Finance Committee

Report on the Community Justice (Scotland) Bill’s Financial Memorandum
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1. The remit of the Finance Committee is to consider and report on-
   a. any report or other document laid before the Parliament by members of the Scottish Government containing proposals for, or budgets of, public expenditure or proposals for the making of a tax-varying resolution, taking into account any report or recommendations concerning such documents made to them by any other committee with power to consider such documents or any part of them;
   b. any report made by a committee setting out proposals concerning public expenditure;
   c. Budget Bills; and
   d. any other matter relating to or affecting the expenditure of the Scottish Administration or other expenditure payable out of the Scottish Consolidated Fund.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, “public expenditure” means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.
## Committee Membership

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| Richard Baker     | Jackie Baillie                    | Mark McDonald                     |
| Scottish Labour   | Scottish Labour                   | Scottish National Party           |

| Gavin Brown       |                                |                                |
| Scottish Conservative and Unionist Party |                                |                                |

| Jean Urquhart     |                                |                                |
| Independent       |                                |                                |
Introduction

1. The Finance Committee issued a call for evidence on the Financial Memorandum (FM) of the Community Justice (Scotland) Bill (the Bill) in June 2015. The Committee received fifteen responses to its call for evidence, of which eight came from local authorities. Responses were also received from COSLA, Criminal Justice Voluntary Sector Forum (CJVSF), Dumfries and Galloway Criminal Justice Social Work, Lothian and Borders CJA, Midlothian Community Safety Partnership, North Strathclyde CJA and Police Scotland.

2. A letter from the Minister for Community Safety and Legal Affairs providing updated information in relation to the Community Justice Authorities pension liability fund was received on 8 September 2015.

3. To further explore the issues raised in the written responses the Committee took oral evidence from the Scottish Government Bill Team at its meeting on 9 September 2015.

The Financial Memorandum

4. The FM states that the purpose of the Bill is to—

   “replace the existing model for community justice services which is based on eight regional community justice authorities (CJAs), with a new model. The new model delivers a community solution to the achievement of improved outcomes for community justice; to the problem of re-offending; and to the task of offender management.”

5. In addition to providing for national and local community justice strategies, a new national body, Community Justice Scotland (CJS), will be established “to provide leadership, enhanced opportunities for innovation, learning and development and assurance on the delivery of improved outcomes.”

6. Table A of the FM summarises expected costs associated with the Bill. The FM confirms that the costs arising from the Bill “will be met from the existing Scottish Government Community Justice budget, with no additional funding required.”

7. The FM points out that CJS “does not perform like-for-like functions with the eight CJAs and hence costs are not directly comparable.”

8. The issues arising from the oral and written evidence are set out below.
Transitional support for community planning and the Criminal Justice Voluntary Sector Forum

9. The FM states that community planning partners are already involved in the provision of community justice services and their revised role should not require additional resources. However, the FM confirms that a transition fund of £1.6 million per annum covering the three years from 2015-16 has been set aside “to support partners’ efforts to build capability and capacity to work together on the achievement of improved outcomes for community justice.” The fund will be split equally between the 32 local authorities in Scotland. However, the FM also states that “this position will be reviewed at the end of 2015-16 in light of the outcome of the next UK Comprehensive Spending Review.”

10. The FM states that £50,000 per annum for three years will also be provided to the Criminal Justice Voluntary Sector Forum to help build capacity and capability and to engage with partnership arrangements across Scotland. This will also be subject to review following the UK Spending Review.

11. The FM states that the Government and COSLA “recognise that the transitional period may identify potential costs around supporting partners under the new model” and are “committed to working together on this matter.”

12. The majority of concerns raised in the written evidence focus on the lack of information on additional costs that Community Planning Partners (CPP) are likely to face following the initial 3 year transition period.

13. West Dunbartonshire commented that—

“There were few opportunities to question in detail the assumptions regarding the financial implications for local authorities other than to support the case for a review of s27 funding arrangements and for account to be taken of transitions costs”.

14. Midlothian Community Safety Partnership state—

“Although 3 years of transitional funding has been provided the FM does not set out how local authorities are expected to fund this in the long run”

15. One of the challenges faced is estimating potential financial implications at this stage in the process. On this point Comhairle Nan Eilean Siar commented that—

“the long term costs of the Bill may only become apparent once the legislative changes are made and responsibility for community justice moves to the CPP”
16. Angus Council also expressed a concern that—

“While the Bill allows for additional financial support in regard to transition costs it makes little comment on ongoing costs other than to say there will be ‘resource implications’ and that this ‘should be accommodated within their existing responsibilities’. This seems vague and while we accept it is not possible to anticipate every cost there is little to suggest that ongoing costs have been given due consideration”

17. In relation to the concerns raised around transition funding ending after three years the Committee heard that the Scottish Government has funded a post within COSLA to lead the transition workstream which will manage the change process and understand how it is working in practice and whether additional resources are required. The Bill Team stated the Scottish Government is committed to working together with COSLA to identify and review any issues that arise during the transition period.

