Finance Committee

Legislative Consent Memorandum on the Statistics and Registration Service Bill (UK legislation) – Written Submissions

The following submissions have been received to inform the Committee’s consideration:

- Professor David Bell, University of Stirling
- Professor Richard Harris
- ISD NHS
- Donald MacRae, Lloyds TSB Scotland
- Chris Mitchell, Member of the Scotstat board
- Royal Statistical Society Edinburgh Local Group
- Scottish Enterprise
- Scottish Information Commissioner
- Scottish Public Services Ombudsman
- Statistics Commission
- Barry Winetrobe

Roz Wheeler
Senior Assistant Clerk to the Committee
SUBMISSION FROM PROFESSOR DAVID BELL

Introduction
This document comprises my response to the request from the Finance Committee for comments on the Statistics and Registration Services Bill. I was asked to comment in respect of:

a) Whether the provisions are necessary or would be beneficial compared to the existing system for the production of and quality assurance of statistics in Scotland;
b) Whether the provisions will achieve the aim of reinforcing the integrity, independence and quality of statistics produced in Scotland;
c) Whether the proposed non-ministerial department structure will have appropriate lines of accountability in Scotland for its purpose;
d) Whether you consider a legislative consent motion to Parliament to be the appropriate means to legislate on this issue; and
e) Whether you have had an opportunity to engage with the Executive on this issue in advance of the introduction of the memorandum.

My comments are restricted to points (a), (b) and (c). I am not competent to make a judgement regarding point (d) and my response to point (e) is that I have not engaged with the Executive in respect of this Bill. Thus I start with a general discussion that relates to points (a) and (b).

As I understand it, the key motivation for the Bill relates to public trust in the quality of official statistics. The Statistics Commission asked MORI to conduct a survey of public attitudes to official statistics and one of their main findings was that:

“There was a widely-held view that there needed to be greater distance between the producers of statistics and government, possibly with an independent regulatory body which would monitor the use of official statistics.” Trust in Official Statistics: Report to Statistics Commission by MORI (2005)

There is undoubtedly a considerable amount of public scepticism regarding the independence of official statistics. While the scepticism may be misplaced, the perception is very damaging. Lack of trust in official statistics may lead to a belief that executive decision-making is arbitrary and not evidence-based. This may ultimately lead to a distrust of democratic institutions.

An Omnibus Survey on public confidence in UK official statistics was carried out in 2004. Among its key findings were:
"the majority of respondents believed official figures were changed to support a particular argument (68%), that there was political interference in their production (58%) and that mistakes were suppressed (69%)."

Also, the majority of respondents (59%) "did not agree that the Government uses official figures honestly when talking about its policies".
I know of no evidence which suggests that public scepticism regarding official statistics in Scotland differs from that in the rest of the UK. Given that Scottish attitudes on most subjects tend not to differ substantially from those in the rest of the UK, it is likely that Scots are equally sceptical of official statistics. Further, most Scots probably do not distinguish clearly between statistics produced within Scotland and those produced in the rest of the UK.

The Bill provides for the setting up of a UK statistics Board comprising executive and non-executive members, which will have the objective of promoting and safeguarding the quality and comprehensiveness of official statistics. This would seem to fulfil the objective of increasing the distance between the producers and one of the major consumers of official statistics and hence, perhaps restore some public faith in official data.

How might the Statistics and Registration Services Bill apply to Scotland?
First, it is clear that if Scotland does not effect a parallel reorganisation of its statistical service, those statisticians in Scotland who remain within the Executive will be in an anomalous position relative to their counterparts in England. This may, for example, affect their opportunities for advancement within civil service statistical grades. Further, if Scotland does not follow the rest of the UK, the passing of information between the new organisation in England and the Scottish Executive is likely to be more problematic than under the current arrangements.

Second, if the production of statistics in Scotland were also to fall under the control of the Statistics Board (or a Scottish equivalent), then the existing Analytical Service Divisions (ASDs) might have to restructured.

The current arrangement is that there is one ASD for each major department. It is staffed by statisticians, economists and social researchers. Their role is essentially to service their policy clients within the relevant Department. This means that ministers, in combination with administrative civil servants, exert considerable control over the agenda of the ASDs.

This arrangement has the advantage of providing a close link between policymakers and those collecting and interpreting the evidence on which new policies are constructed. What are the disadvantages of the existing arrangements?

(1) They fail to ensure the comprehensiveness of official statistics. Let me give some examples:

In 2004, according to the Agricultural Census, 10.69 hectares of kale and cabbage were grown for stock feed in Shetland. However, in respect of free personal care, one of the flagship policies of the Scottish Executive, the estimates of spending in 2004 are subject to a considerable margin of error.

Why do we know a lot about kale and cabbage and not so much about free personal care? This is at least partly the result of a somewhat bizarre allocation of resources to statistics within the Scottish Executive. Historically, much data has been collected on
agriculture. But agriculture is now a relatively small industry. In contrast, social care statistics have tended to be treated as a Cinderella area, very much the poor relation to the substantial statistical effort expended on health.

Yet projections of the ageing of the population suggest that social care will be of growing importance over the next few decades. Evidence-based policy in this area will require good quality data. Unless we have a more comprehensive view of the statistical needs of Scottish society over the next few decades, it is unlikely that such evidence will become available. The existing arrangements of ASDs, with their departmental and historic focus will not necessarily produce the comprehensive set of statistics that Scotland requires.

The existing arrangements where large scale surveys are essentially sponsored by single departments is also not necessarily the best arrangement to ensure comprehensiveness. Take for example the Scottish Household Survey and the Scottish Health Survey, which are sponsored respectively by the Development Department and the Health Department. The Household Survey is very strong on questions relating to transport but has historically been weaker on topics such as income and wealth. The Health Survey is strong on health indicators, levels of physical activity and consumption of food and drink, but is not strongly populated by questions on the social and economic circumstances of the household. Both of these outcomes, it seems, largely result from the arrangement of ASD by department.

A semi-independent board, at arms length from the immediate policy concerns of the Executive, could take a more strategic and comprehensive approach to the data requirements of Scottish society, the Parliament and the Executive. For example, it might take action regarding the anomaly that Scotland has two cohort studies of young children but is the only part of Western Europe which has no cohort study of older people.

(2) They do not offset the perception that in Scotland the statistical agenda is controlled by policymakers.

The distinction between ASDs and their policy clients is probably poorly understood outside the civil service. Thus policymakers and statisticians are not readily distinguished by those who have no substantial contact with the Scottish Executive. Confusion over roles cannot help build public trust in the quality of official statistics.

