Finance Committee

Report on the Financial Memorandum of the Courts Reform (Scotland) Bill

The Committee reports to the Justice Committee as follows—

INTRODUCTION

1. The Courts Reform (Scotland) Bill (“the Bill”) was introduced on 6 February 2014 by the Scottish Government (“the Government”). As with all bills, it was accompanied by a Financial Memorandum (FM) (page 51 of the Explanatory Notes) which set out the estimated financial implications of the Bill’s provisions.

2. Under Standing Orders Rule 9.6, the lead committee at Stage 1 is required, among other things, to consider and report on the Bill’s FM. In doing so, it is required to consider any views submitted to it by the Finance Committee (“the Committee”).

3. According to the FM, “the Bill takes forward many of the recommendations of Lord Gill’s Scottish Civil Courts Review”¹. The FM explains that the Bill represents an enabling framework and that many of the detailed changes will be delivered through court rules.

4. The Committee issued a call for written evidence on the FM on 19 February giving a deadline of 19 March for submissions.

5. Ten pieces of written evidence were received. All written submissions can be accessed via the Committee’s website at: http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/73298.aspx.

6. At its meeting on 26 March the Committee took evidence on the FM from witnesses representing the following organisations—

   - Association of Personal Injury Lawyers (APIL) and the Faculty of Advocates; and
   - Scottish Government Bill Team

7. Following the meeting, the Committee received a letter from the Bill Team dated 2 April 2014 which provided further information relating to the impact on the Scottish Court Service (SCS) of any reduction in fee income.

¹ Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 3

9. The SPICe Briefing on the Bill states—

“The Courts Reform (Scotland) Bill proposes a number of reforms to court structure, organisation and procedure, as recommended by Lord Gill’s Scottish Civil Courts Review (also known as the Gill Review). Its key proposals are:

- an increase in the jurisdiction of the sheriff courts so that cases with a value of £150,000 or less are heard there rather than in the Court of Session;
- the creation of a new judicial tier in the form of the “summary sheriff”, who will deal with less serious criminal cases and less complex civil matters;
- the creation of the Sheriff Appeal Court to hear appeals from the decisions of sheriffs in civil and summary criminal matters. Permission will be required before appeal to a superior court is possible; and
- increased sheriff specialisation, both in the form of specialisation by individual sheriffs and specialist courts, such as the proposed specialist personal injury court.”

THE FINANCIAL MEMORANDUM

Personal Injury Court - Transfer of business from Court of Session to Sheriff Courts

10. The FM states that the Bill is “expected to make the civil justice system in Scotland more efficient by ensuring that cases are heard at the appropriate level in the system and at a proportionate cost to the state and to individuals.”

11. To this end, the Bill increases the privative jurisdiction (to be retitled the exclusive competence) of the sheriff court from £5,000 to £150,000 “as a pragmatic driver to shift business from the Court of Session to the sheriff courts”

12. The FM states that the SCS has estimated that this increase would result in around 2,700 cases being transferred from the Court of Session to the sheriff courts.

13. The FM explains that—

“Of those 2,700 cases to be transferred, by far the majority (circa 2,000) are expected to be personal injury cases. These cases are expected to be dealt with centrally at the national personal injury court, rather than being redistributed across all sheriff courts. This would leave around 700 cases which would be heard across the network of sheriff courts throughout Scotland.”

14. The FM states that—

---

2 SPICe Briefing, Courts Reform (Scotland) Bill.
3 Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 9
4 Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 66
5 Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 73
“the staffing costs for on-going operation of the personal injury court are expected to be cost neutral as the level of demand is already being managed by SCS and the existing staff complement will in effect be redeployed and follow the business.”\(^6\)

15. The SPICe Briefing on the Bill states—

“The Bill also contains proposals to enable Scottish Ministers to create specialist sheriff courts with an all-Scotland jurisdiction. These courts will be able to sit anywhere in Scotland. In practice, these powers will be used to create a specialist personal injury court. It is anticipated that much of the business transferred from the Court of Session to the sheriff courts as a result of the increase in the latter’s private jurisdiction will be personal injury business and will be dealt with by the new specialist court.”\(^7\)

16. The Sherriffs Association raised the impact of wider reforms in its written evidence, stating that it was “concerned that the pressure of increased business in courts taking on work resulting from court closures has been underestimated.” Its view was that this, along with the proposed abolition of the requirement for corroboration, was “likely to result in a significantly greater increase in the number of prosecutions than is currently estimated.”\(^8\)