18. The Committee questioned why every local authority would receive the same amount of transition funding. It heard from the Bill Team that the final decision on the method of allocation of the transition funding was made by COSLA leaders. When asked if there was an option to provide additional funding at the end of the 3 year transition period the Bill Team confirmed the Scottish Government would remain open minded on this point.

19. The Committee welcomes the Scottish Government’s commitment to working with COSLA throughout the transition period to identify any emerging issues and to review the position on funding at the end of the 3 year period.

Section 27 Social Work (Scotland) 1968 Act

20. Section 27 funds are currently allocated by CJA’s to support community justice delivery. They are not included in the financial memorandum but the majority of responses refer to concerns around them. The written evidence suggests that as the new funding formula to allocate s27 funds has not been finalised, and therefore detailed information about allocation to local authorities is not yet available, it creates a difficulty for stakeholders in trying to accurately determine what the on-going financial impact of the Bill on their organisations may be.

21. Angus Council’s evidence indicated they were unable to respond to the Finance Committee’s question of whether it was content that it could meet any financial costs it might incur as a result of the Bill due to being unaware what level of s27 grant it is likely to be awarded.

22. In oral evidence the Bill Team stated that the review of the funding formula for the s27 grant was planned and did not relate to the Bill nor was it a change to the
existing model. The Bill Team explained to the Committee that the funds, which are worth around £95 million per year are allocated to allow criminal justice social work to carry out its core business and the intention of the review is to ensure that in future local authorities will know far further ahead what they will receive than before.

23. The Committee heard from the Bill Team that the current model for s27 funding provides year on year funding and stakeholders raised this as an issue that makes it difficult for them to plan strategically in the longer term. The Bill Team hopes that one of the outcomes of the review would be the potential for 3 year funding settlements that will enable local planning to be carried out on a much longer term basis.

24. The Committee recognises that the review of Section 27 funding is a separate process running parallel to the Bill and accepts that the outcome may benefit long term planning for community justice partners. However, it agrees that the current uncertainty while awaiting the outcome of the review creates a difficulty for stakeholders in accurately assessing the financial impact of the Bill on their organisations when their overall future funding is still unclear at this time.

Performance framework for community justice and the national strategy for community justice

25. The FM acknowledges that there may be some resource implications for local authorities and other bodies in engaging with Ministers in the preparation of the performance framework and the strategy for community justice. These are expected to be “accommodated within their existing responsibilities for improving community justice outcomes.”

26. Aberdeenshire Council expressed its concern that while transitional funding is in place for 3 years this will not cover the additional performance reporting that will be required. Midlothian Community Safety Partnership believes the FM does not provide reasonable and accurate costs because no allowance has been made for the performance framework to be refreshed in accordance with the changes to the national strategy.

27. COSLA’s response indicated that successful delivery is likely to cost each CPP £100,000 on an ongoing basis. This funding would employ 2 officers and have sufficient resources to undertake planning activities and develop and provide oversight of the performance framework in line with local arrangements.

28. With regard to the planning and delivery of both the performance framework and the national strategy West Dunbartonshire Council expressed concern that while the FM acknowledges there may be some resource implications for local
authorities, there was no acknowledgement of how the new arrangements for planning and delivery add considerable responsibilities.

29. Renfrewshire Council state—

“In the absence of the new national strategy and the community justice performance framework it is difficult to identify the implications of any requirements that will result from these”.

30. Similarly Dumfries and Galloway Criminal Social Work raised a concern that—

“Costs in relation to local authority participation in preparation and review of the national strategy for community justice, the performance framework and in awareness raising and training of staff are not defined and therefore potentially underestimated”.

31. The Bill Team felt that COSLA’s estimate of £100,000 to each CPP was quite high in relation to the type of activities it was anticipated would be required. They commented that some local authorities had highlighted there could be costs that were much less than £100,000 and others had said they would be able to absorb any additional costs.

32. The lead committee may wish to seek further clarification on the detail of what will be required of local authorities in the preparation of the performance framework and the strategy for community justice.

Community Justice Scotland

33. The FM explains that CJS will take on its full responsibilities from April 2017. Prior to that it will exist “in a shadow capacity” for around six months. The FM therefore presents CJS’s costs in two separate sections with set-up costs covering the period from October 2016 to April 2017 and annual running costs thereafter.

34. The FM also states that “there may be specific improvement activities identified – by Scottish Ministers or at a local level – which are to be funded by CJS. Any such costs would be over and above those set out in Table D and would have to be met from within existing funding levels”.