(3) The existing arrangements do not aid the perception that statistical services in the Executive are insulated from recent developments in statistics.

If statisticians responsibilities are primarily to their policy clients then the contact with recent developments in statistical practice are likely to be weakened. This may not be a problem. The Executive might take the view that the role of statisticians is mainly to produce rather than to interpret statistics. But this runs a considerable danger. This is that statisticians within the government service become isolated from recent methodological advances. Current examples, which could be, crucially, on executive policy include the huge developments that have been made in recent years in policy evaluation using statistical methods and in microsimulation.
The close linkage between policymakers and statisticians in the Executive may mean that the statisticians restrict themselves to interpretations of statistics with which they feel that their policy clients will be comfortable.

While this may seem a very arcane debate, it has very practical consequences. Take for example, the interpretation of the evidence in relation to investment in education. The statistical methods used by Professor Heckman, one of the contributors to the Allander series and also a Nobel laureate in economics are extremely complex. But that complexity is necessary to convincingly show that intervention as early as possible in a child's educational development leads to the highest return in terms of future social and educational outcomes.

If the operation of the Statistics Board in Scotland meant greater focus on continuing professional development for statisticians, then there would be undoubtedly a number of wider benefits to the Parliament in key areas such as policy evaluation and development.

**Would the proposed structure work?**

In this section, I attempted to respond to part (c) of the Finance Committee's request. But rather than trying to answer this hypothetical question directly, let me make a comparison with Norway, which is an example of a country of similar size to Scotland that has an independent statistical service. (The Aims and Objectives of Statistics Norway are listed in Appendix A).

Statistics Norway is a professionally autonomous institution under the Ministry of Finance and has an executive committee appointed by the government. Its objectives were set out in the Statistics Act of 1989. It contracts with government and other bodies to produce a range of statistics. Last year it made a small profit. It has a staff of 950. It has to produce a wider range of statistics than the Scottish Executive, because of its wider range of responsibilities. It also provides help to developing countries national statistics agencies.

In contrast to the public’s view of UK statistics, Statistics Norway has the trust of the Norwegian public:

> “The current situation in Norway is that we are almost never put in a negative light in the media, so we don’t therefore need to spend time and energy on defending ourselves.” Statistics Norway – Paper Presented at the Joint UNECE/OECD Work Session on Statistical Dissemination and Communication, 2005

Such trust has to be worked on, even though the arm’s length arrangement from government must help. It emphasises quality, visibility and honesty in its external communications, and also prides itself on being innovative in areas such as data collection and dissemination. It also has a very active research department, with staff, for example, publishing articles in the Scottish Journal of Political Economy, something which no Scottish civil servant has done for a very long time.
The Norwegian example suggests that it is possible to have a successful and trusted statistical service in a small country of around Scotland's size. I suspect that its arms length arrangement with government is a necessary, but perhaps not sufficient, condition for this to happen.

However Scotland is not an independent country, and I would expect that some special arrangements would have to be put in place to make the proposed UK legislation effective in a devolved context. While the data requirements of Scotland and the rest of the UK largely overlap, there are significant differences in institutional and social structures which would have to be recognized and taking account of by the Statistics Board.

It is difficult to avoid the conclusion that some additional organisation would be necessary within Scotland to carry out some of the functions of the UK Board. Thus, rather than responding directly to the UK Statistical Board, Scottish statisticians would work to a devolved Statistical Board which would have crossed linkages to the UK Board and would also involve executive and non-executive members. The Board would have to balance the interests of business, local authorities and other interested groups in setting its priorities as well as looking to future developments in Scottish society to identify and information gaps.

The resource implications of the creation of a Scottish Statistical Board would have to be clarified before being implemented. The executive would want to retain some analytical capability. But it would be important to minimise any overlap and ensure co-operation between those economists and statisticians who remain within the Executive and those working for the Statistical Board. These problems will have to be confronted by UK government departments, from whom lessons can perhaps be learned before implementing any change in Scotland.

In conclusion, while I believe that resource implications and issues of coordination between the Scottish Executive and the Statistical Board have to be considered carefully, I believe that the advantages of the proposed Statistical Board are likely to outweigh the disadvantages, since the current arrangements breed a lack of trust in statistics which undermines the effort of many dedicated public servants.
Appendix A: Statistics Norway Aims and Objectives:

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<th>Aims</th>
<th>Official statistics and analyses based on these statistics shall give the general public, businesses and the authorities knowledge of the structure, development and functioning of the society. Such knowledge strengthens democracy and provides a basis for a sustainable economic, social and ecological development. To fulfil this task, official statistics have to be produced on an independent basis, be of high quality and be widely spread as a public good for the benefit of society as a whole.</th>
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<td>From data to knowledge An institution that counts</td>
<td>During recent years the flow of data and information in the society has dramatically increased. It has become more difficult to distinguish information that gives knowledge from false information, unfounded statements and unimportant noise. Here official statistics play an important role. Several public institutions produce official statistics, but Statistics Norway is the central Norwegian agency for collection, compilation and dissemination of such statistics. Statistics Norway will work to cover national and international needs for official Norwegian statistics and analyses based on these statistics.</td>
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<td>Responsibility for coordination of official statistics</td>
<td>According to the Statistics Act Statistics Norway is responsible for: Mapping and giving priorities to the needs for official statistics Coordinating statistics that are produced by governmental agencies Developing statistical methods and exploit statistics for research and analyses Give information for statistical use for research purposes and governmental planning Having the main responsibility (from the Norwegian aspect) for international statistical cooperation</td>
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<td>Independent role</td>
<td>The Statistics Act also underlines that Statistics Norway is an independent institution when it comes to the content of its statistics and analyses. Statistics Norway decides on an independent basis what the institution is to publish of official statistics, and when and how this will be done. This independence of authorities and interest groups is necessary for the credibility and the authority that official statistics must have in order to fulfil its role in the Norwegian and the international society. At the same time data security and the protection of personal integrity are preconditions for trust by the data providers and hence for the work of Statistics Norway.</td>
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<tr>
<td>Values</td>
<td>The values of Statistics Norway support the general principles of official statistics, and can be summed up as follows: User orientation. Users require high quality statistics and analyses (statistics must be relevant, accurate, timely, comparable, coherent and available). Integrity. Statistics Norway is to be objective, treat all users equally,</td>
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and protect the data providers.

Efficiency and renewal. The resources are to be utilized as well as possible, and Statistics Norway will adjust the content of statistics and production methods in time with the development of society.

