



The Scottish Parliament
Pàrlamaid na h-Alba

WRITTEN AGREEMENT BETWEEN THE FINANCE COMMITTEE AND THE SCOTTISH GOVERNMENT ON THE BUDGET PROCESS IN SESSION 4 OF THE SCOTTISH PARLIAMENT

Introduction

1. The Finance Committee recommended in its legacy paper at the end of Session 3 that the Written Agreement be reviewed and redrafted to incorporate a number of changes to the budget process which have been implemented since the document was last reviewed in 2005.
2. This revised document sets out an understanding between the Finance Committee and the Scottish Government (SG) on the administrative arrangements for the scrutiny of the annual draft budget during Session 4 and other related budgetary matters.
3. There are three phases in the budget process. The Draft Budget Scrutiny Phase and the Budget Bill Phase take place on an annual basis, and the Budget Strategy Phase (BSP) takes place once during the parliamentary session.

Scotland Bill

4. It is recognised that any additional financial powers arising from the Scotland Bill may result in changes to the budget process and possible revisions to this Agreement. The SG agrees that it will consult the Committee on the operation of any new powers and the impact on the budget process. It is, therefore, intended that this Agreement will be updated prior to the additional powers coming into force.
5. It is also intended that it will be reviewed again at the end of the session.

Budget Strategy Phase

6. Following a review of the budget process¹ in Session 3 the Committee agreed to introduce a strategic phase to the process which replaces the previous Stage 1 which had not been carried out since 2004. The SG supports this approach and this section of the Written Agreement sets out the procedure and supporting documentation for the BSP in Session 4.
7. The Committee and the SG have agreed that the BSP will take place in the spring prior to the next UK Spending Review and is intended to allow the Parliament

¹ Scottish Parliament Finance Committee, 5th Report, 2009 (session 3), *Report on the Review of the Budget Process* (SP 315)

to scrutinise the progress which the SG is making in delivering its own targets through its spending priorities and to take a strategic overview of the public finances around the mid-point of the current Parliament.

8. To assist with this process the SG has agreed to consider in consultation with the Finance Committee the options for provision to the Parliament of an assessment of its performance and its updated indicative spending priorities for the rest of the parliamentary session.

9. The parliamentary committees will then have the opportunity to both scrutinise the SG's performance and its spending priorities and will report to the Finance Committee in sufficient time to allow a report on the BSP to be published prior to Summer recess and for that report to be debated by the Parliament. It is expected that the outcome of this process will then inform the scrutiny of the next SG spending review.

Draft Budget Scrutiny Phase

10. The SG will continue to publish a draft budget by 20 September at the latest but will endeavour to publish as early as possible in September in non-spending review years on the basis that the amount of money that is available to the Scottish Government is primarily fixed and known.

11. In spending review years, the Scottish spending review and the draft budget should be published as one document by 20 September.

12. Where the SG believes that it may not be able to meet the 20 September deadline, the Scottish Ministers will consult the Finance Committee on a revised timescale for that year's budgeting process.

13. The 2012-13 draft budget scrutiny phase will also involve a spending review and committees will have an opportunity to scrutinise the SG's spending priorities for the period ending 2014-15. The budget process in the following two years will provide committees with the opportunity to focus on the extent to which these spending priorities are being met and on any changes that have been made to the detailed spending plans since publication of the spending review.

14. The Finance Committee's report on the draft budget may include an alternative set of spending proposals, in which case the total spend being proposed may not exceed the total proposed by Scottish Ministers. The report will be debated by the Parliament on a motion from the Finance Committee prior to Christmas recess.

15. Committees and individual Members may seek to propose amendments to the SG's expenditure proposals by tabling amendments to the Finance Committee motion. No amendment may seek to increase the total spend proposed. Therefore, amendments proposing any increase in one area must recommend how this increase will be financed. It should be noted that even if such amendments are agreed to, this does not automatically guarantee that expenditure proposals will be amended in the subsequent Budget Bill.

