

FINANCE COMMITTEE

Tuesday 11 June 2002
(Morning)

Session 1

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FINANCE COMMITTEE

12th Meeting 2002, Session 1

CONVENER

*Des McNulty (Clydebank and Milngavie) (Lab)

DEPUTY CONVENER

*Elaine Thomson (Aberdeen North) (Lab)

COMMITTEE MEMBERS

*Brian Adam (North-East Scotland) (SNP)

*Mr David Davidson (North-East Scotland) (Con)

*Mr Tom McCabe (Hamilton South) (Lab)

*Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Mr Keith Harding (Mid Scotland and Fife) (Con)

Mr Keith Raffan (Mid Scotland and Fife) (LD)

Andrew Wilson (Central Scotland) (SNP)

*attended

WITNESSES

Cliff Binning (Scottish Court Service)

John Ewing (Scottish Court Service)

Colin Mackenzie (Convention of Scottish Local Authorities)

Alan Miller (Scottish Children's Reporter Administration)

ACTING CLERK TO THE COMMITTEE

David McGill

SENIOR ASSISTANT CLERK

Terry Shevlin

ASSISTANT CLERK

Gerald McNally

LOCATION

Committee Room 2

Scottish Parliament

Finance Committee

Tuesday 11 June 2002

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

Items in Private

The Convener (Des McNulty): I ask those present to turn off their mobile phones. Jamie Stone has indicated that he will be a little late to the meeting. Professor Midwinter will attend, but is not here yet.

Item 1 is to agree to take in private consideration of the draft report for our public finance initiative/public-private partnership inquiry and the draft report for stage 1 of the budget process. Are we agreed?

Members *indicated agreement.*

Criminal Justice (Scotland) Bill: (Financial Memorandum)

The Convener: As part of the committee's financial scrutiny review, we identified the need to consider in more detail the financial consequences of bills. The financial memorandum for the Criminal Justice (Scotland) Bill is the first one that we have had the chance to examine since our review began. The bill is wide ranging and deals with matters that relate to criminal justice and procedure. It creates the potential for a number of costs on various organisations.

We are delighted to have representatives of some of those organisations with us today. I welcome Alan Miller from the Scottish Children's Reporter Administration; John Ewing and Cliff Binning from the Scottish Court Service; and Colin Mackenzie, who is an adviser on social work for the Convention of Scottish Local Authorities. All the witnesses have provided written evidence in advance of today's meeting. We have also received written evidence from the Association of Chief Police Officers in Scotland.

Before I invite questions from committee members, I invite the witnesses to make brief opening remarks supplementary to their written submissions. COSLA raised concerns in its submission about 100 per cent funding arrangements; Colin Mackenzie may want to say something about that.

Colin Mackenzie (Convention of Scottish Local Authorities): Good morning. We are pleased to be here to give evidence and we thank you for the opportunity. As members can see from COSLA's submission, a number of issues require to be clarified. One such issue is the extent of the Scottish Executive's 100 per cent funding of criminal justice social work services. There are differing views on whether that funding meets the total costs to local authorities of the services that are 100 per cent funded. It is important to do the work that will clarify that matter and enable us to put it away so that we can move on. That is why I suggest that COSLA, the Association of Directors of Social Work and the Scottish Executive undertake that work.

John Ewing (Scottish Court Service): We covered most of the points that we want to make in the letter that we sent to the clerk. I draw the committee's attention to the amendments that the Minister for Justice has indicated to the Justice 2 Committee that he is minded to lodge. We touched on them at the end of our letter in relation to the proposed television links between Barlinnie and the courts. The amendments are not included in the financial memorandum at the moment, but they will have financial implications.

Alan Miller (Scottish Children's Reporter Administration): On the youth crime pilots, I draw attention to the fact that little comparative data for our children's hearings system, which is our youth justice system in Scotland, and the adult criminal justice system exist at the moment. The pilots offer us a unique opportunity to compare and assess not only the costs but the cost-effectiveness of the two systems. It is important to extract full value from the proposal to run pilots, to learn not only whether the proposal that we are piloting should be implemented in future but to learn in what other ways we can improve the two systems.