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<th>Statistics must reflect the society</th>
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<tr>
<td>Changes in society must be reflected in the statistics. Important issues at the start of the millennium are the development of the service and information society, with integration of markets across borders and movement of labour force. The economy is deregulated, and more emphasis is put on market solutions than on central planning. There is also an increasing focus on social conditions, distribution aspects and environment. This development entails new needs for statistics, which will be the basis for Statistics Norway's priorities.</td>
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<th>Major changes in the statistics</th>
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<tr>
<td>Statistics Norway will base its priorities of the content of the official statistics on:</td>
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<tr>
<td>Statistics on structure and development of Norwegian economy are necessary as a foundation for public debate on the economic development and for the implementation of economic policy.</td>
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<td>Statistics on population and social conditions are of basic significance for the understanding of the society and for the implementation of policy linked to social and economic conditions.</td>
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<td>Environment statistics are a basis for international agreements and national action plans in addition to the public debate.</td>
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<td>Services constitute an increasingly larger part of Norwegian economy. Information technology and knowledge play an important role in this context.</td>
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<td>The need for information as a basis for management and knowledge of the public sector's use of resources requires good statistics in this area. Statistics and analyses for comparison of municipalities and institutions are important.</td>
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<td>The business sector is important both as a user of statistics and as a data provider.</td>
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<td>Own research will give knowledge about the functioning of the Norwegian economy and social processes, in addition to contribute to improve the quality of the statistics.</td>
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<td>Globalisation has increased the need for international statistical comparison and standardisation. This can also be looked upon in connection with increasing national obligations in adherence to demands from the European Union.</td>
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<th>Quality of statistics</th>
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<td>Quality requirements are also reflected in how statistics are produced and disseminated:</td>
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<td>Official statistics and research results will as a public good be free of charge and available at the same time for everyone through the Internet. Users will be able to select and put together statistics</td>
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<td>Statistics Norway will cooperate with others on production and dissemination of official statistics where this is advantageous for the users and profitable for the society. This will also contribute to a coherent system of statistics with common requirements for quality and independence.</td>
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<td>Statistics are to be timely, accurate, comparable and coherent. It must be possible to describe the long trends in society development and to compare countries, businesses and groups of persons.</td>
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<tr>
<td>Research will be kept on an international high level</td>
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<td>Statistics Norway will cooperate with data providers and owners of registers, and the response burden is to be kept at a reasonable level. It is an objective that as much as possible of the data reporting will happen by direct extraction from the data systems of the data providers. There is to be an opportunity for everyone to report over the Internet.</td>
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<tr>
<td>Statistics Norway will carry out its tasks cost efficiently, professionally and with strong emphasis on independence, data security and innovation.</td>
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Dear Ms Wheeler

I have read the documentation you sent (and indeed I read the Bill before the Westminster Parliament as well). I have little to say but rather than say nothing, I am sending you this email. I am a major user of statistics, and do a lot of research using statistical analysis and so the issue is an important one to me.

I think the creation of an independent Statistics Board is a considerable improvement on current ONS/Statistics Commission arrangements. I can see no issues that arise that would have a negative impact on the creation and dissemination of Scottish statistics - indeed the oversight and expertise that would come from the new Board would be helpful. I think the checks and safeguards proposed with regard to Scottish data that is produced for devolved purposes are sufficient.

So, in summary, I personally would agree with the position that Scotland should have a Sewel Motion on this matter, with no changes to the Bill.
SUBMISSION FROM INFORMATION SERVICES DIVISION

EVIDENCE for UK STATISTICS AND SERVICES BILL

Thank you for the opportunity to provide input for the legislative consent memorandum on the above bill. As the lead organisation for statistics on health and care in Scotland, we have extensive experience of working under the current National Statistics protocols and in general welcome the UK Bill, with the intention to improve public confidence in official statistics.

We would wish to respond to the committee’s questions as follows:-

a. Are the provisions necessary?

Yes, since the system we have been operating under since 2000 has failed to improve public confidence in official statistics. In the Scottish health sector the independent, neutral and honest presentation of statistics is often lost in the middle between opposing interpretation poles. On the one hand the media and political opposition concentrate on negative themes and interpretation. The SE and Ministers naturally press for any positives to be highlighted. These varying views can but undermine confidence in the integrity of official health statistics. It is in fact recognised from ONS surveys that public confidence in NS is low, and the evidence is that within GB the Scottish public has least respect for official figures.

In ISD’s case we find it difficult to steer a neutral course when publishing statistics especially so because most of the statistical collections and new developments have the SE as the main sponsor. Although ISD ‘has a steering group to direct it in terms of prioritisation in use of resources it meets only briefly in early Spring and does not provide any oversight of statistical integrity. Neither does it have the breadth of membership to give public confidence in ISD’s outputs. The other overseeing group is the SCOTSTAT health committee. This has not been a particular success and has been very much a token arrangement under NS.

So an overhaul of NS with new provisions is to be welcomed if it can help renew ISD accountability for a professional, hopefully independent as much as it can be statistical service. It is very important that non-NS are brought under the umbrella too or there could be a perverse incentive to invest in management statistics. This is particularly so w.r.t. performance management information, which needs to be produced as near to real time as possible and undergoes less quality assurance than N.S. So it is important that NS continue to be produced to validate and account for performance while not obstructing the management need for more immediate information to inform decision-making. The current code of practice for production and quality assurance of national statistics has been cumbersome and mainly focussed on activity within the Office of National Statistics, which at times failed to recognise the distributed nature of the statistical system within the UK.

Health, Education and Justice Statistics are prime examples of statistical outputs
delivered from separate Policy departments, (and Non Departmental Public Bodies) within England, Scotland, Wales and Northern Ireland. There needs to be a UK body with the power to require harmonisation of statistical outputs to support public scrutiny of policy initiatives across the UK.

The Statistics Commission has had little impact in Scotland, although activity has noticeably increased in the last 2 years. We would hope that the new Board would have a much higher profile in Scotland, and welcome that at least one member will be representing Scottish interests.

b. Will they reinforce the integrity, independence and quality of statistics produced in Scotland?

The critical issue here is the content of the Code of Practice and the requirement that all producers of National Statistics adhere to the new code. This will require much closer scrutiny that heretofore if integrity, independence and quality are to be underpinned. We would suggest that an appropriate Committee of the Scottish Parliament should be actively involved in the consultation on the draft code when it is available. It might also be an appropriate mechanism for continued assessment of the integrity, independence and quality of Scottish devolved powers statistics under the powers of the Act and the independent scrutiny it introduces? The confidence of users of Scottish health statistics that they are of good quality and interpretation will depend upon freedom from political pressure not just the code of practice for statisticians. The SP Committee might therefore draft and promote a view as to how the standards should apply to Ministers and their officials, outwith those involved in statistics production.