Preventative Spending

16. Both the SG and the Finance Committee recognise the need to move towards a greater emphasis on a preventative approach to public spending. The Committee aims to ensure that the scrutiny of preventative spending is integral to the annual budget process and the SG agrees to include an overall assessment in the draft budget of the progress that is being made towards a more preventative approach.

Level 4 information

17. The SG agrees that while there is no formal definition of “level 4” information there is nevertheless a presumption for information below “level 3” to be released. The SG also agrees to provide this information within ten working days at the latest following the publication of the draft budget. Subject committees are encouraged to request information from relevant portfolio areas who will endeavour to provide the following information where possible:

- In presenting ‘level 4 figures’ the SG will provide figures separately for all spending programmes that are distinctive, novel, or likely to be of parliamentary interest. Whilst there is no maximum value for level 4 figures, wherever possible the SG will aim to break down figures to the smallest reasonable level;
- The SG will provide figures for the funding being provided to each of Scotland’s public bodies as listed on the SG website;
- As with level 3 figures the SG will include an explanation of ‘what the money buys’;
- The SG will identify and explain changes to budget headings from the previous draft budget;
- If the SG cannot provide the information to a Committee within the requested period, the SG will write to the Committee explaining why and provide a timetable for receipt.

Budget Bill Phase

18. The SG will introduce a Budget Bill by 20 January each year or the first day thereafter on which the Parliament sits. The procedures for Budget Bills are set out in standing orders.

19. The SG has agreed that it will respond to the recommendations of the Finance Committee report on the draft budget during the Stage 1 debate and that a written response will be published prior to the Stage 3 debate.

20. The SG will also comment on any changes that have been necessitated by financial decisions taken by the UK Government since the publication of the draft budget during the Stage 1 debate.

The Parliament's budget

21. The SG draft budget includes working assumptions on the parliamentary budget prepared by the SPCB. Should the SG wish to challenge the budget proposal by the SPCB, they will do so by means of an amendment to the Budget Bill. Provision for the Parliament to scrutinise its own budget is made in a separate understanding with the SPCB.

Revisions to this agreement

22. The Scottish Ministers or the Finance Committee may propose amendments to this agreement. If the Committee and the Scottish Ministers are unable to agree the changes that are proposed, they may ask the Parliamentary Bureau to arrange a plenary debate on a proposal(s).

AGREEMENT ON IN YEAR CHANGES TO EXPENDITURE ALLOCATIONS

Purpose

1. This document sets out an understanding between the SG and the SP on the administrative arrangements for:

- the reallocation of expenditure within portfolios of the SG;
- procedures for making contingency payments during the year;
- controls on contingent liabilities.

It is not intended to create any legal rights or obligations on either the SG or the SP.

In year transfers between portfolio budgets

2. The previous agreement said that Budget Acts were to set out absolute resource expenditure (net of receipts) limits for individual entities. These entities were the individual departments of the Scottish Executive, Scottish Executive Administration, the General Register Office for Scotland, National Archives of Scotland, the Forestry Commission, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland. The Scottish Ministers and the Finance Committee are agreed that in future Budget Acts a single Scottish Government budget figure will be provided for net expenditure and total income limit. Separate budget approvals will still be required for the Forestry Commission, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.

3. The Scottish Government will continue to set, manage and report budgets against individual totals at Portfolio level, which will be agreed by the Parliament through the Budget Bill, as well as through the Budget Revisions. In accordance with the previous agreement, Scottish Ministers will still not be able to transfer funds between these limits, including between individual portfolios of the Scottish Executive, without the approval of the Parliament.

Reallocation of expenditure within departments of the Scottish Government

4. FIAG recommended that the Executive should be allowed to move funds within portfolio budgets to respond to changes in need. The Group recommended that transfers should be subject to internal controls. It also recommended that the Parliament should be informed of transfers on a regular basis.

