informally then.

Please contact my Diary Manager, Jackie Cameron, on 0207 215 5422, to make the necessary arrangements.

VINCE CABLE
From the Chairman
Philip Collins

Mr Iain Smith MSP
Convener
Economy, Energy and Tourism Committee
Scottish Parliament, Tower 2 T3.40
Edinburgh
EH99 1SP

14 July 2010

Dear Mr Smith

Competition in the Banking Sector in Scotland

Thank you for your letter of 24 June asking me about OFT’s views on the request from the Minister for Enterprise, Energy and Tourism to John Fingleton for a wider competition investigation into competition in banking in Scotland in personal current accounts, home loans and business banking.

As you know we already have underway a review into barriers to entry, expansion and exit in retail banking in the UK which is covering both banking services to personal and small and medium sized enterprise customers within the UK including Scotland. On 26 May we published a call for evidence on this review. This is available at: www.oft.gov.uk/OFTwork/markets-work/othermarketswork/review-barriers/

In addition an important initiative was announced by the UK Government recently. The Independent Commission on Banking, headed by Sir John Vickers will be examining wider issues surrounding the banking sector, including ‘promoting competition in both retail and investment banking with a view to ensuring that the needs of banks’ customers and clients are efficiently served, and in particular considering the extent to which large banks gain competitive advantage from being perceived as too big to fail.’

In light of this study we feel it would be more appropriate for the Independent Commission on Banking to consider the wider competition issues in relation to Scotland that you have raised. A separate review by us at this time would add unnecessary duplication. Our own work will fit together with that of the Commission and we shall be ensuring that the review we are carrying out feeds into the Commission's work. We shall also be offering assistance to the Commission in terms of our competition expertise.
We have already undertaken that our team will draw to the attention of the Independent Commission on Banking the particular concerns about competition in banking in Scotland. I would also encourage you to establish contact with the Independent Commission on Banking and provide them the evidence you have of retail banking customers’ experience in Scotland.

Our Chief Executive, John Fingleton, has written to Jim Mather MSP, Minister for Enterprise, Energy and Tourism in similar terms.

Philip Collins
Chairman
Iain Smith MSP  
Convener  
Economy, Energy & Tourism Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Mr Smith,

Economy, Energy & Tourism Committee – meeting on 23 June 2010

I write in response to the discussion on 23 June regarding the Committee’s Financial Services Inquiry. Given the specific reference to Santander, we wanted to take this opportunity to clarify a few points concerning our position in the UK market.

Santander UK is a new entrant to the small and medium-sized enterprise (SME) banking market. Through our recent acquisition of Alliance & Leicester, we have gained a network of twenty regional corporate banking centres. Currently we have a modest 3% share of lending to SMEs in the UK, but we have ambitions to grow as we seek to become a full-service commercial bank in the UK. Indeed, our lending to SMEs during the first three months of the year was up over 18% compared to the same quarter last year – albeit from a relatively small base. We have also widened the product offerings available to our customers, such as the provision of invoice finance services.

Santander has submitted an offer in the tender process of approximately 300 branches of The Royal Bank of Scotland. As you know, the vast majority of these branches are located in England. Given that the branches mainly provide services to SMEs, we believe they would be an important addition to our SME offering allowing us to reach a wider array of businesses in the UK.

In addition to our status as a new entrant in the SME market, we are also seen as a “challenger” to the established retail banks in the UK. For example, we attracted over 1 million new personal current account customers in 2009; we have similar targets in 2010, aided by innovative products such as the Santander Zero Current Account (which has no fees for customers who exceed their arranged overdraft or when using cash machines or their debit card anywhere in the world). Our status as a challenger is also demonstrated by the fact that in the last 18 months we had more ‘best buy’ mentions in the newspapers than any other bank. Our aim is to bring this competitive vigour to the SME market.

I hope you find the above information useful. If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

Rob Hailey  
Government Relations & Public Policy Manager  
Santander UK plc  
Registered Office: Sovereign House, Sovereign Court, 150 Fetter Lane, London EC4V 4JR  
Registered in England and Wales. Registered Number 3770620. Registered in Scotland.  
Telephone: 020 7756 4229  
Email: rob.hailey@santander.co.uk  
15 July 2010
Thank you for your letter of 26 August 2010 concerning banking issues.

The Scottish Government does plan to make a submission to the Independent Commission on Banking which has been established by the UK Government. We are anticipating that the Commission will call for evidence in early September and we will provide a direct response to that. In considering the many complex issues which the Commission will examine, the Financial Services Advisory Board (FiSAB) has agreed to provide advice, from a Scottish industry perspective, to assist us in our consideration of these issues. In addition, I hope to meet personally with Sir John Vickers who is chairing the Independent Commission over the course of its work. I will be happy to ensure that any submission from the Scottish Government to the Commission is made available to the Enterprise, Energy and Tourism Committee.