Reinforcing integrity and independence of statistics in Scotland is not something that will be achieved in the short term. In many ways it is confounded by the political system we operate in. As an arms-length producer of National Statistics we have experienced erroneous reporting by journalists, pressures from policy colleagues to make late changes to publications, increased workload from FOI requests for data, which are then used out of context. Our policy is to operate an ‘honest-broker’ role and feel that the draft UK Bill needs to make clearer the breadth of official statistics within the UK, and devolved parliaments / administrations.

The Statistics Commission has frequently commented on ‘early’ release of National Statistics. Our experience is that the political system in Scotland encourages competition for ‘scoops’, particularly when government targets are being challenged. Under the current code of practice, and in response to FOI we have increased the availability of statistics on the web. At a recent UK Statistics Users Forum, positive comment was made that Scotland appeared to encourage public access to statistical data, and users welcomed increased availability.

For some statistical publications we now receive a standard set of enquiries from political researchers, as soon as the statistics are updated. In some cases we have used these to improve the coverage of our release, but this is not always welcomed by Executive colleagues. Clearer direction on pre-release access and widening the general availability of statistics would be welcomed under the new code.
ISD have also experienced conflicts over disclosure of personal health data as covered by the Data Protection Act and the Scottish Freedom of Information Legislation. Concepts of statistical disclosure control are open to interpretation and we would welcome UK legislative cover for statistical use of confidential data

a. **Appropriate lines of accountability in Scotland?**

We would anticipate that laying a report before the Scottish parliament would ensure discussions in committee and the chamber, and provide an opportunity to gauge improvement in public confidence in the statistical system. It may provide greater independence if the designation of statistics as National Statistics is moved from Scottish Ministers to one of the committees of parliament.

b. **Is legislative consent motion appropriate?**

It would appear to be so, given our limited knowledge of the Scottish legislative process.

c. **Opportunity to engage with the Executive on this issue in advance of the introduction of the memorandum?**

No, but we will meet with the Chief Statistician later in January. We have discussed the implications at a meeting with the Registrar General and our senior statisticians in early December, and have been informed by Office of National Statistics colleagues, and the Statistics Commission on the progress of the Bill.

We trust that these comments are helpful, and would be willing to provide oral evidence to the committee if required. It is clear that building trust in the statistical system required closer working between bodies of parliament and the producers of National Statistics, who are not solely within the Scottish Executive. As we move to our third term of a Scottish Parliament, ISD would be willing to help with induction of new Committee, MSPs, and researchers into the availability, quality and fitness for purpose of Health and Care Statistics

Yours sincerely

Susan Burney
Interim ISD Director
These notes show responses from Donald MacRae of Lloyds TSB Scotland as requested by the Finance Committee of the Scottish Parliament on the provisions of the UK Statistics and Registration Services Bill and its potential impact on Scotland.

The provision of valid and reliable statistics is vital to the successful governing of a modern economy. Evidence based policy making cannot function without regular, reliable, independent and valid statistics.

The provisions of the Statistics and Registrations Services Bill, if fully implemented, will be beneficial compared to the existing system. This is not to say that current Scottish statistics are flawed rather that they will benefit from the “quality assurance” provided by the quality standard administered by an independent Statistics Board.

These provisions, if fully enacted, will achieve the aim of reinforcing the integrity, independence and quality of statistics produced in Scotland. However, it is unclear what standard will apply to all statistics produced in Scotland. It is conceivable that only a selection of statistics will be produced in Scotland to the quality standards envisaged by the Statistics and Registration Services Bill.

I endorse the proposed non-ministerial departmental structure proposed to give accountability in Scotland. It is important that Scottish shares of current UK wide surveys are maintained to the same quality as produced for the UK as a whole. It is important that areas of particular Scottish interest can be well represented.

I do believe that the legislative consent motion is an appropriate means to legislate on this issue.

I have had the opportunity to engage with the Scottish Executive in advance of the introduction of the memorandum.

Donald J. R. MacRae
Lloyds TSB Scotland
I write as a member of the Scotstat Board at Rob Wishart's behest and am grateful for the opportunity to comment on this Sewell motion. I am also grateful for the extra time to comment - hope you had a good festive period too!

I have taken soundings amongst community planning colleagues on the proposal to establish a Statistics Board for the UK including Scotland. My comments, which are structured around the specific questions put in your letter, are nevertheless my own.

a) Is it necessary and likely to improve on the present?

Yes I would support the proposal for a Statistics Board and see benefits in both perceived independence and opportunities to achieve consistency and consensus across the UK on 'National Statistics'.

b) Will it achieve the aim of reinforcing the integrity, independence and quality of statistics produced in Scotland?

Scotland has seen in recent years a number of statistical developments tailored to our specific needs and circumstances. These have proved to be relevant and valued, and have helped improve the evidence base for public policy management and academic research and analysis. Frequently these have drawn on experience and indeed good practice elsewhere in the UK e.g. in deprivation analysis, and applied the lessons within a Scottish context. Whilst there are no doubt benefits from consistency in definitions etc. there are also benefits in fitting Scottish administrative and legal frameworks. It is therefore suggested that the Statistics Board should operate with a light touch to enable local and not necessarily standardised UK definitions and solutions. The joined up thinking that lead to Datazones for small area analysis, Scottish Neighborhood Statistics, the Scottish Index of Multiple Deprivation and more recently emerging area resource analysis developments has been based on good co-operation between the Executive, GROS, local authorities, health boards and academics. The new Board will need to find ways of sustaining the successes of devolution and fostering flexibility further to deliver innovation around local solutions. At the same time the benefits of being part of a UK approach will also need to be drawn down to the local level.

c) Whether the proposed non-ministerial department structure will have appropriate lines of accountability in Scotland for its purpose?

It would appear to have formal accountability to Scottish Ministers and Scottish Parliament. However I have not seen any reference in the memorandum nor any paper from the OCS as to the implications for existing structures such as the Scotstat Board and Committees. These provide routes of accountability to the providers and users of statistics but there is no indication whether this would be valued, required or sustained. Some comfort in this respect or at least acknowledgement of the continued role of Scotstat would be helpful otherwise the
new Board would risk becoming remote, out of touch and consequently less effective.

d) Whether you consider a legislative consent motion to Parliament to be the appropriate means to legislate on this issue?

Yes

e) Whether you have had an opportunity to engage with the Executive on this issue in advance of the introduction of the memorandum?

Not to any significant extent.

Trust you will find these comments helpful.

Yours etc.