17. The Law Society of Scotland stated in written evidence that—

“The number of cases, civil and criminal, post-reform is uncertain and it is difficult to assess whether maintaining 140 FTE (full time equivalent) judicial office-holders at Sheriff Court level is sufficient.”\(^9\)

18. The Dean of the Faculty of Advocates also drew attention to the “statistical limitations” of the data on which the FM’s estimates were predicated.\(^10\)

19. However, APIL drew attention to the civil courts review’s finding that the current legal system was “slow, inefficient and expensive” suggesting that “all that would need to happen would be for a clinical negligence case to be brought…or a long running personal injury matter involving some disease, and the system would be completely overwhelmed.”\(^11\)

20. In response to questioning about whether the court system in general could be made more efficient, the Faculty of Advocates made clear that it did not want “the committee to get the impression that the courts operate in an antediluvian or Victorian way in which nothing has been done or can be done.” However, the Faculty did wish to raise the question of whether reforms could be achieved “within a budget that remains constant.”\(^12\)

21. In its written evidence APIL stated—

\(^6\) Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 90
\(^7\) SPICe Briefing, Courts Reform (Scotland) Bill.
\(^8\) Sheriffs Association. Written submission, paragraph 2
\(^9\) Law Society of Scotland. Written submission, paragraph 4
“Under the terms of this Bill, around 2,700 cases will be transferred down from the Court of Session, most of which will be personal injury cases. At the same time, court closures inevitably mean additional pressure on remaining sheriff courts. Yet, according to the financial memorandum to this Bill, there are to be no extra sheriffs to deal with the influx of cases in a system which APIL members report is already creaking at the seams and in desperate need of proper modernisation....The idea that a system already creaking can seamlessly accommodate nearly 3,000 additional cases is hopelessly optimistic. The proposition could very well result in the complete collapse of the new system.”

22. In oral evidence, APIL suggested that between four and six additional sheriffs would be required to deal with the sheriff courts’ increased caseload. However, the Bill Team refuted this suggestion on the grounds that it expected “the vast majority of cases that come out of the Court of Session to be heard at the new specialised personal injury sheriff court.”

23. When questioned by the Committee about the Bill’s impact on the sheriff courts and any resultant cost implications, the Bill Team pointed towards a 36% reduction in the sheriff courts’ civil case load between 2008-9 and 2011-12 and stated that along with a relatively modest increase in criminal cases, it “would not see that increase really having an effect on the management of business in the sheriff court.”

24. The Bill Team suggested that the 2,700 cases expected to transfer to sheriff courts should be considered in this context. As such, and as the number of cases that actually get to court was “very small”, it confirmed that it did “not expect there to be any requirement for an increase in sitting days to deal with the level of transfer of work.”

25. The Bill Team also pointed out that, as the majority of personal injury cases coming out of the Court of Session would go to the new Personal Injury Court, it was not the case that the Government was “drawing down 2,500 cases from the Court of Session and putting them into the existing structure in the sheriff courts.”

26. The Committee invites the lead committee to seek clarification from the Minister regarding the costs of the new specialist personal injury court and to confirm whether these costs will be met from existing resources.

Settlement Rate
27. APIL suggested that the Government had overestimated the settlement rate. Whilst 98% of cases raised in the Court of Session in 2008 were settled, it suggested that this was due to “certain procedural drivers” which did not exist at the sheriff courts, most notably the availability of counsel.

13 Association of Personal Injury Lawyers. Written submission, paragraph 6
28. The Faculty of Advocates’ written evidence stated that “the involvement of counsel can facilitate settlement of cases; and it is possible that more cases will, in fact, run to proof if counsel are less frequently used.”

29. The Faculty of Advocates also questioned whether greater efficiency would result from the Bill, stating that—

“the involvement of counsel is often central to early and efficient settlement of cases. Removing Counsel from cases and assuming the same efficient settlement will be achieved is not a proposition supported by any evidence from any respondent to the consultation.”

30. When questioned as to whether this suggestion was based on empirical evidence, the stakeholder witnesses confirmed that it was not as none existed, but stated that, in their view, the early involvement of experts was likely to facilitate settlement.

31. The Bill Team suggested that only a small percentage of such cases were likely to come to proof as “the vast majority of these cases are likely to settle.” Stressing the need for “a sense of perspective”, it noted that around 98% of cases raised in the Court of Session do not come to proof and stated that 67% of all personal injury cases are already heard in the sheriff courts. The changes resulting from the Bill, it was suggested, should also be considered in the context of wider reforms to the courts system which were intended to drive efficiencies.

32. The Committee invites the lead committee to ask the Minister to respond to the view that the removal of Counsel from cases will result in a reduction in the settlement rate.

Accuracy of FM
33. The Faculty of Advocates’ written evidence had stated that paragraphs 18 and 155 of the FM were “inaccurate and misleading” pointing out that “advocates do not have exclusive rights of audience in the Court of Session and the High Court.”

34. In response to questioning from the Committee, the Bill Team acknowledged that the Faculty was correct in this regard as solicitor advocates also had rights in the Court of Session and that the inaccuracy was “simply an error.”

£150,000 Threshold
35. As noted above, the Bill will increase the threshold below which cases will be heard in the sheriff courts to £150,000. This figure will work on the basis of the “sum sued for” amount rather than the sum for which the case was settled.

36. The Policy Memorandum states—
“The proposal for a new specialist personal injury court goes hand in hand with the proposal to raise the exclusive competence of the sheriff court to £150,000. If the exclusive competence were not to be raised to the proposed level, then the justification for the specialised personal injury court would disappear.”

37. APIL stated in oral evidence that, in its view, “the critical figure is not the sum that is sued for but the settlement figure” as the sum sued for was “routinely around a third higher than the real value of the case.” The Faculty of Advocates seconded this suggestion and noted that its research had indicated that 70% of cases raised in 2011 and 2012 had settled for £20,000 or less.

38. APIL, in its written submission suggested that many of the assumptions on which the proposed exclusive competence of the sheriff court were “at best vague and at worst misleading.” Whilst it agreed that the Government was “absolutely right to say that cases must be shifted out of the Court of Session because there are too many low-value cases in it”, it contended that the proposed limit was too high, suggesting instead that a limit of £30,000 would be more appropriate. It also pointed out that the proposed £150,000 limit would be much higher than in any other jurisdiction in the UK and Republic of Ireland.

39. The Faculty of Advocates agreed with this view, stating that “for personal injury cases, the £150,000 limit seems way beyond what is necessary.” It stated that this also applied to non-personal injury cases, particularly commercial ones, and whilst it recognised that the level needed to be increased, it agreed that the suggested limit of £30,000 which had recently been adopted in Northern Ireland was more appropriate.

40. The Bill Team explained in oral evidence that the intention behind the £150,000 limit was “to remove a substantial part of the Court of Session’s business.” It went on explain the decision to work on the basis of “sum sued for” rather than settlement figures as follows—

“We picked it because it is not known at the start of a case what the case will settle for, so the forum to which the case should go could not be chosen on that basis. The only figure that we have at that point is the sum sued for, which is why that figure was picked as the basis for making that choice.”

41. When asked about the impact that a £30,000 threshold would have on the FM’s figures, the Bill Team stated that it had not considered the effect of such a limit. It did point out, however, that the FM contained estimates based on a £50,000 threshold which had indicated that only 960 cases would have been affected in comparison to around 2,700 cases affected by a £150,000 limit.

25 Courts Reform (Scotland) Bill. Policy Memorandum. Paragraph 105
27 Association of Personal Injury Lawyers. Written submission, paragraph 3.
42. The Bill Team also highlighted that its figures were based on the value of the sum sued for whilst the previous stakeholder witnesses had been talking in terms of settlement values which meant that they were “not dealing with the same things.”

43. The Bill Team also stated—

“it is fair to say that all respondents to the consultation supported the proposed reforms, but there was disagreement about the level. I have discussed the different approaches to fixing the level—whether it is based on the settlement figure or the sum that was sued for. I simply wanted to put a marker down that the initiatives are being taken forward to benefit efficiency generally and access to justice for court users.”

44. The Committee notes that the Bill Team stressed the need for a “sense of perspective” in relation to the 2,700 cases which are expected to be transferred to the sheriff courts on the basis that around 98% of cases do not come to proof. The Bill Team also stated that it “did not expect there to be any requirement for an increase in sitting days to deal with that level of transfer work.” However, the Bill Team also stated that the intention behind the £150,000 threshold was “to remove a substantial part of the Court of Session’s business.”

45. The Committee invites the lead committee to ask the Minister to explain why, on the one hand, the intention is to remove a substantial part of the Court of Session’s business, yet, on the other hand, around 98% of cases do not come to proof.

