The Care Commission supports the general principles of the Bill as long as public assurance and public protection is maintained, if not enhanced, service improvements continue to be driven upwards and that the changes proposed continue to constitute good value for public money.

It will be important to ensure that these changes result in added value and are not just seen as bringing together different scrutiny bodies which then continue to work in their own areas of interest. It would therefore be helpful if the Scottish Government set out its intentions about how it would evaluate the benefits of the new arrangements, particularly the benefits for service users.

The Care Commission supports the Scottish Government’s overall policy objectives as long as:

- scrutiny continues to provide safeguards, especially for adults and children who do not have a strong voice
- scrutiny bodies remain independent from those being scrutinised and the Government.
- scrutiny is delivered in a way that delivers good value for money.

It is recognised that one of the Government’s intentions is that scrutiny burdens should be minimised. However, we think that the slogan “burden of regulation” may have been accepted too readily. It should be recognised that what is perceived as a burden imposed by external scrutiny bodies is in fact, in the case of the Care Commission, an independent risk based and proportionate examination of things that good service providers do anyway and something that poor providers should be doing if they wish to improve.

**Whether the Bill is likely to “help simplify and improve the landscape of Scottish public bodies, to deliver more effective government that can better achieve its core functions for the benefit of the people of Scotland”**

We believe that what is proposed has the potential to achieve this aim and in respect of scrutiny, we consider alignment between HIS, SCSWIS and HMIE to be important and that the development of integrated working needs to extend beyond these three bodies to embrace other scrutiny bodies.

It will be important to build in the work being co-ordinated by Audit Scotland, on behalf of the Accounts Commission, on the development and implementation of shared corporate self-evaluation and scrutiny risk assessment and the joining up of scrutiny schedules.
Whether, in light of the current financial situation, this is the appropriate time to be pursuing both the Bill in particular and the wider public services reform programme?

Yes – While having regards to any transitional costs the Bill has the potential to deliver more effective and efficient scrutiny and improved service delivery across the public, private and voluntary sectors.

Whether the simplification of public bodies identified in part 1 of the Bill is consistent with the policy objectives of the Bill?

We have not commented on Part 1 of the Bill as it does relate to the Care Commission.

Whether the order-making powers proposed in part two of the Bill are appropriate in seeking to deliver a “public sector landscape and public sector functions that are proportionate, responsive and efficient”?

The Care Commission understands why the Government seeks such powers given the scale, complexity and time consuming nature of the legislative and administrative changes required to bring about more effective and efficient scrutiny. However, the preconditions (Section 12) would be very important in this context, particularly that the use of the order-making powers must be proportionate and must not remove any necessary protections.

Whether the proposed duty on listed scrutiny authorities to secure continuous improvement in part 6 of the Bill is likely to ensure that users of public services are better involved?

The Care Commission’s Corporate Plan 2009-11 states that we will work in ways that ensure that everyone who uses care services, and their carers, are informed, consulted and involved in how care services in Scotland are developed, delivered, evaluated and regulated.

Therefore, as user and carer focus is effectively embedded in the culture of the Care Commission, we fully support the proposed duty of “User Focus” as outlined in Part 6 of the Bill. However, we also would like this to be extended, particularly when it applies to services for vulnerable children and adults, to include carers as well as people who use care services.

We have recently written to the Cabinet Secretary for Finance and Sustainable Growth, outlining our progress in respect of the recommendations made by the Scrutiny Improvement Team’s User Focus Action Group and a copy of this response has been included as an appendix. We believe that, this good practice reflected in our current arrangements should be extended across all scrutiny bodies and that the duty outlined in Part 6 will go a long way to facilitating this approach.
Whether the proposals in parts four and five of the Bill are consistent with the five guiding principles recommended by the Crerar Review of public focus, independence, proportionality, transparency and accountability.

Yes and these principles reflect the way the Care Commission operates and should apply to all scrutiny bodies.