Chris Mitchell
(Representative of Scottish Neighborhood Statistics Group on Scotstat Board)
SUBMISSION FROM ROYAL STATISTICAL SOCIETY EDINBURGH LOCAL GROUP

RSS Edinburgh Local Group Response to request to give written evidence on the provisions of the Statistics and Registration Services Bill which impact on Scotland.

Alan Forrest, Chairman

7th January, 2007

Drawing on responses and advice from:
RSS Edinburgh Local Group Committee
Andrew Garratt, RSS London
RSS Consultation on Independence of Statistics, Edinburgh venue 30th May, 2006

1. In her letter, 8 Dec 2006, Rosalind Wheeler invited the Edinburgh Local Group of the Royal Statistical Society to give written evidence on the provisions of the Statistics and Registration Services Bill which impact on Scotland.

2. This is the response from the Edinburgh Local Group. The opinions here are not necessarily those of the Royal Statistical Society as a whole.


4. We put these documents to the Finance Committee as evidence, as many of their general points apply equally well to Scottish and UK Statistics, and several points deal explicitly with devolved Statistics. We quote some of these below.

5. In addition to this evidence, the Edinburgh Local Group wishes to add or emphasise some points that are specially relevant to the Scottish legislative consent of the Bill, as follows:

6. We believe the provisions will benefit Scottish National Statistics. The inclusion of Scottish National Statistics in the proposals will demonstrate that Scottish National Statistics are produced to a common UK standard, produced independently and subject to independent scrutiny. This will reinforce the integrity, independence and quality of Scottish National Statistics. Failure to include SNS in the proposals would give the opposite impression, whether or not this would actually be the case.

7. In connection with a common UK standard, we agree with Sections 12-13 of the RSS written response
“12. The system should be UK based and involve the Devolved Administrations: European and international commitments require a focal point (the National Statistician) and domestic needs demand an ability to produce coherent UK-wide statistics and the ability to make valid comparisons between the countries of the UK. The whole system should take account of the needs of all users including the administrations and citizens in devolved territories.

“13. The current arrangements have not delivered coherent statistics across the UK. In our view the situation is serious and worsening. This causes a problem both for those seeking information at a UK wide level and for the Devolved Administrations and others wishing to make comparisons across the UK. It impedes assessment of the success of devolution itself. It risks putting the UK in breach of its duties to the European Union. We do not agree that the existing concordat meets the requirement.”

8. The two other options for Scottish National Statistics are not attractive: either a separate Scottish Board whose role and demarcation would be difficult to manage and which might be more expensive: or a system with no such Board which would be worse than current arrangements where there is a degree of scrutiny by the Statistics Commission.

9. The ability to share comparable information, for statistical purposes, with other Government Departments should have considerable benefits for Statistics in Scotland.

10. Nevertheless, we are concerned that a UK-wide statistical standard might be applied rigidly and insensitively to areas of statistics that have a fundamentally different basis in Scotland. This concern was expressed by senior members of Scottish National Statistics at the RSS Consultation Meeting in Edinburgh (30th May 2006)

11. For example, Scottish Criminal Justice Statistics are not always comparable with those of England and Wales because of the basic differences in their Legal Systems; not only the numbers themselves require qualification but the statistical structures or tables in which these numbers are presented as well. A UK standard for such statistics would put artificial strain on their presentation and interpretation unless it were, in effect, two standards. In this example, a double standard of presentation is probably the only true and pragmatic solution.

12. We wish our view on this matter to be put on record for the proposed Board: that, in general, fundamental or unavoidable incompatibilities between Statistics on each side of the Border, such as the example above, should be noted by the Board and acted on sensitively.

13. This view does not require a change of legislation and so a legislative consent motion to the Scottish Parliament seems the simplest way to ensure the desired aims of the
legislation regarding Scotland.

14. In summary, we believe that the extended role of the Statistics Board would give benefit to Scottish National Statistics, both in setting and monitoring standards of Scottish National Statistics and in including Scotland in the provisions for joined-up and reciprocal information sharing.
SUBMISSION FROM SCOTTISH ENTERPRISE

You recently emailed my colleague Patrick Watt in Scottish Enterprise’s Futureskills division seeking views on the provisions of the Statistics and Registration Services Bill.

The comments below are SEn’s view on the legislation i.e. in response to Annex A of the Executive’s consultation. SEn’s view on the bill’s other proposals i.e. Annex B will follow in due course.

We welcome any proposals that improve the relevance, timeliness, integrity and quality of UK and Scottish statistics. We therefore support the contribution that the Statistics Board could play in setting and monitoring the standards of Scottish statistics to demonstrate that Scotland’s statistics are produced to high standards and subject to independent scrutiny. In this regard we support the adherence to international standards in the production of statistics.

Finally, we welcome any plan to strengthen consultation about the scope of official statistics and the opportunity to work in closer partnership with others in the public sector to improve Scottish statistics.

Yours sincerely

Michael Cannon
Director, International & Parliamentary Liaison
SUBMISSION FROM SCOTTISH INFORMATION COMMISSIONER

Thank you for your email of 11 December in which you sought written evidence on the provisions of the above UK Bill which impact on Scotland. I note that the Finance Committee has been referred a legislative consent memorandum on the Bill which would extend the role of the proposed Statistics Board to setting and monitoring the standards of statistics produced by the Scottish Executive. I welcome the intent of the Bill to reinforce the independence, integrity and quality of statistics produced in government.

The proposed independent Statistics Board would be established as a non-ministerial department of the Westminster government and therefore subject to the provisions of the Freedom of Information Act 2000. Should the Board receive an information request concerning the independence, integrity and quality of Scottish Executive statistics, the request would be dealt with under the UK freedom of information legislation and any subsequent appeal would be made to the (UK) Information Commissioner, not to me.

The Chief Statistician of the Scottish Executive produced guidance on the Freedom of Information (Scotland) Act 2002 before it came into force. I was pleased to be consulted about the guidance and to have the opportunity for input in its development. I imagine it would be unlikely that the proposed Statistics Board as a UK authority would similarly involve me in the development of guidance, even though that guidance might impact on Scottish government information.

Yours sincerely

Kevin Dunion
Scottish Information Commissioner
Thank you for asking me to comment on this UK Bill. My key interest in this piece of legislation is whether the Statistics Board which it would create should, when taking actions concerning Scotland, fall within my jurisdiction. (This is an issue which Mark Ballard MSP raised when your Committee took evidence from the Deputy Minister for Finance, Public Service Reform and Parliamentary Business on 12 December.) I shall therefore limit my comments to point e) as set out in your letter of 11 December. But before I do so it may be helpful if I explain my office’s jurisdiction and how it might relate to the Statistics Board.