On your second point, the analysis and information we hold relating to the Banking sector in Scotland, in terms of the individual market share of different banks, has been published in both our recent Access to Finance reports. The most recent data was published in February 2010. We do not have any further updated information and as far as we are aware this information is not available publicly from any other source. It is however our intention to update our Access to Finance Survey in autumn 2010 which will provide an update on the market analysis for the SME sector in Scotland. I will ensure that the Committee is provided with the subsequent report of the survey.

JOHN SWINNEY
Economy, Energy and Tourism Committee

24th Meeting, 2010 (Session 3), Wednesday, 15 September 2010

Energy inquiry – update on the progress of delivering on the recommendations

Background

1. In June 2009, the Committee published the report of its energy inquiry¹. This was the culmination of an extensive investigation. As part of its ongoing work programme, the Committee stated that it wished to return to the subject matter throughout the remained of the parliamentary session to review the progress that is being made by the Scottish Government to deliver on the recommendations made at the time. A note from the Scottish Government is attached in the annex to this paper.

2. In addition, the Minister for Enterprise, Energy and Tourism has written to provide an update on the plans for reviews into transmission charging and wider issues. A copy of the Minister’s letter is attached in the annex to this paper.

3. Finally, the Committee has also received correspondence from The Crown Estate on the issue of community benefits from renewable energy developments.

Action/recommendation

4. Members are asked to consider the material set out in the annex to this paper and discuss what, if any, action they wish to take. It is suggested that one possible course of action would be for the Committee to agree at an appropriate time to make a written submission to the various inquiries on transmission charging and on regulatory reform and to also take up the offer by Ofgem to give oral evidence to the Committee on these matters at a convenient time.

Stephen Imrie
Clerk to the Committee
September 2010

¹ Available at: http://www.scottish.parliament.uk/s3/committees/eet/reports-09/eer09-07-vol01-01.htm
Dear Convener,

Re. Energy inquiry update

I am writing in response to your letter of 27 July in which you sought further clarification on a number points in relation to the Committee’s Energy inquiry recommendations.

For ease of reference the updates are attached in annexes to this letter.

I hope that this information is helpful to you.

Yours sincerely

JIM MATHER
**Table with responses to EET Committee’s letter of 27 July**

<table>
<thead>
<tr>
<th>Committee’s Query</th>
<th>Response</th>
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</thead>
<tbody>
<tr>
<td><strong>Beauly-Denny</strong></td>
<td>The Scottish Government continues to work with the developers, and consult with the appropriate advisory bodies, in order to assess the suitability and efficacy of the work being done to meet the requirements of the section 37 consent and deemed planning permission for the Beauly-Denny project.</td>
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<tr>
<td><strong>Overview</strong></td>
<td>SSE have submitted a proposed Construction Procedures Handbook for approval. This is currently the subject of consultation with affected residents and the two advisory groups established for the project. A Community Liaison Scheme for the project in SSE’s transmission area has been submitted to and approved by Ministers. SSE have also submitted proposed Rationalisation Schemes for Wester Balblair, Cairngorms National Park, Errochty and Muthill, and my officials are consulting with the relevant planning authorities, SNH and the Directorate for the Built Environment on these. Other work which has been submitted includes a suite of Species Protection Plans and various site management plans, all of which have been developed in full consultation with SNH.</td>
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<td><strong>Auchilhanzie House Mitigation Scheme</strong></td>
<td>SSE continue to develop proposals for the Auchilhanzie House Mitigation Scheme, in consultation with the landowner. Following an onsite meeting between my officials, SSE, the owners of the property and their consultants, SSE have agreed to develop a paper exploring the options available to mitigate the visual impact of the line in the area past Auchilhanzie House and setting out a preferred course of action. I am of the view that this will prove invaluable to the consultation exercise, and will focus minds as the parties work towards a satisfactory solution.</td>
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<tr>
<td><strong>Timetable</strong></td>
<td>SSE are hopeful that they will be in a position to begin works on the ground towards the end of August. However, there remain a number of conditions whose terms must be met before any work can commence ‘on-the-ground’.</td>
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<tr>
<td><strong>ScottishPower Transmission Ltd (SPT)</strong></td>
<td>My officials continue to liaise with SP in respect of the Beauly-Denny project on a range of issues, but it is my understanding that SPT consider the development of the Stirling Visual Impact Mitigation Scheme to be their immediate priority in seeking to fulfil their pre-construction obligations. Officials have agreed with SPT that a paper examining the options and making an initial recommendation will be prepared by SPT and will be subject to consultation with Stirling Council, via their ‘Beauly-Denny Steering Group’, and with members of the public. SPT have stated that the options being considered include undergrounding, tower design and paint colour, routeing, landscaping, screen planting and removal of existing low voltage overhead lines. I have encouraged SPT to be as innovative as possible in their approach and to consider emerging technologies.</td>
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| **Stirling Visual Impact Mitigation Scheme** | SPT, along with officials from the Energy Consents & Deployment Unit (ECDU), have been attending meetings of Stirling Council’s Beauly-Denny Steering Group. It is my view that the provision by SPT of a full report examining options and providing their
recommendations will provide a useful focus for a consultation with the Steering Group and beyond, and may bring forth useful alternatives. SPT’s paper is expected to be released around the end of August. The results of this public consultation will then inform the formal proposals submitted by SPT to Scottish Ministers, whereupon they will consult with Stirling Council as per the terms of the condition with a view to making their determination.

**Community benefit issues**
A number of Committee members are interested in the link between a successful completion of a planning application and the mechanisms that can be used to provide community benefits from any development. As far as we are aware, data is not collected centrally on the statistical correlation between planning consent and community benefit programmes, and the Committee asks whether the Scottish Government can address this issue as well as provide us with information on how you intend to encourage developers to adopt best practice in this regard. We are also interested whether, in your view, legislation is required to facilitate agreements between local authorities and communities, and developers. The Scottish Government collects returns on planning applications determined by planning authorities six-monthly and this is moving to a quarterly return. Although the Government does collect information on the number of applications subject to (but not investigating the content of) a legal agreement, this would not reveal those cases subject to community benefit programmes. It should however be made clear that while a ‘section 75 agreement’ could be entered into to provide specified infrastructure directly related to, and required by the development, a ‘section 75 agreement’ could not be used to secure wider ‘community benefit’ unrelated to the development or indeed any infrastructure provision beyond that essential to make the development acceptable in planning terms. Guidance on the use of such agreements is set out in Circular 1/2010 – Planning Agreements (http://www.scotland.gov.uk/Publications/2010/01/27103054/6).

Agreements under section 69 of the Local Government (Scotland) Act 1973 may be more appropriate for securing community benefit. Centrally collected data on the statistical correlation between planning consent and community benefit programmes is not held, bearing in mind that arrangements for community benefit programmes are quite independent of the process of determining a planning application. In light of the Independent Budget Review and the forthcoming spending review the Committee is asked to recognise that collection of the data is an unlikely prospect.

We have also said that we will review the new development management system after its first 12 months of operation, once the arrangements have been given time to become established, and take a view on whether or not there is merit in amending provisions.

Maximising benefits from renewables for the people of Scotland is a key aspiration of this Government. The development of renewables should raise the quality of life for the Scottish people, through increasing economic opportunities from all, on a socially and environmentally sustainable basis. A number of communities are already reaping the significant benefits and we want to build on that success. As part of that drive, we announced plans for a feasibility study for a loan fund to help de-risk early stage development of renewables projects. Alongside that we are currently considering other options to secure increased community benefits from renewables.

**Energy efficiency action plan**
The Committee asks for an update on the publication date for this plan and agreed that that any further delays to the plan’s publication is not acceptable to the Committee. We have already made it clear that the Committee considers that the Scottish Government should have had a published plan — and not just another consultation — by the end of last year (2009).

The Energy Efficiency Action Plan was drafted and ready for publication in May 2010. However, the publication of this was delayed until a new Order on Annual Climate Change Targets can be laid before Parliament. It is expected that this will now be published as part of a suite of documents including Report on Proposals and Policies and the Low Carbon Economic Strategy.
| **Permitted development rights** | Our consultation on extending permitted development rights for domestic micro-wind turbines and air-source heat pumps closed on 30 April. It attracted 57 responses. These have now been analysed by external contractors and their report and “research findings” will be published soon by the Scottish Government. Work on revisions to the 2010 Order can then be commenced. On the question of microgeneration for non-domestic buildings, a consultation was opened on 15 July and will run until 8 October 2010. The Committee may find the web based summary of the consultation proposals helpful: http://www.scotland.gov.uk/Resource/Doc/318708/0101725.pdf. Across both the domestic and non-domestic sectors we are working to provide up-to-date clarity in the context of the wider review of the General Permitted Development Order later in 2010. |
| **WATERS** | The Scottish Government was delighted to announce on 6 July £13 million in grant awards through its WATERS (Wave and Tidal Energy: Research Development and Demonstration Support) fund, being run in collaboration with Scottish Enterprise and Highlands and Islands Enterprise. Following on directly from WATES, the funds will support five wave and tidal technology projects in Scottish waters to help develop emerging energy technologies and improve the operation of marine renewable devices. The awards include support for Aquamarine and AWS Ocean Energy, plus a £6 million grant towards their wave energy array at Siadar in the Western Isles. WATERS is managed and administered by Scottish Enterprise. |
| **Supergrid** | Please see note at Annex B |
| **Fossil fuel levy** | We continue to work with the UK Government to secure the release of the fossil fuel levy (FFL) in a way that is additional to existing budgets. Mr Swinney wrote to Danny Alexander MP, Chief Secretary to the Treasury on 16 July pressing for a swift agreement on proposals for the FFL. |
| **Transmission charges** | 14 May - John Swinney, Cabinet Secretary responsible for Energy and Climate Change wrote to The Rt Hon Chris Huhne MP highlighting the energy, climate change and Low Carbon Economy policy areas for proactive and productive cooperation between the Scottish and the UK Government – including tackling the issue of transmission charging. 8 June – Jim Mather, Minister for Enterprise, Energy and Tourism, writes to Mr Huhne (and the EET Committee) highlighting publication of a Scottish Government options paper on changes to locational charging. This follows up work Mr Mather led with Ofgem, National Grid, Scottish energy sector interests and academics. It puts the options paper in the context of calls for an independent review of transmission charging (including from the Committee and the Scottish Parliament in its debate of 21 April) and also as part of the UK Government stated intention reform the GB energy market to deliver security of supply and investment in low carbon energy. Scottish Government urging that the options paper forms the basis of further discussions on alternative charging methodologies or changes to the current approach. |
27 July – DECC publishes its first Annual Energy Statement, which includes announcement Ofgem will take forward an independent review of transmission.