Costs on the Scottish administration

35. Table B provides a summary of the anticipated set-up costs associated with the creation of CJS (which are included in the overall Community Justice budget for 2016-17). The FM explains the rationale for these estimated costs in paragraphs 14 to 37. Table D provides an estimate for the annual running costs of CJS. The FM explains the rationale for these estimated costs in paragraphs 40-56.
36. Perth and Kinross Council expressed a concern that the proposal to have a dedicated HR staff for an organisation with 23 staff appeared excessive. It added that at a time when Local Authorities are increasingly being required to extend the functions of existing staff and the capacity of their built estate it would seem reasonable that this approach is also adopted by Central Government.

37. Table D provides a summary of the anticipated ongoing costs of CJS broken down into £1,445,000 in administrative costs and £764,000 in service costs. The total running costs of £2.2 million are slightly lower than the current costs of £2.28 million for the existing model, but the FM states that “included in the services costs are a number of national programmes currently delivered by the Scottish Government, and costing around £654,000.”

38. With regards to the ongoing costs of CJS concerns were raised in the written evidence that given the extent of the proposed powers for the new body there may be further yet unidentified costs associated with commissioning, regulating and monitoring requirements.

39. The Committee explored how the running costs of around £2.2 million compared with the annual running costs for the eight CJA’s. The Bill Team confirmed that the total running costs for the CJA’s is around £2.74 million and should bring about savings of around £0.5 million per year but cautioned on making a direct comparison because it is not a like-for-like model.

40. In regard to the figures provided in respect of the remuneration to be made to Members of Community Justice Scotland the Committee sought clarification on how the figures had been arrived at. Follow up information provided by the Bill Team set out that the calculations were based on 6 Members being appointed.

41. The lead committee may wish to examine in further detail what Community Justice Scotland will be required to do in relation to commissioning, regulating and monitoring.

The disestablishment of Community Justice Authorities

42. The disestablishment of CJAs is expected to result in liabilities in relation to staffing and pension arrangements, severances and operational costs. The FM notes that the staffing complement at CJAs is approximately 25 people and that CJAs share office accommodation with other public bodies.

43. The FM confirms that each of the five relevant pension fund providers for CJA staff have been asked to provide an estimate of what the cessation valuation is likely to be in 2017 although these have yet to be provided. On the basis of the 2014 actuarial valuation exercise, the FM estimates a pension cost of around £2.5 million which may fall to the Government and would be met from existing resources.
44. A follow up letter from the Minister of Community Safety and Legal Affairs on 8 September 2015 confirmed that this information from the pension fund providers was now available and the revised estimated shortfall had been calculated at £4.5 million. The letter also confirmed that the final figures would not be available until late 2016/2017.

45. The Committee heard that the next triennial valuation is not due until 2017, however the Scottish Government has asked that it be carried out now with the CJA’s being treated as ceasing to exist as of 31 March 2017.

46. The FM states that it has been difficult to quantify severance payments for CJA staff but estimates them to be between £248,000 and £745,000 depending on the number of staff remaining in post at the time of disestablishment. The Committee heard that should any existing staff leave one of the CJA’s a decision would be made on a case by case basis whether to replace them. If the decision was to appoint a replacement that appointment would be made through a fixed term contract with no severance liability attached.

47. Renfrewshire Council noted that it understands the actual costs for the disestablishment of the CJAs is still being identified.

48. The lead committee may wish to note the revised pension liability shortfall from £2.5 million to £4.5 million in relation to the disestablishment of the Community Justice Authorities and ask to be updated should this increase further.

General Comments
Third Sector

49. The CJVSF raised a further issue around the financial implications for the Third Sector. The CJVSF believe that the Bill will have financial implications for its members who are Third Sector service providers that are not reflected in the Bill. One example of this is in regard to the resource implications for those delivering services over multiple CPP areas and the possibility of having to deal with up to 32 different local strategic commissioning and procurement services.

50. CJVSF commented that members reported being concerned that they will be unable to meet the financial costs of the Bill.

51. The Committee heard that the Bill Team have worked closely with the Third Sector and in particular with the CJVSF and its Chair throughout the development of the Bill. The Bill Team stated that they have taken on board issues raised by the Third Sector such as the difficulty and time consuming issues involved when commissioning with multiple tenders. They explained that one of the first things CJS will do is work with all partners and stakeholders, both purchasers and
providers, from all sectors to develop a strategic approach to commissioning. It will look at what is currently being delivered and evaluate the performance of those services in order to get economies of scale wherever possible.

52. The Bill Team also added that it is hoped the Third Sector will also benefit from the outcome of the review of the S27 funding which brings the potential for funding over a longer term enabling planning to be undertaken on a longer term basis.

Conclusion

The lead committee is invited to consider this report as part of its scrutiny of the Bill.