My office was established by the Scottish Public Services Ombudsman Act 2002 to investigate complaints from members of the public who feel they have suffered hardship or injustice as a result of maladministration or service failure by providers of public services in Scotland. Schedule 2 to the 2002 Act lists bodies within my jurisdiction. Part of schedule 2 lists cross-border public authorities about which I can consider complaints when the matter complained of is an action taken concerning Scotland and not relating to reserved matters. Schedule 2 lists 32 cross-border authorities including the British Library Board, the Design Council, the Forestry Commissioners and the National Consumer Council. Complaints about these bodies would generally fall within the jurisdiction of the Parliamentary Commissioner for Administration (the Ombudsman for UK government departments and agencies) when they do not concern Scotland and devolved Scottish matters. It seems to me that the proposed Statistics Board is likely to be another such cross-border authority. Clause 60 of the Statistics and Registration Services Bill provides for the Board to be within the Parliamentary Commissioner’s jurisdiction. For it also to be placed within my jurisdiction when acting in a devolved context it would need to be added to schedule 2 to the 2002 Act, which could be achieved by Order in Council.

Point e) in your letter of 11 December asked whether I had had an opportunity to engage with the Executive on this issue in advance of the introduction of the memorandum. The short answer is ‘no’. The Bill and its potential implications were fortuitously drawn to my attention by an interested academic. I have a concern that the Scottish Executive could sometimes be more proactive in identifying the potential impact of legislation (both that originating in Westminster and in the Scottish Parliament) on offices such as mine and engaging with us at an early stage. It is difficult for us as a small office with very limited resources to track all legislative proposals which may have an impact on us. While I do not consider that this particular Bill has any significant implications for my office there have been other cases where earlier consultation could have been productive. An example is the complaints handling arrangements introduced by the Water Services etc (Scotland) Act 2005. It seems to me that these are potentially confusing for the public as well as having cost implications. I shall again ask the Executive to consider how consultation on such issues might be improved.

Yours sincerely
Professor Alice Brown
SUBMISSION FROM STATISTICS COMMISSION

I understand that the Legislative Consent Motion relating to the above Westminster Bill is to be further considered by the Finance committee at its next meeting on 16 January 2007.

My purpose in writing is both to draw your attention to the comments the Statistics Commission has made in response to the consultation on this matter and to let you know that representatives of the Commission would be available to give oral evidence to the committee at its meeting on 16 January if that is required. Unfortunately I personally have a long-standing commitment on that day, but Commission member Isabelle Low and our Chief Executive, Richard Alldritt, will both be in Edinburgh and available.

Our comments on the legislation are as below and in the enclosed briefing document.

The Statistics Commission very much welcomes Scottish Ministers' intention to extend the 'scrutiny and standards' aspects of the Statistics and Registration Service Bill to Scotland, as indicated in the Legislative Consent Memorandum. We believe that UK wide scrutiny and standards have the potential to benefit all parts of the UK.

We note that the consultation paper also acknowledges the benefits that such scrutiny can bring. We similarly share the consultation paper's recognition of the value of cross-border comparison of statistics and the need to address problems of inter-administration comparability. We believe that the new arrangements will support improvements in this respect - although they may need to be supplemented by further non-statutory agreements and arrangements to achieve this.

Legislation offers an opportunity to enhance the value of official statistics as well as strengthen public confidence in them. It should, for example, support coherent, systematic planning of statistical services across all producer bodies to meet the needs of decision-makers - inside and outside government. In doing so it will encourage more helpful written commentary to accompany the published statistics and promote more effective, clear communication with users of statistics and the public, helping them to find and understand the figures and advice they need.

We will comment in due course on the other proposals that have been issued for consultation in relation to improving statistical services in Scotland; but we support the intent to use legislation as a springboard for improvement.

We attach a public briefing note that the Statistics Commission has prepared on the Statistics and Registration Service Bill. We would draw particular attention to two elements of this statement, which are relevant to the position in Scotland.

The first is that we believe that the value of, and confidence in, statistics will best be enhanced if a strong Code of Practice is seen to apply to all government bodies
producing official statistics (and to all of the statistical work of those bodies). In particular, the decision to assess compliance with the Code should not be matter of invitation from Ministers, contrary to what the Bill currently proposes.

The second is that public confidence will best be enhanced if the rules for pre-release access to official statistics are determined by the Board as part of the Code of Practice, not -as the Bill proposes -determined separately by Ministers.

Please contact us should you wish to discuss the matter further.

Yours sincerely

Professor Donald Rhind

STATISTICS COMMISSION – BRIEFING – revised 5 January 2007

This briefing note is in three parts:
  ▪ Observations on the Bill
  ▪ Suggested amendments
  ▪ Supplementary note on the Code of Practice and its application

OBSERVATIONS ON THE BILL

The Statistics Commission strongly welcomes the intent of this Bill, to create an independent board to enhance confidence in government statistics. The Bill will establish a new Statistics Board which will subsume the Office for National Statistics (ONS) and become a non-ministerial department in its own right whilst remaining within the overall responsibility of the Treasury, in much the same way as Her Majesty’s Revenue and Customs. In effect the new Board will replace:

  ▪ the statistical functions of the Office for National Statistics
  ▪ the oversight role of Treasury Ministers in relation to ONS functions
  ▪ the independent Statistics Commission.

Done right, this should provide genuinely independent oversight of the production and publication of official statistics and thus give the public good reason to trust the statistical service. Among the welcome provisions of the Bill is the non-executive majority on, and chair of, the Board and the broad scope of its responsibility for statistical governance. That Board will bring increased authority to the dealings ONS has with the rest of government and we believe this is a necessary and important step forward. We welcome also the ‘non-ministerial’ status of the new body; the authority of the Board to approve and maintain a Code of Practice; and the moves towards improving access to, and use of, administrative data held across government to enhance statistics and minimise the compliance burden.
We are however concerned that the Bill as presently drafted:

- does not secure a sufficiently clear separation of executive and scrutiny roles;
- gives the Board responsibility for, but not authority over, official statistics in government bodies other than ONS;
- does not place government bodies under an explicit obligation to observe the Code of Practice;
- continues to let Ministers - rather than the Board on behalf of Parliament - determine the rules for access to statistics before they are published.

**The independence of the Board**

The Bill as presently drafted gives the Board both a scrutiny role\(^1\) over all government statistics and an executive role\(^2\) in producing some statistics.

The Statistics Commission believes that it will be essential for the Board to focus primarily on its role of ‘defining the rules’, monitoring compliance with them and assuring Parliament on these matters. We understand that government expects the Board to delegate\(^3\) all responsibilities for the production of statistics to a new ‘executive office’ under the National Statistician (to replace ONS). We agree that the National Statistician must not be involved directly in the scrutiny function. She must however be given formal responsibility for the overall planning, production and quality of statistical products.

