29 October 2015

Dear Kenneth,

Post-legislative scrutiny of the Financial Memorandum accompanying the Flood Risk Management (Scotland) Bill

Thank you for your letter of 30 September about the outcome of the Finance Committee’s post-legislative scrutiny of the Financial Memorandum accompanying the Flood Risk Management (Scotland) Bill.

I was pleased to see that the evidence received by the Committee did not raise any major concerns, and that the Committee feels that the Financial Memorandum represented a reasonable assessment of the overall costs arising from the Bill. I understand that the Committee had a number of recommendations and I have addressed these below.

The Committee considers that it would be helpful for future FMs to provide a clearer indication of likely levels of variation between local authority areas in order to inform post-legislative scrutiny.

The Scottish Government will consider whether the guidance on producing Financial Memoranda needs to be revised to ensure more consideration is given to the likely levels of variation in costs between individual local authorities.

The Committee notes that the majority of local authorities which responded reported that costs for the first flood risk management planning cycle and estimated costs for the six-year cycle post-2015 were broadly in line with the FM’s estimates. However, the majority of respondents reported that their costs for the preliminary assessments to 2011 had exceeded the estimates set out in the FM. The Committee would welcome your views on the reasons for this.

As the Bill would require local authorities to provide SEPA with assistance and both available or readily derivable information that they already held, or could easily obtain, on flood risk in their area, it was felt that the costs would be largely in staff time, and so that is what was included in the estimates for the FM. Local authorities also had to attend meetings of their

Taigh Naomh Anndrais, Rathad Regent, Dùn Èideann EH1 3DG
St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
local plan district working group and local and national advisory groups as part of the process of collaborative and partnership working. The process of producing the national flood risk assessment took longer than had been anticipated, but the majority of the work was carried out by SEPA. Some local authorities also sat on a number of Scottish Government working groups under the umbrella of the Strategic Advisory and Implementation Forum for Flooding (SAIFF) which did require more staff time than had been estimated in the Financial Memorandum, which would account for the higher costs incurred. However, in some cases it seems that local authorities may have included costs for studies and other work, which the local authority had already planned to do, and which were not a specific requirement of the Bill. However, as the the data they provided was used to feed into the national flood risk assessment, then the costs were attributed to assessment process.

The Committee asks why the annual implementation reports associated with the Act and presented to the Rural Affairs and Climate Change Committee did not contain detailed information on implementation costs. This would have assisted post-legislative scrutiny and would also have helped ensure that estimates of actual costs were presented on a comparable basis.

The annual implementation reports contained information on funding of flood protection work, but not the resource costs associated with implementation of the Act. If the Committee would find it helpful, this could be included in future reports, however, there has been no feedback from Parliament, or stakeholders, as regards any of the annual reports asking for more detailed information in this area.

In its response, Angus Council noted that it would be helpful for greater clarity to be provided on the coverage of FM estimates in order to facilitate subsequent scrutiny. The Committee agrees that a clear definition of the coverage of FM estimates is essential to informing monitoring of costs and subsequent scrutiny.

The Scottish Government is committed to continuing to seek to set out the best estimates of costs for inclusion in Financial Memoranda, and to seek to be clearer about where costs arise directly as a consequence of the Bill or as a consequence of existing activity.

with kind regards

AILEEN MCLEOD

Taigh Naomh Anndrais, Rathad Regent, Dùn Èideann EH1 3DG
St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot