Finance Committee

Abusive Behaviour and Sexual Harm (Scotland) Bill Financial Memorandum

Submission from Police Scotland

1. **Introduction**

1.1 Police Scotland has considered the content of the Abusive Behaviour and Sexual Harm (Scotland) Bill; hereafter referred to as the Bill; Financial Memorandum (FM) and offers the following comments in response.

2. **Consultation**

2.1 **Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?**

Yes, Police Scotland participated in the consultation exercise preceding the Bill and provided financial data. While Police Scotland welcomes and supports many of the provisions within the Bill, we are of the view that it is not possible to precisely predict all the consequences of the Bill and, therefore, expect that the actual cost of the Bill will differ from the financial assumptions.

Given Police Reform requires Police Scotland to operate within significant budgetary constraints Police Scotland questions the financial assumptions that the probable costs from introducing this new legislation can be met from existing budget.

2.2 **If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?**

It is suggested that the financial assumptions are focused on estimated present base costs.

In relation to the specific offence for the non-consensual sharing of intimate images it would appear that the estimates are based on reported and prosecuted domestic abuse cases. Police Scotland would wish to highlight that between 20th and 22nd August 2015, 25 separate reports were made to Police Scotland from members of the public regarding the unauthorised posting of intimate images on a specific image hosting site. It is of note that there does not appear to be any ‘domestic’ element to any of the cases reported.

In relation to child sexual offences committed elsewhere in the UK it is suggested that any financial assumption considers the rise in reports of non recent child sexual offences across the UK; the co-ordination and
linking of such investigations throughout the United Kingdom by Operation Hydrant and, finally, the anticipated impact the various Public Inquiries into non recent child abuse may have.

In relation to reforms to civil orders available to protect communities from those who may commit sexual offences, Police Scotland would suggest that the financial assumptions have not taken into account the potential increase in numbers of applications for Sexual Risk Orders due to the lowering of thresholds and the increase in costs arising from this; an increase in resources required to ‘police’ granted orders; development of risk assessment tools; training and other ancillary costs.

As outlined above, Police Scotland expects that the actual cost of the Bill will differ from the financial assumptions.

2.3 Did you have sufficient time to contribute to the consultation exercise?

The 3 week consultation in relation to the Financial Memorandum has provided limited time for full assessment.

3. Costs

3.1 If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

During the initial consultation, Police Scotland provided general comment on potential additional costs associated with the downloading, examination and evidencing of the materials (images) relevant to the new offence of the non-consensual sharing of intimate images. While the FM asserts that the number of additional reports is likely to be ‘small’, Police Scotland holds the view that it is not possible at this stage to predict all the consequences of the Bill and therefore financial impact.

The FM accurately reports that application for a RSHO currently cost circa £1,300 and predicts the number of SROs will be higher, given the baseline is low. The FM, however, advises there will be no significant impact on the criminal justice system or any additional police costs as reports or indications of such behaviour are already investigated by the police.

Police Scotland holds a contrary view given the significantly different criteria for Risk of Sexual Harm Orders (RSHOs) compared to the proposed Sexual Risk Orders (SROs). It is anticipated that significant additional costs will be incurred as follows:

- All incidents of a sexual nature will require to be assessed and consideration given to whether there is reasonable cause to believe it would be necessary for an order to be applied for
In recognition that the assessment of risk can be a very subjective exercise, there is a requirement to develop a risk assessment tool and officers trained on its use.

- An increase in SRO applications compared to RSHO applications
- An increase in the number of granted protective civil orders
- An increase in the number of appeals
- Local Policing Offender Management Units requiring additional resources (additional police officers; transport and IT costs) to ‘manage’/’police’ the increased number of civil orders
- Additional demand on specialist support divisions to assist the ‘policing’ of those subject of civil orders

It is of note that similar reforms to civil orders were introduced in England and Wales on 9 March 2015. An increase in SROs has been experienced as follows:

- 09/03/14 – 29/09/14 - 5 RSHO and 8 Interim RSHO
- 09/03/15 – 29/09/15 - 32 SRO and 13 Interim SRO

These figures show a 3.5 fold increase in the number of SROs applied for and granted. If Police Scotland’s experience was similar to that of our colleagues in England and Wales the additional costs for basic application alone would rise to between £87,000 and £221,000 over a 3 year period. In addition, with the potential increase in applications being granted, it is anticipated there will be a corresponding increase in appeals. The cost of an appeal is in the region of £10,000 to £15,000 per case.

3.2 Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Please see above

3.3 If applicable, are you content that your organisation can meet any financial costs that might incur as a result of the Bill? If not, how do you think these costs should be met?

The introduction of the Bill will undoubtedly result in additional costs for a number of organisations, including Police Scotland. While Police Scotland welcomes and supports many of the provisions within the Bill, we are of the view that it is not possible to precisely predict all the consequences of the Bill and, therefore, expect that the actual cost of the Bill will differ from the financial assumptions.

It is assessed that the most significant additional costs will result from the reforms to civil orders. The impact of the Bill will affect the number of applications; variations and appeals which would be over and above the current level and increased additional costs such as training; additional research; scrutiny and active management of those individuals subject of an SRO. Given the potential increase in numbers
of SROs a defensible process for risk assessment and management requires to be developed. This, again, will incur costs.

Given Police Reform requires Police Scotland to operate within significant budgetary constraints Police Scotland questions the financial assumptions that the probable costs from introducing this new legislation can be met from existing budget. It is assessed that additional funding from the Scottish Government would be required to offset the potential increased costs of applications/court costs; the development of a risk assessment tool; management framework and active management.

3.4 **Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?**

Please see above

4. **Wider Issues**

4.1 **Do you believe that the FM reasonably captures any costs associated with the Bill? If not, what other costs might be incurred and by whom?**

Please see above. In relation to paragraph 2.2 (reference to child sexual oﬀences committed elsewhere in the UK) it is suggested that COPFS and Court Services might incur additional costs.

4.2 **Do you believe that there might be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?**

It is not possible to precisely predict all the consequences of the Bill or any subordinate legislation. As outlined above we expect that the actual cost of the Bill will diﬀer from the financial assumptions.