In order to achieve this, we believe that the Bill should explicitly provide for a demonstrable separation of the governance and scrutiny functions of the Board from the production functions of the executive office. This separation must be beyond question. If it remains unclear where responsibility lies, neither the Board nor National Statistician will be able to function effectively or command the confidence of Parliament.

With these considerations in mind we have suggested amendments to clauses 6, 9, 18, 20, 21, 29 and 31 (see attached)

**The authority of the Board**

The Bill as presently drafted confers the responsibility to safeguard the quality of all official statistics\(^4\) without commensurate authority over those statistics produced by government departments other than ONS.

The Board, in the form the Bill proposes, will only have sufficient authority to resolve shortcomings in statistical practice, outside ONS, if strongly supported by Government and Parliament. We note that the Government expects authority in practice to derive from the active engagement of Parliamentary select committees in matters raised by the

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1. Clauses 7 and 8
2. Clauses 6, 18 and 53
3. Clause 33
4. Clause 7
Board. Whilst the regular involvement of Parliament would be a powerful mechanism, we believe that more could still be done, both within the Bill itself and through the explicit commitment of Ministers to non-statutory arrangements, to strengthen the Board’s authority.

We have suggested a new sub-clause under clause 10 to require all authorities that produce official statistics to observe the Code (see attached).

**Code of Practice**

The Bill requires the Board to develop a Code of Practice for National Statistics. The Code must be broadly drawn and cover matters such as resources, commentary and dissemination. If it is narrowly focused on statistical methods, even full compliance will not buttress public confidence. We therefore assume the Code will have coverage akin to the proposals that the Statistics Commission has now published for consultation. The Bill should clearly state that the Code will be binding on all government bodies producing official statistics. It must also empower the Board to assess compliance as it sees fit. The Code must apply to the government body as a whole and to all the statistical work of that body.

We have suggested amendments to clauses 10 and 12, and deletion of clauses 13 and 16, to address these points. Should the concept of National Statistics be retained in the Bill, we would want to see the power to determine which statistics are so labelled resting with the Board rather than with Ministers. This is not currently reflected in our suggested amendments as we think it more logical to treat all official statistics according to the same rules. This would remove the need for some statistics to be identified as National Statistics and the rest to be classed as ‘other official statistics’. Further discussion of the content of the Code of Practice and its application to all official statistics is appended as a supplementary briefing note.

**Pre-release access**

The Bill as presently drafted gives Ministers rather than the Board the power to determine the period of their pre-release access to official statistics. The Statistics Commission would wish to see the Bill give this power to the Board, in consultation with Ministers. We believe that this is the only way of giving sufficient public assurance that official statistics are free from government “spin”.

We have suggested deletion of clause 11 and part of clause 17 to address this.

**More detailed observations on key clauses**

The Statistics Commission has set out some more detailed observations on key clauses of the Bill in a separate document which can be found at

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7 Clause 11
Non-statutory arrangements

Those measures more suited to non-statutory arrangements would include a strong concordat between the four UK administrations on how they will work together on statistics; explicit recognition by all four administrations that government departments are expected to follow the advice of the Board on the interpretation of the Code; and arrangements for direct access to the Prime Minister for the chair of the Board on matters of national importance.

SUGGESTED AMENDMENTS TO THE STATISTICS AND REGISTRATION SERVICE BILL

The independence of the Board

In clause 6(1) (a), page 3, line 34, replace “the Board” by “the National Statistician”

In clause 9(1), page 4, line 37, replace “The Board” by “The National Statistician”

In clause 18, page 8, replace “the Board” by “the National Statistician”:

clause 18 (1), page 8, line 15
clause 18 (2), page 8, line 17
clause 18 (3), page 8, line 19
clause 18 (4), page 8, line 21
clause 18 (5), page 8, line 23

In clause 20 (1) (a), page 9, line 11, replace “the Board” by “the National Statistician”

In clause 21, page 9, line 20, replace “the Board” by “the National Statistician”

In clause 29 (1), page 12, line 19, replace “chief executive of the Board” by “chief executive of the executive office created by virtue of clause 29(5)”
In clause 29 (1), page 12, line 19, add “and to be the government’s chief adviser on the planning, production and quality of all statistical products”.

In clause 29 (4), page 12, line 28, after “The Board may” insert “not”
In clause 29 (4), page 12, line 28, after “Statistician” insert “or any employee of the Executive Office created by virtue of 29(5)”
In clause 29 (4), page 12, line 29, delete “not” before “to exercise”

In clause 31 (4), page 13, line 26, delete “the Board” and insert “the National Statistician”

Aim of amendment
To secure a sufficiently clear separation of executive and scrutiny roles
The authority of the Board

Add new clause 10(4), page 5, line 16, “All authorities that produce official statistics must observe the Code of Practice, consulting the Board on matters of interpretation as necessary.”

Aim of amendment
To strengthen the Board’s authority in relation to official statistics

Suggested amendments continued…

Code of Practice

In clause 10(1), page 5, line 7, replace “Code of Practice for National Statistics” by “Code of Practice for Official Statistics”.

In clause 10(1), page 5, line 8, add “taking account of the principles set out in the European Statistics Code of Practice, the United Nations Fundamental Principles of Official Statistics and any other relevant international codes or agreements.”

Replace clause 12(1), page 6, line 11, with “The Board must, in accordance with this Part, assess and determine whether the Code of Practice for Official Statistics under Section 10 has been complied with by the relevant authorities.”

Delete clause 12(2), page 6, lines 15-17
Delete clause 12(3), page 6, line 18
Delete clause 12(7), page 6, lines 25-37
Delete clause 12(8), page 6, lines 38-40

Delete clause 13 entirely, (page 6, line 41 to page 7, line 14)

Delete clause 16 entirely, (page 6, line 33 to page 6, line 36).

Aim of amendment
To ensure the Code is broadly drawn, covers all necessary matters and applies to all the statistical work of bodies that produce official statistics.

Pre-release access

Delete clause 11 entirely, page 5, line 16 to page 6, line 9

Delete clause 17(4), page 8, line 9 to page 8, line 10.
Aim of amendment
To ensure that the Board, on behalf of Parliament and after consultation with Ministers, is empowered to determine the arrangements for pre-release access to statistics, as part of the Code of Practice.
The Statistics Commission believes that the Code of Practice could be revised so as to apply to all official statistics without creating any significant additional burden on the bodies that produce the statistics. In December 2006, the Commission published an interim report on a revised Code for consultation. The draft Code contained in that report is consistent with the requirements of the Bill in its current form and thus relates to National Statistics rather than the broader concept of official statistics, but it would require minimal change to apply to the latter.