In particular we would wish to stress that, within the context of strategic priorities agreed by Ministers and Parliament, it is important to ensure that external scrutiny is independent and not constrained by any party in reaching conclusions and publishing findings. Scrutiny bodies must be free to make judgements about service delivery and report their findings into the public domain, and must be able to decide how they discharge their responsibilities.

Whether the cost estimates set out in the Financial Memorandum appear to be robust and any comments on the other accompanying documents?

We would like to comment on following main issues:

Shadow Management Team Recruitment (FM Table 15) - The ‘best estimate’ figure of £270k is made up of three elements, £60k for recruitment, £60k for the Chief Social Work Adviser’s Support Team and £150k for a shadow management team. While these are non-recurring costs they relate to 2010/11 and may have a bearing on the Care Commission’s funding for next year and our capacity to deliver on our objectives.

Para 526. In terms of the costs for the shadow management team, all of the outgoing bodies have exacting operational targets to deliver and we are concerned that there is not enough contingency to allow for strategic development and planning of the new organisation and to allow for the effective delivery of current activities (including delivery of shared services to other bodies) and to ensure continued high governance standards.

Para 525. There is an inconsistency in the treatment of the Chief Social Work Adviser’s Team and the Chief Social Work Adviser in that the costs of the Team are included in the Financial Memorandum (Table 15) whereas the efficiency saving from the reduction in a Chief Executive post is not shown (therefore not counted towards the efficiency targets of SCSWIS).

Job Evaluation costs - Para 527. We have been advised that to get the range of £0.89m to £1.43m an assumption of 3% and 5% of the projected new body pay bill has been used. This is not an unreasonable assumption but it should be borne in mind that some job evaluation exercises have resulted in percentages considerably in excess of this. Each percentage point increase/decrease will add/remove £285k per annum to the pay bill so there is considerable risk associated with this. We think that it is essential to commission a piece of work to evaluate current roles in the high financial risk areas. From the mapping information previously provided, there appears to be risk surrounding admin staff on lower grades. An exercise to establish that SWIA & HMIE admin grades are
doing work that would be evaluated consistently with Care Commission admin grades would greatly assist in identifying any risk.

Care Commission Officers are keen for a comparison between the significantly higher paid SWIA and HMIE inspectors (£27k more at top of scale). A job evaluation exercise to ensure there is a justification for the difference between the mapped grades for SWIA & HMIE inspectors and Care Commission Officers is necessary. There also needs to be consideration of consistent job evaluation between Care Commission staff on the grade that HMIE and SWIA inspectors are mapped against. For example we understand that HMIE inspectors are currently on grade C2. The mapping would suggest that these would align to Care Commission grade 10. We believe that this clearly demonstrates the flaws in the approach taken as Care Commission staff on grade 10 currently include Care Commission Regional Managers who manage 90-100 staff and a gross budget of £4 to £5m.

Getting this mapping wrong at the top of the grading structure would have an effect all through the structure and carries a significant financial risk.

**Harmonisation Costs** - Para 528. These are expressed as a range of recurring costs between £0.428m and £1.049m, with a mid point of £0.738m. We have been advised by the project team that this range had been calculated using the following assumptions:

1. Maximum cost: all staff from SWIA & HMIE would map across from the minimum of their current grade to the minimum of the appropriate current Care Commission grade.
2. Minimum cost: all staff from SWIA & HMIE would map across from the maximum of their current grade to the maximum of the appropriate current Care Commission grade.

As all staff are somewhere between the minimum and maximum, the actual cost must be within this range. We understand that no attempt has been made to establish where SWIA & HMIE staff are currently placed on their existing pay scale and therefore predict where in the range the cost is likely to lie. We estimate that this would not have been a particularly complex or time consuming exercise to do on a reasonably thorough basis, assuming the mapping assumptions were clear. The absence of this exercise has resulted in a large cost range which is not ideal.

We think the grade mapping appears to be flawed. In all cases there is a substantial uplift in the minimum for the grade and, in all but one grade, a substantial increase in the grade maximum when mapped across.