The Convener: How substantial a percentage of the general activity of the children's reporter service would the pilot be?

Alan Miller: I am sorry; I did not catch your question.

The Convener: How big a pilot would you run? Would it be a relatively small, enclosed pilot or a substantial pilot that might cover 20 per cent or 30 per cent of the children's reporter service?

Alan Miller: The justice department group, to which I contributed, envisaged a pilot that would cover two or three local authority areas. Within those areas, roughly a quarter of offences charged against 16 and 17-year-olds would be referred to the children's hearings system. The actual proportion within the pilot areas would depend on the precise instructions that the Lord Advocate issued and on case-by-case discussion between procurators fiscal and children's reporters. The pilots would cover roughly one tenth of the geographical area of the country and a quarter of cases against 16 and 17-year-olds within that area.

The Convener: That would be about 2.5 per cent of such cases in Scotland.

Alan Miller: Yes.

Brian Adam (North-East Scotland) (SNP): We are widening the range of measures that is available to the courts. What implications does that have for training for those who work in the courts and in social work? That is particularly relevant to social work, within which we struggle to fill posts in a number of specialities. What are the implications for staffing levels and training? What are the practicalities of the costs and lead-in times that are necessary to ensure that the measures are used?

Colin Mackenzie: On the broad range of disposals that the bill extends in criminal justice social work, we have the platform to provide the staff with the skills to take part in those programmes. The shortages in social work staff, which are well publicised, appear across the board in social work services but are most acutely felt in

children and family services. The shortages are not exclusive to that area, but they are most acute there. Criminal justice social work services seem to do remarkably well. That might be partly to do with the structure of national standards and the history of providing support and training for staff in that part of our service.

The Executive has recently provided a course on first-line management training for criminal justice social work staff, which has been extremely successful. We have a range of training initiatives. The qualification for social workers is the other debate on the Executive's "Action Plan for Social Services Workforce". As the committee is aware, we have waited some two years for that action plan to emerge and that has caused a vacuum in the numbers of people coming into social work courses. We welcome the fact that the action plan has been published, and we welcome the work that will be undertaken in the near future on the new degree-level qualification.

The first graduates will not emerge from that programme until 2008, which is when the outcome of the new degree will first be seen. Work is continuing to determine the component parts of that degree, but criminal justice will be an important part of it. We are beginning to get on the road that will lead to our having staff with the right skills and qualifications. The two-year delay has been a problem.

Brian Adam: We are dealing today with the financial memorandum to the Criminal Justice (Scotland) Bill, and some of the matters you have been addressing—interesting though they are—are somewhat wider than that. Does the financial memorandum address the financial implications of the training that might be required to implement the measures that are contained in the bill?

Colin Mackenzie: Yes—I think that the required measures are contained within the costings in the financial memorandum.

John Ewing: The courts are used to working in an environment that involves occasional changes to the law in a variety of areas. Part of the Scottish Court Service's organisational overhead is to keep staff trained up on current legislative requirements. We adjust the training programme for changes that come along. We do not include a specific additional element for training to cover the new disposals that are contained in the Criminal Justice (Scotland) Bill, for example, but our normal administration process kicks in to ensure that all our staff are briefed on the bill's implications. That is part of our on-going training activity; it does not require an additional level of training.

Brian Adam: Would it be wise to identify that as part of the process? If there are legislative changes, the process that you have described

obviously has to happen. I have not seen anything to suggest what the costs of that are.

John Ewing: It becomes a balance between what is material and what can be absorbed in our current budget. Some adjustments in administrative processes will inevitably need to be taken into account. Our submission discussed certain arrangements for the provision of reports and the requirement on staff to be able to deal with report requests. The incremental increase in load on individual members of staff is minimal, but if changes require an adjustment to the budget provision as a whole, we will make a bid and make a proposal for the memorandum.

There is a constant process of adjustment in the baseline budget for the various organisations that are involved in any legislation, and it is not, as I understand it, the role of the financial memorandum to discuss those adjustments. The financial memorandum is concerned with highlighting any extra pressure on the budget—but perhaps I am wrong.

The Convener: Our concern lies in the fact that the Executive's practice, to an extent, has been to legislate now and pay later. We are trying to cut that out.

Mr David Davidson (North-East Scotland) (Con): The Scottish Court Service's written submission says:

"Fee levels are set for psychiatric reports but not for psychological reports. We estimate the costs of a psychological report to be in the order of £500-600 and that approximately 100 psychological assessments will be called for each year."

Is that a firm figure? Is that an open-ended commitment? You cannot pre-judge the requirements for each case.

John Ewing: It is open ended to an extent. You are right to suggest that we cannot predict now precisely how many cases will be identified by the police and how many will be prosecuted and require a report. The figures in the submission are linked to past experience, and we have drawn on what we understand to be the position and on our best projections. I am content that the figure is a realistic one for which to budget and with which to work. Obviously, we will need to monitor that figure, and adjustments may require to be made for it in the normal course of budget adjustments, as and when the proposed legislation is implemented.

Mr Davidson: You also mention a figure for the cost of transcriptions of proceedings. You estimate that transcriptions, lasting 20 to 40 minutes, cost up to £300 on average per case, and that there will be 900 cases. Those figures are all based on current performance. How did you model those projections?

John Ewing: I will ask Cliff Binning to answer, as he dealt with the figures.

10:15

Cliff Binning (Scottish Court Service): The projections for the population of cases were modelled on information contained in the criminal justice series of statistical bulletins, which report on the pattern of sexual offences over the past 10 years.

The number of related offences has fluctuated over the past five years between 650 and more than 1,300, hence our approximation of the target population as 1,000 cases. Our estimate for the length of time that is taken to deal with proceedings is based on the length of time taken to produce the narrative of facts by the procurator fiscal, the plea in mitigation by the agent and any other remarks that are made by the presiding judge or sheriff.

It is relatively difficult to get a precise fix on the duration of proceedings, but we have proceeded on the basis of an average of between 20 and 40 minutes per case. That is based on current performance, and also relates to the fact that cases tend to be complex. There may be a multiplicity of charges, and the elements that are to be covered in the plea in mitigation by the agent can be considerably detailed. That is the guiding rationale for setting those figures. The final element is the cost of obtaining the transcription. That is fixed by contract following open competition, and it is a case of equating the number of pages that require to be transcribed and the contract price.

Mr Davidson: Did the Executive consult the witnesses about costings during its preparation of the financial memorandum? Are the figures that it has included robust and realistic as far as your agencies are concerned?

John Ewing: Yes. The Scottish Court Service was involved and the costings in the financial memorandum are our figures. It might be of benefit to the committee for me to point out that we are an executive agency of the Scottish Executive justice department—we come under the justice department's umbrella. Whether the Convention of Scottish Local Authorities or the Scottish Children's Reporter Administration colleagues feel the same is for them to say.

Mr Davidson: I would like to hear from them.

Alan Miller: I was a member of the justice department planning group that drew up the specific proposals for the youth justice pilots. I am comfortable with the figures that are presented in the financial memorandum; I contributed to them.

Colin Mackenzie: COSLA has had people involved at different stages of compilation of the

figures, but I would not say that we have been involved all the way through. I have two specific concerns, the first of which is about the money that is associated with the proposed new risk management authority. That cost appears to be particularly high compared with the costs for the Parole Board for Scotland, for example. I am not sure where the figures for that authority have come from. I dare say that it would be interesting to find that out.