Summary Sheriffs
46. The Bill establishes a new judicial office, that of summary sheriff. The Policy Memorandum explains that summary sheriffs “will sit in the sheriff court and will hear summary criminal business (and the initial stages of solemn cases) and civil claims of a modest value” with the intention of ensuring that cases are heard at the appropriate level.

47. APIL stated that it was in favour of the appointment of summary sheriffs and confirmed that it did not dispute that this would result in savings over time.

48. However, APIL called for clarity with regard to the Government’s longer term plans for the Court of Session asking whether there would still be 35 judges in ten years’ time and pointing out that the Policy Memorandum and the FM were silent on this point.

49. When questioned on this point, the Bill Team stated that “there is no policy incentive to reduce the number of Court of Session judges but that will be under constant review.”

---

34 Courts Reform (Scotland) Bill. Policy Memorandum, Paragraph 39.
50. When asked to confirm whether the replacement of sheriffs by summary sheriffs who would receive a lower salary was expected to result in the range of savings set out in table 5 of the FM, the Bill Team confirmed this to be the case.

51. When asked whether it had taken legal advice on whether a lower salary would be compliant with equal pay legislation the Bill Team explained that salaries would be set independently by the Senior Salaries Review Body (SSRB), but that it had looked at the remuneration of “an equivalent judge in England” when drafting the FM and expected the SSRB to set summary sheriffs’ salary at that level.

52. The Committee invites the lead committee to seek further information from the Minister regarding the basis for the savings outlined in Table 5 of the FM including the assumption of a potential saving of up to £163 per court sitting if deploying a summary sheriff.

Scottish Legal Aid Board

53. As noted above, the Bill establishes the personal injury court and the FM states that “the clear majority of cases that will be affected by the raising of the exclusive competence will be personal injury cases.”

54. A table setting out the expected financial impact of the judicial structures project (both one-off costs and recurring costs and savings) is provided after paragraph 97 of the FM. This indicates that savings of up to £1.2 million per annum (or up to 50% of expenditure on counsel) are anticipated for the Scottish Legal Aid Board (SLAB) once the reforms have “bedded in”.

55. Some of the written evidence questioned the basis for this estimate, with APIL, for example, stating that —

“The costs in the financial memorandum are barely penetrable and appear, we submit, to be based almost entirely on guesswork. At the very least, these figures require clarification as the discussion about when counsel should be available is not assisted by what we suspect is a misleading suggestion that there are substantial savings to the public purse to be made.”

56. The Faculty of Advocates also suggested that—

“The estimated impact on the Legal Aid Board (paras 94-97) is unlikely to be accurate. As the Financial Memorandum indicates, at present straightforward cases with a high chance of success proceed on a speculative basis and SLAB receives applications for legal aid only in the more difficult cases. By their nature, the more difficult cases are likely to require the instruction of counsel (which appears to be where the savings are envisaged).”

57. The Law Society stated that with regard to savings arising from reduced use of publicly funded (legal aid) counsel at personal injury courts, it was “unclear whether

---

36 Courts Reform (Scotland) Bill, Financial Memorandum, Paragraph 69
37 Association of Personal Injury Lawyers, Written submission, paragraph 8
38 Faculty of Advocates, Written submission, paragraph 14
these savings include the recoupment from clawback, contributions and judicial expenses or not and we believe it would be helpful to clarify this."\(^{39}\)

58. In its written submission, SLAB acknowledged that the estimating of legal aid savings was “fairly complex”\(^{40}\) and could be disproportionately impacted by small numbers of very expensive cases. However, it did confirm that, in its view, the FM’s estimated savings were reasonable and reflected its estimates on the basis of information available at the time.

59. The FM states that “in 2011-12 SLAB paid out £7m for these categories of case (reparation and medical negligence), of which £3.1m was spent on counsel, and in 2012-13 SLAB paid out £4.9m of which £2.4m was paid to counsel.”\(^{41}\)

60. In oral evidence the Faculty of Advocates confirmed its view “that there must be a question mark, at the very least, about the validity of the assumption that there will be a 50% saving.” Expanding on this theme, APIL stated that “the idea that £1.2 million will be saved to the public purse is complete smoke and mirrors” as the figures quoted in the FM related to an “accounting protocol.” It explained that SLAB only incurred real costs when cases were unsuccessful meaning that “the true cost of the whole reparation budget is 15% of that [£4.9 million], or £735,000.”\(^{42}\)

61. APIL went on to state that “the idea that savings will be made to the public purse even out of that £735,000 is illusory” contending that it was “not acceptable” for SLAB to suggest that there would be savings to the public purse. If any savings were to be made, it suggested that they would be made by the insurance industry.\(^{43}\)