4 August – Scottish Government engaged with Ofgem for detail on proposed approach scope and aims of the independent review – offers to the work undertaken to date with Scottish Government, Ofgem, National Grid and a range of Scottish and other stakeholders inform and input into the independent review process and to facilitate and contribute to any consultative seminars in Scotland as part of the independent review process. We understand Ofgem has begun preliminary work, but will launch this review in early autumn.

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<td>The Committee also requests an update on the previously supplied material breaking down the decisions by the Scottish Government on whether or not it has awarded planning consent for larger renewable energy projects. Material along these lines was provided during the inquiry itself and an update is now requested.</td>
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Since the material previously supplied to the Committee, we have determined an additional 12 applications. All 12 have been consented and none have been refused.

Therefore, since May 2007, we have determined 39 large scale renewable energy applications. Of these, 34 have been granted consent and 5 have been refused.

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In addition, as previously highlighted to the Committee, the Scottish Government will bring forward a refresh of the Skills for Scotland Skills Strategy with a renewed focus on the skills needed for economic recovery and long-term success. One of the four themes of the Strategy is around simplifying the skills system for both individuals and employers across all sectors, including new commitments aimed at making engagement with the skills system as straightforward and effective as possible. The Scottish Government intends to bring this refreshed skills strategy before Parliament for debate early in the new session. This will outline our ongoing commitment to skills and training as we look to strengthen our economic recovery. We previously indicated our intention to publish before the summer recess in June but this was delayed to allow further time to consider the implications of the UK Government decisions announced in the June Emergency Budget.

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<td>The Committee stated that it was very concerned, as we were during our inquiry into the tourism sector, at the institutional clutter in the skills and training sectors that are supposed to support the energy industry. The Committee called on the Scottish Government to spell out how it intends to address this issue and report before summer 2010. We would be grateful for this report.</td>
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In addition, as previously highlighted to the Committee, the Scottish Government will bring forward a refresh of the Skills for Scotland Skills Strategy with a renewed focus on the skills needed for economic recovery and long-term success. One of the four themes of the Strategy is around simplifying the skills system for both individuals and employers across all sectors, including new commitments aimed at making engagement with the skills system as straightforward and effective as possible. The Scottish Government intends to bring this refreshed skills strategy before Parliament for debate early in the new session. This will outline our ongoing commitment to skills and training as we look to strengthen our economic recovery. We previously indicated our intention to publish before the summer recess in June but this was delayed to allow further time to consider the implications of the UK Government decisions announced in the June Emergency Budget.

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Therefore, since May 2007, we have determined 39 large scale renewable energy applications. Of these, 34 have been granted consent and 5 have been refused.

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<td>Again, in our report (paragraph 138), the Committee called on the Scottish Government and other public bodies to increase the involvement of oil and gas industry representatives in the various skills bodies (e.g. Scottish Funding Council, sector skills groups, Skills Objectives and Indicators (SOI)) to ensure the industry’s needs are being met.</td>
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The Scottish Government led, Forum for Renewable Energy Development Scotland (FREDS) Skills Group, has now met once, and plans to do so again on 8 September. Group membership includes a representative of OPITO, the Oil & Gas Academy, the Oil and Gas industry’s focal point for skills, training and workforce development. OPITO work with all FREDS Skills group members, including Skills Development Scotland and the Scottish Funding Council, utilising the experience of the Oil and Gas industry to inform development and direction of renewables skills.
Development Scotland etc) and to promote the model of the oil and gas academy to other industries. We ask what efforts have been made in this regard.

The Scottish Government has also established a link between OPITO and the National Skills Academy for Power (NSAP), who will deliver the fast-changing training and development needs of the Power Sector in the coming years.

The need for these linkages was highlighted as part of the Scottish Government's Offshore Wind Routemap.

**Energy service companies**

Finally, in the report, we welcomed the progress that has been made in tackling the poor energy efficiency standards in buildings and noted the provisions in the Climate Change (Scotland) Act. However, the Committee believed that tougher mandatory standards for building energy use were required and that these should be revisited regularly and progressively increased. The Committee also considered that a greater use of energy service companies (ESCOs) should be explored as a means of promoting energy efficiency in both public and private buildings. The Committee stated that the Scottish Government should complete a study on these matters before the summer of 2010. We would be grateful now for this study.