Leaving aside my 100 per cent argument—relating to the 100 per cent funding of criminal justice social work services by the Executive—lots of small pockets of expenditure are tucked into the bill's provisions. It is their cumulative effect and the way in which they have been taken care of that interests me, but that is a matter for clarification rather than one of concern at this stage.

Mr Davidson: Does COSLA have any figures that differ from those of the Executive?

Colin Mackenzie: No.

Mr Davidson: Are you likely to produce any such figures?

Colin Mackenzie: We could do some work on that, if it would be helpful to the committee.

Mr Davidson: We are time limited for examining this question, are we not, convener?

The Convener: We are time limited, but if COSLA could get us some information on the matter in the next fortnight, that would be useful.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Colin Mackenzie mentioned his argument about the 100 per cent funding arrangement, which he outlined in his submission. I take it that, by and large, it is not so much the specifics of the Criminal Justice (Scotland) Bill that worry you; rather, you are worried more by the ongoing 100 per cent funding arrangements, which will be exacerbated by services being added under the bill.

Colin Mackenzie: That is absolutely right. We must put the 100 per cent argument to bed. We must finish with it and move on. Doing so would help us to know what the add-on costs of the bill will be. It is easy to say that those costs will be picked up by the 100 per cent funding arrangement but, if we are not convinced that the 100 per cent funding will pick up the total costs in the first place, that is a false position from which to advance. For example, Aberdeenshire Council currently meets 1.5 per cent of the costs of providing criminal justice social work services. Although that amounts to only about £13,000, it is still £13,000 worth of expenditure. If that cost is multiplied across a number of authorities, it begins to add up.

The memorandum mentions the costs of the new groupings and the fact that the Executive will meet those costs. The Executive has met the cost of putting those groupings together in some cases, but has not done so in others. The northern partnership for criminal justice social work services, for example, estimates an additional cost of £40,000 for the new groupings. When all those little pockets of expenditure are added together, they mount up. It is the "looking after the pennies" argument.

Alasdair Morgan: For those of us who are not criminal justice social workers, I would like you to explain what you mean when you say that the

"supervision requirement for a medium risk offender already exceeds national standards by 100-200%."

Does that mean that you are doing things that you are not required to do?

Colin Mackenzie: That is exactly what it means. In discussions with us, the Executive laid down national standards that say, in relation to supervision of offenders, that someone who is on probation for sexual offences, for example, should be seen a set number of times. Within the first three months, such meetings take place once a week. The process moves on on that kind of basis.

However, when we work with low or medium-risk offenders, we do not work at that level. We might see such offenders twice a week as opposed to once a week, or perhaps even four or five times a week. That is why we exceed national standards. In many cases, for various professional reasons, two staff are required to see one offender, which obviously doubles the cost. That is what I mean when I say that we exceed national standards by 100 or 200 per cent.

Alasdair Morgan: Are you saying that the national standards are not good standards? If you implemented the national standards, you would not be doing some of the things that you are doing. I presume that you would say that that would not be good professional practice.

Colin Mackenzie: Time has moved on since the standards were reviewed. Although they have been reviewed once already, they need to be reviewed again in relation to some of the work that we do now.

Elaine Thomson (Aberdeen North) (Lab): When were the standards last reviewed?

Colin Mackenzie: I think they were reviewed about three or four years ago.

Elaine Thomson: It sounds as though the review did not produce any improvement in bringing your operational practice closer to the national standards.

Colin Mackenzie: Practice has moved on significantly in the past three to four years, which has been a major factor. Certain issues have clarified the frequency and degree of contact that we should have. The work that has been done as part of the STOP programme on working with offenders in prison and on how to carry that work on in the community is an example of that. Rather than see offenders once a week, one sees them much more frequently. Practice is developing.

Elaine Thomson: Are you discussing with ministers a new review of the standards?

Colin Mackenzie: We will discuss again a review of national standards with the Executive in the near future.