62. The Bill Team responded to questioning on these points by stating that the FM’s figures were provided to the Government by SLAB which had made clear that they were “tentative”. It also pointed out that SLAB’s written evidence contained caveats stating that the figures in the FM were “based on a range of assumptions” and had resulted from a “fairly complex” process.\(^{44}\)

63. When asked whether SLAB had considered the proportion of costs recovered when arriving at its figures, the Bill Team confirmed that it had—

“"Yes, in its evidence, it has said that it has taken into account contributions, recoveries and judicial expenses. It has explained that it has to make assumptions when forecasting and that that can be particularly complex in legal aid cases. It makes the point that it does not always make a recovery.”\(^{45}\)

64. The Committee invites the lead committee to seek further clarification from the Minister in relation to the savings of up to £1.2 million which are anticipated for SLAB.

---

39 Law Society of Scotland. Written submission, paragraph 4
40 Scottish Legal Aid Board. written submission, paragraph 7
41 Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 96
**Fee income**

65. The FM states that—

> “The theory is that in moving from a pre-reform set of charges to a post-reform set of charges the SCS could simply amortise the costs of reform, and look to recover that investment through the charges applied over the long run – i.e. the Scottish Government expects SCS to be able to fully fund the reform programme through the level of future fee income.”

66. However, the FM acknowledges the possibility that fee income might decrease in time stating that—

> “the SCS board has highlighted that the falling level of demand for civil business will have an impact on the overall fee income… Should there be a substantial reduction in fee income, the SCS board has made it clear that the cost of change may need to revert to being an unfunded business pressure for SCS. This may have an effect on the implementation of some of the reforms. The SCS has confirmed that the current fee income is on track to ensure that the costs of the reforms can be met.

For the purposes of this Memorandum no change to fee income is assumed at this time.”

67. The Bill Team explained that court fees were set every three years by Scottish Statutory Instruments based on recommendations by the SCS and subject to parliamentary approval. They had last been raised in 2012 (by 1% higher than the rate of inflation) and the SCS was expected to launch a consultation after the Bill’s reforms had been implemented. This process was not expected to change.

68. APIL in its written submission questioned how the fee income could be on track to cover the costs of the reforms despite an impact on fee income being anticipated. It went on to suggest that fee income would need to increase to cover the anticipated losses but noted that the FM did not address this point.

69. In oral evidence APIL described this issue as “a major black hole” in the FM. It stated that total fees fund income in 2011-12 was £4.6 million of which 50% came from personal injury cases and that “the analogous figure in the sheriff court, for a similar number of cases, is £804,000. It went on to suggest that sheriff court fees might have to be doubled to make up for lost fee income which it had calculated to be “just short of £1 million.”

70. When asked for its position on the accuracy of this figure, the Bill Team stated that, whilst it had looked at the effect that the level of court fees would have on the parties, it “had not looked at the overall effect on the public purse.” It went on to

---

46 *Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 27*
47 *Courts Reform (Scotland) Bill. Financial Memorandum, Paragraphs 31-32*
acknowledge that the FM “covered how the reforms would be funded but did not go into great detail on the level of fee income.”

71. Explaining that it was reliant on the SCS for information on fee income, the Bill Team undertook “to provide additional information on the impact of the reduction in overall fee income on the delivery of reforms”

72. When pressed on the potential impact to the public purse of reduced fee income, the Bill Team stated that as fees were used to cover the cost of cases, “the assumption is that, when cases go down to the sheriff court, the costs are lower, so the fees are lower.” It further stated that it “did not think that the position would be as stark as suggested.”

73. The Bill Team acknowledged that fees also contributed towards some static costs “which might have to be looked at” in a future fee round, but stated that it “did not expect a substantial effect.” However, it undertook to provide further details to the Committee in writing.

74. The Bill Team also sought to emphasise the fact that the reforms were driven not by savings to the public purse but instead to improve efficiency and access to justice for court users.

75. The Committee received a letter from the Bill Team dated 2 April 2014. The letter stated that a project was being taken forward as part of the Making Justice Work programme with the aim (among other things) of “setting realistic fees based on services”

76. The letter further stated that “the Bill and programme of reform provide an opportunity to introduce a new fee structure which will maintain the current level of fee income and reflect the new court structures and efficiencies.”