Energy standards, applicable to new buildings and where new building work is carried out in existing buildings are set under building regulations. These are reviewed on a regular basis, with improvements introduced most recently in 2007. In line with recommendations within the Sullivan Report, further improvements will be introduced on 1 October 2010 with reviews also programmed during the years leading up to both 2013 and 2016. Work is already underway to progress implementation of sections 63 and 64 of the Climate Change (Scotland) Act 2009 that relate to existing buildings.

The Climate Change (Scotland) Act introduced wide ranging enabling powers to introduce requirements to assess the energy performance of houses and to require action to be taken based on these assessments. The consultation on the Energy Efficiency Action Plan was used to start to explore the form that regulation might take in the domestic sector and the timescales within which it should be applied. The consultation received a wide a range of different views on options for regulation. Following the consultation, we are continuing to investigate these options. A Ministerial Statement on proposals for regulation will be made by end March 2011.

The issue of what role energy service companies (ESCOs) will play in the market going forward will be canvassed and developed through the forthcoming Energy Efficiency Action Plan publication of which has now been delayed until the Autumn.

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Committee Request - Supergrid – Mike McElhinney

“We would also appreciate a note on the plans to develop a European supergrid and what the next steps will be.”

Offshore Grid

Renewable Energy is a key area of competitive advantage for Scotland and a vibrant and thriving energy sector will play a key role in delivering strong and sustainable economic growth.

The Scottish Government vision is for Scotland to play its part in developing onshore and offshore grid connections to the rest of the UK and to European partners – to put in place the key building blocks to export energy from Scotland to national electricity grids in the UK and Europe.

We want Scotland to play its part in building a Europe wide supergrid to help meet Scottish, UK and EU renewable energy targets and address the challenges of climate change, and ensure security of future energy supply through greater interconnection.

Scotland’s remarkable wind and wave energy potential is a major opportunity for Scotland to play a part – through our significant onshore and offshore renewable energy potential. But the challenge in developing the grid connections to make this happen – and the costs of doing so - are significant.

Existing and planned offshore connections

There are a number of existing grid connections across Europe – for example links between the UK and France, between Scotland and Northern Ireland and between Norway and the Netherlands.

There are also a number of other grid connections planned – including between the UK and the Netherlands and between Norway and Germany.

To date, these are evolving in a relatively piecemeal way – responding to market demand in particular regions and with the development of wind farms without a reasonable degree of regional coordination.

Making the European Grid concept work will require a more collaborative approach to developing interconnections between countries, regions and members states into a strategic, co-ordinated and connected grid network – and developing off-shore grid in the North Sea in modular form to deliver an interconnected North Sea grid.

It will also need significant and sustained effort to work with EU countries and regions to standardise electricity transmission and energy regulation. The Scottish Government is working closely with UK and EU partners on this.

Scotland already has offshore sub sea connections to Northern Ireland and some of the Scottish Islands.

The period 2010-2018 will see significant activity to reinforce and develop these connections aimed addressing some of the grid constraints within the GB system (ands between Scotland and England in particular) and at connecting both our onshore and offshore renewable generators.
Publication of the Electricity Networks Steering Group Vision 2020 report in March 2009 was a major step forward in designing the electricity transmission network that will help Scotland and the UK to meet the EU target of 15% of UK energy from renewable sources by 2020. Scotland played a key role in this work.

For Scotland it focuses on grid infrastructure options to transport and export up to 11.4Gw of potential renewable energy. Scottish generators worked closely with Scottish and UK Government and Ofgem to:

- confirm the case for – and importance of upgrades to fulfil the potential for export of Scottish renewables, and from the North and Scottish Islands;
- confirm the value of sub sea grid developments;
- give a springboard for developing the North and Irish Sea Grids;
- build squarely on the National Planning Framework 2 (which clearly identifies onshore and onshore grid development as national infrastructure priorities) and;
- avoid further major onshore interconnections.

For sub-sea grid it identifies a need for two sub sea cables linking Scotland to centres of energy demand in the Southern part of the UK. It will see two sub sea cables off the east and west coasts of Scotland connected to centres of demand in England.

- a West Coast 1.8GW HVDC link between Hunterson and Deeside – attracting investment of around £760M - and planning for this is already underway, with consultation on possible sea route and landing points issued in June 2010. The target for commissioning the link is 2012/13:
- an East Coast 1.8 GW HVDC link between Peterhead and Hanwthrone Pit in Humber side – attracting investment in the region of £700M – the target for commissioning this link is 2018.

It also includes sub-sea High Voltage Direct Current (HVDC) links the Scottish mainland and the Shetland Islands, Orkney and the Western Isles and also in Argyll and Bute region.

The Scottish Government has funded pre-scoping studies on the technical, economic, social and financial feasibility of the development of an offshore transmission network or grid to encourage electricity generation from renewable resources in both the North Sea and the Irish Seas.