Alasdair Morgan: I want to pursue the issue of 100 per cent funding in relation to drug courts. You say that there is likely to be

"a significant increase in Criminal Justice Social Work activity".

What has been the experience with the pilots that have been running so far? Is it too early to draw any conclusions?

Colin Mackenzie: The main pilot, which has been running for some time, is the Glasgow pilot. Although it is probably still too early to draw firm conclusions from it, the situation is similar to that which I just outlined. The drug treatment and testing orders that generally accompany drug courts demand a significant amount of work at an early stage. Drug courts involve a continual process of going back to court. That represents a different and much more intensive way of working with people than was ever envisaged in the national standards.

The Convener: I want to ask the other witnesses whether they have had any input from colleagues in social work services or in other parts of the Scottish Executive about their experience of the drug courts.

John Ewing: We are monitoring that at the moment. As Colin Mackenzie said, it is rather early days to take a definitive view. The purpose of the Glasgow pilot and the pilot that is planned for Fife is to give us a better estimate of what the implications might be of rolling out drug courts nationally.

The Convener: I wonder why the financial memorandum suggests that only a marginal increase of work will be attached to drug courts. If there is no evidence, how do you know that the increase will be marginal?

John Ewing: At present, the increase in our activity is marginal. We are dealing with a number of the individuals in question and although we see them more intensively now, one of the possible

benefits of that is that we might not see them again in future. In comparison with the overall picture and the daily level of business at Glasgow sheriff court, the increase in activity is marginal. If we roll out drug courts and decide that they are effective, it will become a different ball game and we will have to look for additional resources.

The Convener: The increase is marginal for you, but it might not be marginal for Colin Mackenzie and his local authority colleagues or for other agencies that are involved.

Brian Adam: I want to pursue the issue of drug treatment and testing orders. Some consideration has been given to their impact on social work. The bill allows for non-custodial sentences, which will have implications for social work. I presume that sheriffs will have the opportunity to increase the frequency of drug testing. Has any thought been given to the impact on cost and administration of that measure?

Colin Mackenzie: The pilots on drug treatment and testing orders allow for that. One of the strengths of the work on the bill is that the Executive has talked about pilots in relation to a number of the initiatives. That helps us to arrive at the right costs. The experience of the pilot on the drug treatment and testing orders that we are running in Aberdeen and Aberdeenshire is that the funding meets the costs.

Brian Adam: Colin Mackenzie referred to the discrepancy in cost between the previous probation service and the new authority. Are any of the witnesses able to give an idea of why there is such a major difference in cost? It is proposed that we set aside £5 million in the second year, as opposed to the current £0.5 million allocation.

Alan Miller: You might have to look to other witnesses for an answer to that question. It is clear that the new authority will have research and policy functions; I presume that the costs of those have been factored in. In exercising those additional functions and dealing with management of individual cases, the new authority will go way beyond the role of the Parole Board for Scotland, for example. A cost is attached to becoming a centre of excellence and expertise.

The Convener: We need to obtain more information on that from the Executive.

COSLA indicates that local authorities will have to make additional expenditure on criminal records. Will you expand on that? I want the other witnesses then to say why the financial memorandum states that there will be no additional costs for local authorities.

Colin Mackenzie: There is a registration fee for each person who is a signatory to the new Disclosure Scotland arrangements. It costs £10

every time one asks for a check on a member of staff's previous convictions. That does not amount to a lot of money. For an authority that is the size of Aberdeenshire, the cost is about £40,000 a year. Although that is not a great deal of money in the scheme of things, it adds to the pressure on already tight budgets.

Alan Miller: We are in much the same position. We need to run checks on employees and on the staff of contractors who work with us. As Colin Mackenzie said, the case-by-case cost is low, but it amounts to another demand to add to the pile.

The Convener: Experience elsewhere—for example, the experience of the registration people who look after children—indicates that there might be delays and administrative snarl-ups attached to the registration process. The fee is not the only issue—other problems are associated with the procedure.