77. The Committee invites the lead committee to ask the Minister to clarify whether it is likely that the new fee structure will result in an overall increase in court fees if the current level of fee income is to be maintained.

Sheriff Appeals Court
78. The Faculty of Advocates questioned the basis of the assumed number of sitting days for the Sheriff Appeals Court in its written evidence. It also queried the basis of the estimated savings, stating that—

“It is said that the savings will be realized through the difference in salaries paid to the judges of the Inner House and sheriffs principal and appeal sheriffs. It is not clear how there can be any saving in the salaries of judges in the Inner House unless the number of judges in the Inner House is to be reduced. Even if there is a longer term intention to reduce the complement of

55 Letter from Bill Team to Convener dated 2 April 2014
judges in the Court of Session, it seems unlikely that the number of judges in the Inner House could be reduced.\(^{56}\)

79. The Sheriff’s Association also stated that it considered that “the projections for the Sheriff Appeal Court may not reflect the level of cases which will require to be heard.”\(^{57}\)

80. In oral evidence, APIL noted that the proposed sheriff appeal court would no longer consist of three sheriffs principal but only one and suggested that this might have resulted from “cheese paring right across the board.”\(^{58}\)

81. The Bill Team stated in oral evidence that the Government did not agree with Lord Gill’s recommendation of three sheriffs principal hearing appeals noting that a single sheriff system replicated the civil appeals structure and that its proposals had been supported by the majority of respondents to its consultation. It went on to emphasise that “the decision was not driven by costs, although obviously there will be an effect.”\(^{59}\)

82. The Law Society’s written evidence stated that—

“The financial memorandum suggests ‘one off’ costs of £10,000 and £20,000, for instance, for the design and set up of the personal injury court and the sheriff appeal court respectively, developing the process, creating the training programme for appeal sheriffs and staff and confirming the operating model (paragraphs 138, 139). We believe that there will be significant ‘one off’ costs in creating a new training programme for specialist sheriffs, and continuing costs to train specialist sheriffs in their areas of expertise.”\(^{60}\)

83. When questioned about such training costs, the Bill Team stated that, as new sheriffs would be replacing ones who were retiring, it did not “expect there to be an increase in the requirement for training; those concerned will need the same level of training as a sheriff currently gets.”\(^{61}\)

84. The Committee invites the lead committee to invite the Minister to respond to the view of the Law Society that there will be significant one off costs in creating a new training programme for specialist sheriffs.

IT costs
85. The FM states that—

“the SCS will need to make minor updates to one of its IT systems to specifically support creation of the personal injury court. This modification has been estimated at up to £10,000.”\(^{62}\)

\(^{56}\) Faculty of Advocates. Written submission, paragraph 17
\(^{57}\) Sheriffs Association. Written submission, paragraph 2
\(^{60}\) Law Society of Scotland. Written submission, paragraph 16
\(^{62}\) Courts Reform (Scotland) Bill. Financial Memorandum, Paragraph 88
86. In oral evidence APIL stated that it had “major concerns” regarding IT support as sheriff courts were “barely in the analogue age, never mind the digital age.” It went on to express its dismay “that the whole IT budget for the new specialist personal injury court and 16 specialist personal injury centres in various sherrifdoms is £10,000.”

87. APIL stated that in its view—

“to start with the civil courts review, which identifies precisely the problems with the legal system that exist in the sheriff court, and then say, “Here are another 3,000 cases with no new resources and no IT funding,” is counterintuitive, to put it at its mildest.”

88. When questioned by the Committee on the basis for the £10,000 figure, the Bill Team explained that it related to “minor upgrades to the current IT system.” It also explained that the Government was separately taking forward a digital strategy workstream involving a multimillion pound investment as part of its “Making Justice Work” programme but that, as the programme was separate from the Bill, it had not been included in the FM.

Information provided in the FM

89. In response to questioning from the Committee about what steps it had taken to ensure the robustness of figures provided by third parties, the Bill Team explained that it had worked with its partners including the SCS and SLAB over a long period of time to build up business cases for different parts of the reforms.

90. The Committee is concerned that the Bill Team were unable to provide clarification in some respects to the information provided in the FM by both SLAB and the SCS.

91. The Committee emphasises that it is the Member in Charge of the Bill who is responsible for providing the FM. The Committee, therefore, expects that the Bill Team should be in a position to provide a response to questioning on the FM without the need to consult a third party.

CONCLUSION

92. The lead committee is invited to consider this report as part of its scrutiny of the Courts Reform (Scotland) Bill’s FM.

---