The Scottish Government is now working In partnership with the Governments of Ireland and Northern Ireland – with EU Interreg funding on a full feasibility study into development of an offshore transmission grid to exploit offshore energy off our west coasts. This Irish Scottish Links in Energy Study project will become a key building block in delivering sub-sea grid in the Irish Sea – and will report by the end of 2011.

The Scottish Government is also working with British Isles colleagues through the British Irish Council framework and an agreement was signed in June 2010 on areas of further joint working on grid development.

**North Sea Grid**

At UK level, the UK Government policy framework is putting new emphasis both on renewable energy development and sub sea grid. The UK Government Partnership
Agreement includes commitments to “increase the existing target UK level for energy from renewable sources”, “to reform energy markets to deliver security of supply and investment in low carbon energy” and “to deliver an offshore electricity grid to support development of a new generation of offshore wind power”.3

DECC and Ofgem are developing a regulatory regime for offshore transmission networks to enable offshore renewable generation projects to connect to the GB electricity grid. The regime will grant Offshore Transmission Licences through a competitive Tender Process. Ofgem is managing this process. But developing a GB system regulatory approach to develop an offshore and offshore grid, and one that can become part of a wider UK and EU offshore interconnected grid is a significant practical, policy and regulatory challenge.

Proponents of the Offshore Transmission Operator (OFTO) regime suggest it is flexible enough for accommodate different ways in which development of transmission assets offshore projects could occur:

- Point to point connections; with generator specific connections between a generator specified point offshore and a point onshore; and phased connections requirements by individual generators; or
- Development of integrated offshore transmission networks; networks designed to meet a number of generation connection/ modification applications; and reinforcement of GB transmission system by links between offshore transmission networks (possibly leading to interconnection to continental Europe).

But in view of the scale of the offshore potential and the investment challenge, major questions are emerging over whether the OFTO regime will deliver more integrated offshore grid networks, and do so in a way that will meet Government targets and renewable energy and climate change policies.

Since the OFTO regime was initiated in 2005, it can be argued there has been a significant policy and continuing policy shift at UK and EU level towards greater interconnection and integration of energy systems and energy markets. These developments since the inception and development of the OFTO approach and suggests the regulatory approach of the OFTO is out of step with the current UK and EU policy landscape and will not serve to facilitate interconnected grid.

It is anticipated that the existing principle of applying a locational charging approach for connection to the onshore grid will be replicated in the offshore approach. Although the scale of these offshore locational charges is not yet clear, this could further increase the already disproportionately high transmission costs that generators pay in peripheral parts of the GB network, including in Scotland. This would further disadvantage renewable energy projects around, and off the coasts of Scotland.

At EU level, the European Union has agreed member states will work towards delivering 20% of energy supply from renewable sources by 2020. This is focusing political minds and shaping policy approaches across Europe.

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3 www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf
At EU level the Renewables Directive\(^4\) of 2009 the UK committed to delivering 15% of energy from renewable sources by 2020. This ambitious target is a key policy driver of change in the GB electricity generation and supply system. In the UK, 5% of consumption was produced by renewable sources in 2008. In Scotland, a large proportion of electricity demand is produced by renewable generators, with 22% of gross consumption met by such sources in 2008.

Scotland, with a Scottish Government target of 50% of gross electricity consumption to be met by renewable sources by 2020, is well placed to make a significant contribution to the overall UK target of 15% of energy from renewable sources by 2020. The Directive also requires member states to develop National Renewable Energy Action Plans setting out how they will meet the 2020 targets. Parts of the Directive, and the resulting action plans are to focus the charging and access arrangements for renewable energy, and from peripheral areas in particular, in individual Member States.

Delivering this renewable energy vision at EU level is set in the wider context of the 3rd Package of energy reforms\(^5\) agreed by the European Commission in 2007 for development of an open and competitive EU energy market. The key policy strands of the delivering 3rd package includes cross-border trade in energy and promotion of cross-border collaboration and investment.

At EU level, the 2008 Second Strategic Energy Review\(^6\) from the European Commission identified a number of strategic infrastructure development projects at EU level. These include the development of a blueprint for a North Sea offshore grid, interconnecting national electricity grids and plugging in planned offshore wind projects.

European Coordinators have been appointed to facilitate the implementation of each of these priority infrastructure projects. In the context of developing North Sea Grid, Scotland’s potential is irresistible – and the high potential of Scottish waters is increasingly being recognised in Europe. The coordinator for Baltic and North Sea off-shore wind connections (Mr. Adamowitsch) has recognised the scale of the renewable energy potential around Scotland’s coasts.

The Scottish Government is part of the Adamowitsch Working Group on North Sea grid connections. The work of the Group is valuable. It is a unique forum for sharing information and learning about projects, developments and studies across Member States, helping deepen collective knowledge of offshore development and to promote Scotland role in the wider North Sea wide perspective.

But it has identified significant issues to be addressed - around interconnection, standardisation of regulatory and legal frameworks, financing development and political will.