Alan Miller: There could be other problems. It is early days—the new Disclosure Scotland arrangements are just kicking in. We hope that, as employers and individuals become aware of the arrangements, prospective employees will carry out their own checks in advance, which will reduce the delay. If the checks must be done between the interview and the date when a person's employment starts, there will be a delay.

10:30

Mr Davidson: The voluntary sector will obviously be involved in a great deal of those charges, and much of the pump-priming money that goes to those agencies comes from local authorities. Do you have any indication of the demand that is likely to be placed on local authorities?

Colin Mackenzie: There is no individual disclosure fee for voluntary organisations, so they do not have to pay for each individual check. However, they must register and there is a registration fee of about £100. That is not a significant cost, except to very small organisations. At this stage, we have no indication of likely demand, but I guess that we will see the costs being reflected in future grant applications to local authorities.

Mr Davidson: It would be helpful if COSLA could give us an indication of what the impact might be. I imagine that it is a figure that you could come up with very quickly, by taking the number of voluntary bodies that are registered with COSLA member authorities and projecting that across Scotland.

Colin Mackenzie: We can certainly try to do that.

Mr Davidson: Thank you.

The Convener: COSLA indicates that local authorities will incur additional expenditure in relation to supporting higher-risk offenders. However, the financial memorandum simply says that offsetting such expenditure

"would be given serious consideration by the Scottish Executive."

Do you have any idea how many high-risk offenders there might be, how that consideration might be addressed by the Scottish Executive and what time scales would be attached to dealing with cases? Would that be done case by case or by category?

Colin Mackenzie: My understanding of the figures that the Executive is working to is that we are talking about 10 such offenders a year. That is a figure that has been mentioned elsewhere; it is quite low. However, the problem is that the cost of those individuals can be significantly high, particularly for accommodation and supervision costs and all the other considerations that accompany dealing with such close supervision. Those costs must be met immediately. If someone in that category suddenly arrives on your doorstep, you cannot say, "Sorry, we'll make an assessment and see whether we can put a funding package together, and then we'll be able to decide what we're going to do with you." The issue must be dealt with immediately, and COSLA's concern is that local authorities could be left holding that cost.

The financial memorandum talks about a "maybe" situation, in which the risk management authority will make recommendations to the Executive and the Scottish Executive "may" pay. That is not good enough. We need a much clearer and quicker pathway to funding for local authorities.

The Convener: For a small authority, such as West Dunbartonshire Council or Clackmannanshire Council, even one individual in that category could make a significant impact on the relevant budget line, I presume.

Colin Mackenzie: That is absolutely right.

The Convener: Are we talking about £30,000 to £40,000 a year?

Colin Mackenzie: I would have thought that we could be talking in excess of that, considering some of the examples that are around.

The Convener: Does John Ewing have any comments on that?

John Ewing: No. We have not been involved in that discussion.

Brian Adam: I have a more general question. The financial memorandum and your written evidence both refer to small costs that are likely to be absorbable "within planned resources", "from

within existing resources", or some other such phrase. I get a bit suspicious when I hear that there will be costs and that they will be absorbed by existing budgets. Does that mean that you have unallocated moneys within existing budgets?

John Ewing: No. It means that we stop doing some of the things that we are doing now so that we can make those other things happen. That is the process of budget management that every organisation goes through. We adjust priorities to meet the ministers' specific commitments and the new arrangements that must be put in place. Then we must, as part of the general approach to setting the budget, bid for extra resources if required, because various small changes mean incremental changes in what we can deliver.

Brian Adam: Although I recognise that there will be some activities that will stop or some activities that may require less money, part of the Finance Committee's remit is to try to get behind the overall budget. It strikes me that, if you have the capacity in your overall budgets to absorb new expenditure, you must already have information as to what is not allocated, is likely not to be needed or is going to be downgraded in priority in order to accommodate the new activity. We would like that information to be shared with the Parliament, particularly with its Finance Committee.