5. FIAG also recommended that the total amount of funds that may be transferred in this way should be limited. The Group recommended that transfers between "budget sections" should be no more than £50 million, (at 1999 values) or 15% of the receiving section, whichever is the lesser. (A "budget section" refers to the level below the portfolio as a whole.) FIAG recommended that transfers within budget sections should be unlimited. This recommendation will be given effect by the Scottish Parliament and the Scottish Ministers in accordance with this understanding.

6. The SG undertake:

- Not to move provision from one budget section to another in such a way as to increase the total budget for that section by more than 15%, or £70 million at 2011 values, whichever is the lesser, without seeking the specific approval of the Parliament through the Budget revision procedure.
- To inform the Parliament of movements between budget sections that are within these limits at the time Budget revisions are made.
- To inform the Parliament of movements within budget sections in as much as they affect the detail set out in the documents accompanying the Budget Bill (the Budget documents), when seeking Budget revisions.

7. It remains open to the SG to continue to make use of the flexibilities provided by this agreement and outlined above (the process is technically known as “virement” or “viring between budgets”) after the last budget revision of the year. There is however no vehicle by which changes made at this point can be reported to the Parliament. The SG will therefore prepare its accounts on the basis that budgets at the end of the year were those contained in the last budget revision, that is, as if no further virement had taken place. The accounts will then show moves between budget heads as offsetting over- and under-spends.

Contingency payments

8. Under the terms of the Public Finance and Accountability (Scotland) Act 2000, the SG have powers, in certain circumstances, to authorise the use of resources up to 0.5% of the total budget in any financial year without the prior authority of the Parliament. A separate limit of £50 million is currently placed on this power as part of the annual Budget Acts.

9. The SG can only use this facility if it is necessary to do so in the public interest and if it is not reasonably practicable, for reasons of urgency, to seek prior Parliamentary approval by means of Budget legislation. Unless the circumstances are such that extreme urgency makes it impossible, the SG will lay a report before the Parliament at least 14 calendar days before undertaking any expenditure. Should the requirement to use the power arise during a recess, a report will be presented to the Parliament as soon as Parliament returns from recess.

10. Details of any such contingency payments will appear in the SG's annual accounts.

Contingent liabilities

11. FIAG recommended that the authority of the Parliament is required before the Scottish Government can grant a guarantee or indemnity which would, in effect, bind the Parliament into providing the expenditure in the event of the guarantee or indemnity maturing. This does not apply to a guarantee or indemnity which is granted under a statutory requirement to do so or is of a standard type and arises as an unavoidable feature of an activity authorised by statute.

12. In accordance with FIAG's recommendation, the SG undertake, before granting any guarantees or indemnities in excess of £1 million (including those without limit), to submit their proposals to the Finance Committee. The SG agrees to

provide the Committee with as early notice of the contingent liability as practically possible so as to allow sufficient time for effective scrutiny.

13. The Committee agrees to consider each contingent liability at the earliest opportunity and will take evidence from the appropriate Minister before deciding whether to approve the proposal or to propose an amendment or recommend that the proposal is rejected. If the SG does not agree with the Committee's recommendation then the Committee following further information from the SG may either allow the SG to proceed or refer the matter to the Parliamentary Bureau for debate. It will then be for the Parliament to agree whether or not to allow the SG to proceed.

14. Where the SG requests that a contingent liability should be considered by the Committee in private session it will provide a full explanation for the reasons for this request when submitting its proposal. In doing so the SG recognises that the Committee will only agree to take evidence in private in exceptional circumstances.

15. Where there is agreement to consider a contingent liability in private both the Finance Committee and the SG agree not to make public any of the details discussed during the private session. The SG will also agree with the Finance Committee what information can be made public in relation to the contingent liability itself.

Revisions to this agreement

12. The Scottish Ministers or the Finance Committee may propose amendments to this agreement. If the Committee and the Scottish Ministers are unable to agree the changes that are proposed, they may ask the Parliamentary Bureau to arrange a plenary debate on a proposal(s).