The scale of the offshore wind potential around the UK, and around Scotland in particular (see Annex C), strengthens the already strong economic, policy and security of supply arguments for maximising this offshore renewable potential, for regulatory change to help deliver it, and for greater interconnection to the rest of the UK and Europe through development of an offshore grid to connect and export renewable energy from Scotland.

In addition, on 7th December 2009, 10 countries around the Northern European Seas agreed to deliver a memorandum of understanding on delivering an interconnected North Seas grid by the end of 2010. This joint declaration will increase cooperation between Members States in the development of offshore grid connections. DECC is taking forward this work. The Scottish Government has been involved in parts of it.

Scottish Government
Energy Markets Unit
Scotland's offshore energy potential

Scotland has some of the most concentrated onshore and offshore renewable energy potential not only across the UK but in Europe. Previous estimates have suggested Scotland has up to 25% of Europe's offshore wind potential, 25% of its tidal energy resource and 10% of Europe's wave energy potential.

In May 2010, the Offshore Valuation Report7 was published - which was co-funded by Scottish Government, the Welsh Assembly, Crown Estate and a number of leading offshore companies.

This suggests the scale of the offshore resource is even greater than previously assessed – as are the economic and employment benefits from developing the offshore renewables sector.

From a total practical resource of 531 GW in the UK, Scotland has 206 GW of wind, wave and tidal resources (almost 40% of the total UK resource). Scotland’s existing renewable energy capacity - installed and under construction – is 3.959 GW.

The report’s central scenario shows that by harnessing just a third of the practical resource by 2050, installed offshore capacity could reach 68 GW in Scotland, 40% of the UK total potential of 169 GW for the UK as a whole.

This level of capacity could generate around 7 times annual Scottish demand.

The net value of Scotland’s 68 GW of offshore resources in terms of UK and EU electricity sales is estimated at £14 billion by 2050, with more than 90% of the value coming from fixed and floating wind. The potential for employment creation is estimated at 145,000 direct jobs UK wide by 2050 under the central scenario.

The discounted net present value of electricity sales (to UK and EU) from offshore renewables in Scottish waters over the period 2010-2050 is estimated at £14 billion. The equivalent UK figure is £36 billion. By 2050 this could mean an annual value of 68GW of renewable electricity sales from Scotland of £24.8 billion. The equivalent UK figure is £62 billion.

The value of electricity sales is equivalent to £2,700 per Scottish resident, significantly higher than in England (£400) or Wales (£1,000). Disaggregated employment estimates are not provided, but it is expected that a large number of the low carbon jobs will come to Scotland.

The findings strengthen the economic, policy and security of supply arguments for developing Scotland’s offshore renewable potential, for regulatory change to deliver that, for greater interconnection to the rest of the UK and Europe and for the development of an offshore grid for the export of renewable electricity from Scotland direct to continental Europe.

The study also recommends that developing offshore resources will require an offshore interconnected grid between parts of the UK and to Europe. A North Seas Supergrid would make Scotland a leader in generation and export of green energy to the rest of the UK and to markets in Europe.

7 http://offshorevaluation.org/
Offshore Development projects

To underline the scale of the offshore wind potential off the coasts of Scotland, the Crown Estate has announced 10 Exclusivity Agreements for 10 wind sites in Scottish territorial waters – with the potential to generate 6.4GW of electricity - based around the Solway, Argyll, Moray and Firths of Tay and Forth.

On 8th Jan 2010 – successful consortia appointed to develop offshore wind zones off Scotland.

- Moray Firth zone - EDP Renováveis and SeaEnergy (EDP-SER);
- Firth of Forth - SeaGreen Wind Energy Ltd

Target capacity of 4.8 GW, subject to consent. On top of 6.4 GW capacity we expect to realise from offshore wind projects planned in Scottish territorial waters.

Scottish Power and Scottish and Southern Energy also secured exclusivity agreements in two of the remaining seven UK zones.

The Scottish Government have established an offshore Wind Industry Group which has developed a Work Plan aimed at developing the offshore wind industry in Scotland.

Marine Renewables

Activity is also high within the marine renewables sector. The Crown Estate has announced 10 projects to generate as much as 1.2 GW of marine energy in the Pentland Firth or Orkney Waters Round 1 leasing. This is the world’s first commercial leasing round for wave and tidal energy – reinforcing Scotland’s position at the forefront of marine energy development.

A coordinated approach to grid onshore and offshore grid connection will help ensure timely and efficient delivery of appropriate grid reinforcements.
LETTER FROM JIM MATHER TO THE COMMITTEE

9th September 2010

Dear Iain,

As you are aware, on 21 April the Scottish Parliament agreed a motion opposing the current locational transmission charging mechanism and calling for an independent review. I am writing to you to flag up the announcement by DECC on 27 July that Ofgem will now undertake an independent review of transmission charging. I would also like to highlight the announcement by DECC, also on 27 July, that it will undertake a more fundamental review of the roles and responsibilities of Ofgem. A link to the a DECC Annual Energy Statement is at:


I am very pleased that the pressure that the Scottish Government and business interests have collectively brought to bear on Ofgem has led to an independent review of the locational charging regime. I am currently working with Ofgem to get more detail of the review, and my officials will contact you when I have this. I will also ensure that you have an opportunity to input into consultative events in Scotland as part of these review processes.