The Commission’s draft Code consists of nine principles, as set out below, each of which has associated with it a set of ‘practices’ that producer bodies would be expected to follow. Assessment of compliance against this Code would take account of the public interest in ensuring compliance. So obscure statistics produced as a by-product of departmental administrative processes that are of little public consequence would still be expected to comply with the principles but less so with the more specific ‘practices’. Statistics of national importance, on the other hand, would be examined closely against every ‘practice’.

The Code principles (from the Commission’s draft)

1) **Integrity**: At all stages in the production and dissemination of National Statistics, the public interest should prevail over organisational, political or personal interests.

2) **Relevance**: The production of National Statistics should be planned so as to inform decisions in government, public services, business and the wider community. As far as possible National Statistics should be internally consistent, consistent over time, and compatible between producers.

3) **Sound methodology and assured quality**: The methods for the collection, processing, storage and presentation of National Statistics should accord with scientific principles and internationally recognised best practice and agreements. Quality should be monitored and assured independently following centrally determined procedures.

4) **Value for money**: The resources allocated to statistical work should be used optimally to deliver outputs that meet the needs of users inside and outside government.

5) **Communication**: Statistics and information about statistical processes should be published in a form convenient to users and in as much detail as practicable.

6) **Accessibility**: National Statistics should be equally accessible to all users

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7) **Confidentiality:** Confidential data collected or used for statistical purposes should be strictly protected and should not subsequently be used for non-statistical purposes.

8) **Proportionate burden:** The reporting burden should be proportionate to the value of the statistics to users and should not be excessive for respondents.

9) **Adequate resources:** The resources made available for statistical functions should be sufficient to meet the requirements of this Code.

In practice, many of these principles are not so much about the statistics themselves but rather about the way statistical work is approached. This again argues for a common Code for all statistical work. The Bill (clause 7) gives the Board the objective of promoting and safeguarding all official statistics. To do this effectively, it will need a Code that applies to all official statistics – the alternative of having two different Codes, one for National Statistics and one for the rest, would be confusing and complex.

It is also relevant here that some statistics that are not currently National Statistics relate to matters which could be of considerable public interest or concern. A few examples

- Hospital bed availability and occupancy (annual)
- Cancelled NHS operations (quarterly)
- NHS Inpatient Waiting Times figures (monthly)
- NHS Workforce Vacancy survey
- NHS earnings survey
- Energy projections for the UK
- Business survival rates – businesses still registered for VAT after one and three years
- End of Month Prison Population count
- Armed forces medical discharges (included as national statistics prior to 2003)
- Council house sales, England (quarterly)
- Council tax and non-domestic rates collection rate figures, England
- Estimates of unauthorised migrant population
- Index of multiple deprivation, England

These arguments underlie the views expressed in this Brief about changing the application of the Code to cover all official statistics.

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SUBMISSION FROM BARRY WINETROBE

Following your evidence session on 12 December on this matter, may I make the following brief points by way of a submission?

- **Institutional model re Scottish devolved aspects**: I hope the Committee, especially in view of its close interest in the accountability and governance of public officers and bodies (including ‘parliamentary commissioners’), will scrutinise further the scope for involvement of the Parliament in any activities, decisions, communications and other exercises of power by the Executive in relation to appointments (including re-appointments or removals etc) arising from this Bill. Ideally, this should include appropriate and active involvement of the Parliament prior to any decisions etc by the Executive (eg during the period when the Executive is being consulted by the UK Government), rather than merely being informed of them after the fact. If the Executive had pursued its own legislation on this policy area, within competence, its proposals would have raised the issue of whether any such body should be created on a ‘parliamentary commissioner model, given the criteria in your own recent Report. As the Executive has opted for the ‘legislative consent’ route, this should not mean that there can be no discussion of whether any ‘Scottish’ members and activities of the UK-created body should not be at least subject to some form of equivalent appointment and accountability etc processes through the Parliament, as is competent and appropriate, and beyond those apparently proposed (eg in clauses 3 and 25).

- **‘Scottish public authorities’**: I also hope that the Committee will seek further clarification of the scope of the Bill in terms of the definition of 'Scottish public authorities', especially in clauses 63-64. The definition used seems to be the Scotland Act one in s126(1), ie

  "Scottish public authority" means any public body (except the Parliamentary corporation), public office or holder of such an office, whose functions (in each case) are exercisable only in or as regards Scotland,

While that excludes the SPCB, does it also exclude 'the Parliament' itself (which is regarded in some legislative provisions as a separate 'body', even if one without full legal personality), and any or all of the six ‘parliamentary commissioners’? The definition may well be wide enough to include most of these bodies, but there may be an issue about the Scottish Parliamentary Standards Commissioner, as that post is appointed directly by the SPCB rather than by the Sovereign, and so, in that sense, be subsumed, like all ‘normal’ Parliamentary staff, in the SPCB exclusion. To what extent does the definition encompass ‘quasi-parliamentary’ bodies, such as the Scottish Commission for Public Audit (a statutory body), the Business Exchange and the Futures Forum? As the 1998 Act definition was devised, of course, before the proliferation of ‘parliamentary commissioners’ or creation of these other bodies, the present LCM scrutiny is an appropriate opportunity to clarify any potential uncertainties and ambiguities about the scope of the Bill in this respect.
**FOI/Ombudsmen etc:** I am not sure to what extent, if any, the provisions of the Bill re FOI/data protection (clauses 36-7) and the PCA (clause 60), overlap, override or perhaps even ‘ignore’/’forget’ relevant Scottish legislation and arrangements, especially the 2002 FOI Act and the existence of the SPSO respectively. I appreciate that some of this was raised during the 12 December meeting, but I hope further scrutiny of these issues will not only lead to appropriate statutory provisions in the Bill for which Consent may be given, but will also examine the inter-governmental discussions and consultations (including those with the SIC, SPSO etc), if any, which led to the present provisions as presented for Consent. As with the European & External Relations Committee’s follow-up on unsatisfactory aspects of the Consent process for what is now the Legislative & Regulatory Reform Act 2006, this latter point is important for the overall integrity and effectiveness of the reformed Consent processes in this Parliament (and reciprocal revised arrangements at Westminster). Your Committee’s experience of the Consent process on this present Bill may well be important evidence for any monitoring or review of the new Consent arrangements undertaken by the Procedures Committee or elsewhere in the Parliament in the future.