Did you take part in either of the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?
1. The Crown Office and Procurator Fiscal Service (COPFS) did not provide a public response to either consultation exercise but has been fully engaged in working with Scottish Government (SG) and the Scottish Environment Protection Agency (SEPA) prior to the introduction of the Bill. That engagement included discussion of certain financial assumptions made in Part 2 (“Environmental Regulation”) of the Financial Memorandum (FM).

Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?
2. Yes.

Did you have sufficient time to contribute to the consultation exercise?
3. Yes.

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

Do you consider that the estimated costs and savings set out in the FM and projected over 15 years for each service are reasonable and accurate?
5. The estimated costs and savings applicable to COPFS set out in the FM are reasonable and accurate.

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?
6. Yes.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
7. Yes. The estimate of one-fifth of cases currently reported to and prosecuted by COPFS but which may be suitable for an enforcement measure in the future can, of course, only be an approximation but is an appropriate estimate. Furthermore, the analysis of one-fifth as constituting 7 cases a year reflects current figures: SEPA reported 33 cases to COPFS in 2009-10; 37 in 2010-11 and 37 in 2011-12.
WIDER ISSUES

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

8. COPFS is only able to comment on the costs relevant to it and, to an extent, the wider criminal justice system. The FM reasonably captures these costs.

9. Paragraph 17 of the FM does indicate that the new offence of causing or permitting serious environmental harm and the new vicarious liability offences will not lead to an increase in prosecutions and therefore costs. The example specified explains why that is so in relation to causing or permitting serious environmental harm.

10. It should also be clear that COPFS will utilise the vicarious liability provisions when the evidence and public interest supports a prosecution for these new offences. It is anticipated that, in the main, these charges will be additional to charges already brought in such cases against the main actor. It is therefore not anticipated that the number of prosecutions will increase.

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

11. There will be some small cost to COPFS in developing the Lord Advocate’s Guidelines to SEPA and in training the specialist environmental prosecutors of the Wildlife and Environmental Crime Unit on the new provisions but these will be accommodated within existing COPFS budget.