I am also pleased that DECC has issued a call for evidence for a review of the functions, roles and responsibilities of Ofgem. Here is the link:


I welcome this review. Scottish Ministers recognise and welcome the key role that Ofgem has in protecting the interests of consumers. We also recognise the necessity of stable and effective regulatory frameworks. But in some respects Ofgem is a barrier to, rather than an enabler of change. Ofgem needs to play its crucial role in helping Scotland make the transition to a low carbon economy and deliver a regulatory framework that delivers a more strategic approach to grid reinforcement and energy generation development, helps facilitate investor long term confidence and necessary network development and works effectively to deliver Scotland’s energy potential and secure our energy future.

We will be pressing for a number of key outcomes from these pieces of work, including:

- A more equitable and transparent approach to charging for use of the GB electricity grid – and one which encourages rather than discourages renewable energy development in Scotland;

- And the design and delivery of more effective regulatory approaches by Ofgem and better fit and accountability between the energy policy aims
of Scottish Ministers and sustaining, developing and growing Scotland’s energy sector, and the regulatory approaches by our energy regulator.

The First Minister has already discussed these issues with Mr Huhne, the Secretary of State for Energy and Climate Change, and Scottish Government officials are feeding into the reviews. As part of this, it is crucial that both DECC and Ofgem carry out effective consultation in Scotland.

The importance of these reviews to our interests cannot be overstated. I urge you to respond to both pieces of work. Please contact Robert Henderson on 0300 244 1081 or at robert.henderson2@scotland.gsi.gov.uk should you require more information.

Jim Mather
LETTER FROM THE CROWN ESTATE TO THE COMMITTEE

10 August 2010

Dear Mr Smith,

Energy matters and community benefits

Thank you for your letter of 27th July on behalf of the Economy, Energy and Tourism Committee requesting information on planning permission consents and community benefits from renewable energy developments, addressed to Alan Laidlaw and upon whose behalf I have been asked to respond.

As I am sure you are aware, The Crown Estate is a property portfolio encompassing many of the UK’s cityscapes, ancient forests, farms, parkland, coastline and communities. The Crown Estate has two main objectives: to benefit UK citizens by paying the revenue from our assets directly to the UK Government; and to enhance the value of the estate and the income it generates.

As owners of most of the seabed out to twelve nautical miles, The Crown Estate has been leasing seabed for offshore wind turbine developments since 2001. The early rounds of development were in English and Welsh waters due to the shallower depth of waters close to shore. As the technologies have progressed, deeper waters can now be developed. The Energy Act 2008 provided The Crown Estate the rights to manage offshore wind farm development within the UK’s Renewable Energy Zone. This has resulted in the development of a third round of licensing for wind farms. Exclusivity Agreements in Scottish waters have also been granted to nine successful developers wishing to deploy wind farms close to shore. The Crown Estate is awaiting the finalisation of the Scottish Government’s Strategic Environmental Assessment for offshore wind farms in Scottish Waters and if the environment of the nine sites assessed are considered suitable for wind farm development, The Crown Estate will begin the process of awarding leases to these developers.

The Crown Estate is now working with developers, devolved administrations, and DECC in order to begin a process to investigate community benefits from offshore wind developments. The Crown Estate wishes to help create a UK programme with local delivery that would encompass the differences in communities around the country. The initial focus will be the development of a skills programme (re-skilling, and school, college and university qualifications) that would help provide skills and jobs for coastal communities adjacent to offshore wind farms and provide skilling to the UK labour force pertinent to the renewable energy industry's needs.

The Crown Estate is a member of the FRED5 group and provides the secretariat to the Offshore Wind Developers Forum. The Forum is chaired by the UK Energy Minister and includes in its membership the 18 offshore wind developers currently active in the UK, the 3 devolved administrations and The Crown Estate.
The Crown Estate has met with the developers, DECC, the Scottish Government’s Renewable Energy team and RenewableUK to discuss this and believes that a skills programme would provide various meaningful benefits. In particular, it would ensure that the benefits are retained in the UK rather than in other parts if the EU.

Our Rural Estate continues to assess the various types of renewable energy technologies pertinent to our tenants and land. Technology scoping reports have been completed and key sites are now undergoing further assessment for terrestrial wind turbine development. Furthermore, various micro renewable energy generation schemes are now being piloted with tenants; notably, micro-hydro electric power generation, and deployment of photovoltaic solar cells on existing buildings. These would benefit our tenants through co-investment, the new Feed in Tariff system and by encouraging them to adopt measures that help tackle climate change.

We would be happy to meet with you to discuss these matters. Please feel free to contact my colleague, Dot Davies (dot.davies@thecrownestate.co.uk tel: 0131 260 6085) to progress a future meeting date.

Yours sincerely

Tom Mallows
Environment and External Affairs Manager