The Care Commission has previously advised Scottish Government about its dissatisfaction with the pay mapping between Civil Service and Care Commission grades. We have taken independent expert advice which supports our position.
In simple terms, we do not consider that like has been compared with like. This has led to an overstating of the recurring cost element of the harmonisation figures.

**Pensions** - We were advised that the 6%-8% referred to in the Financial Memorandum relates to compensation for increased employee contributions between the Civil Service scheme and the Local Government Pension Scheme (LGPS). There is no consideration of what we think are the likely significant compensation costs for the actuarial valuation of the different scheme benefits. In particular, the normal retirement ages are 60 and 65 for the Civil Service scheme and LGPS respectively. We are concerned about the potential impact of this on the overall costs.

**Efficiency Savings – SCSWIS** - Whilst understanding the approach that has been taken to identify sufficient efficiency savings to fund the costs of creating SCSWIS, we remain concerned with the potential level of efficiency savings being quoted. To date, there has not been a robust consideration of the potential implications to the regulatory environment arising from an enhanced efficiency regime.

Whether intended or not, the Financial Memorandum will create expectations of a self-funding merger of the scrutiny bodies which, when combined with the potential for additional efficiencies from the ‘transfer of resources’ initiative and/or the implications of the next spending review, will provide an extremely challenging environment in which to develop the budget.

Our concern is that decisions may be taken about operational regulatory practice which has not reflected a risk analysis from the service users’ point of view.

We note the inclusion of the sentence ‘A more holistic and integrated regulatory approach is likely to change the required skills mix and therefore the distribution of staff across the grading structure’. This may well be the case but, the scale of any resulting efficiencies has not been quantified. It should be emphasised that this would not be a quick and painless efficiency fix but something that the new body should be working towards over the first few years.

Table 15 shows a mix of recurring and non-recurring costs and savings which masks the likely underlying financial position of SCSWIS. Savings of c£1.8m are significant and it is disappointing that (with the exception of reduced management costs), there has been no detailed work on how these savings can be achieved.

Para 543 - 545. With the exception of the saving in Directors costs, Para 543 contains the only costed examples of potential savings. It should be noted that the £70k saving that SWIA currently pays to Scottish Government for IT support and maintenance will only be saved if the Scottish Government is able to reduce its overall IT costs by £70k in response to no longer having to service SWIA.

Para 543 also highlights that there is no identifiable charge for corporate support services received by SWIA/HMIE from the Scottish Government. The implications of this are that the gross expenditure of these bodies is understated and that there
is no baseline to measure any efficiency gains as their support service costs are not in the budget.

In addition, the Care Commission already provides shared services to the SSSC and OSCR from its HQ in Dundee. It is difficult to see how shared services will contribute to the envisaged 5.5% efficiency requirement. Even if SCSWIS can broadly absorb the costs of supporting the additional staff from SWIA/HMIE, there will not be a financial saving within the scope of the merger and there will not be a financial saving to the Scottish Government unless it can reduce its costs as a result of no longer having to support the former SWIA/HMIE staff.

**Review of Fees** - Para 549 notes that fee structures are due to be reviewed in 2010/11. We are concerned that there will not be enough knowledge about the new regulation regime for the review to encompass SCSWIS’s activities. The additional dimension of the proposed holistic approach to regulation has the potential to significantly complicate the current Care Commission charging regime which is based on individual services.

**HMIE Funding transferring to SCSWIS (FM Table 13)** - We would like to note concerns over the budget transferring from HMIE (£0.8m). The Joint Inspection Act 2006 Financial Memorandum allocated £5.5m to HMIE for child protection work for 2007/08.

**General Comments** - Due to the limited time available to the project team, there was only limited consultation and involvement from the specialist support staff in the Care Commission in the preparation of the Financial Memorandum. In particular we feel that there would have been benefits if there had been greater opportunity for input to and feedback on Financial and Human Resource issues leading to consequential financial modelling.

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Care Commission  
13 August 2009