John Ewing: The difficulty is to do with the level of detail that the committee feels it needs to go into with regard to the administration of such funding. Let me give an example. We have a provision in the budget for increasing our tape-recording equipment. At the moment we have £50,000-worth. If I need to find that money from within my existing resources, I can find it by, for example, delaying work on the refurbishment of Dumbarton sheriff court for a relatively short period. The money is allocated for a specific purpose and on a specific time scale, but adjustments are done on a daily basis. That is how, in organisational terms, we find the resources to make things happen if they are necessary.

Alasdair Morgan: I would like to ask about the youth crime feasibility study. How long are the pilots expected to operate for and how long will the feasibility studies take to come to a conclusion?

Alan Miller: In answering that question, I would like to pick up on Mr Adam's point about resourcing. Paragraph 409 of the financial memorandum refers to "existing resources" in relation to the Scottish Children's Reporter Administration's costs. I read that as meaning the existing £1 million that has been specially allocated and is referred to in paragraph 407. We certainly do not have money in our current resources to cover those costs.

The feasibility group proposed that the pilots should run for about two years. We felt that that would give us a sufficient number of cases to allow a proper evaluation to take place. The process of monitoring and research would carry on during that period. There would then have to be a period of between six months and a year to draw together the outcomes of that study and to allow them to be assessed and discussed by the Parliament and the appropriate committees. That means that it is likely to be three or four years from the start of the pilots before we are in a position to discuss whether such arrangements should be rolled out throughout the rest of the country. That is, rightly, a cautious approach. We certainly foresaw that time would be needed for evaluation.

Alasdair Morgan: Paragraph 407 also says:

"There may be additional costs to promote awareness of the pilot programmes."

Awareness among whom?

Alan Miller: We foresaw that the pilots would involve creating new networks of professional agencies. At present, the children's hearings system is very much geared towards education and child health. The pilots would take us into areas such as benefits and housing and there would be a need for the appropriate agencies, the Scottish Children's Reporter Administration and children's hearings to identify effective channels of communication and ways of working together. No specific cost has been put on that, but it was recognised that some management preparation, joint training and familiarisation would be needed.

Mr Davidson: Have any of the witnesses had an indication that that sort of joined-up working and sharing of information are being funded through the modernising government fund?

Alan Miller: I am not aware of any calls on the modernising government fund to meet that issue. However, there is already pretty effective joint working within the criminal justice social work sector. We are talking about taking some of that existing good communication and inter-agency working and marrying it with what goes on in the hearings system. That work primarily relates to management and planning, rather than to specific technology-driven programmes of the kind that would be funded by the MGF.

Mr Davidson: You will appreciate that my reason for asking that question is based on the comments that continue to be made about expenditure being met from existing resources and existing baselines. For example, we do not know which budgets will be affected and whether expenditure will be knocked out from existing budgets or whether there will be new costs on local authorities.

In paragraph 414 of the financial memorandum, there is a throwaway comment about £500,000 to £1 million from “within the existing baseline”, but we do not know whose existing baseline is being referred to. Is it the existing baseline of the Scottish Executive or has an assumption been made that expenditure will be met from within the baseline that has already been allocated to local authorities? You are here today in order to clarify that point, gentlemen.

John Ewing: In so far as similar references are made to the Scottish Court Service, expenditure will be met from within the existing baseline that was set by the Executive and approved through the budget process some time ago.

Colin Mackenzie: If I may respond to Mr Adam’s question, local authority budgets do not have the capacity to pick up on the increased costs that one might envisage. That is why we need clarification of exactly what those costs will be and from which budgets they will be met.

COSLA shares Mr Davidson’s concern about expenditure being met from within existing resources, because we know that our resources are already under considerable strain. We do not have the capacity to meet the additional expenditure.

As Alan Miller said, some of the youth justice work is already being done and is proving to be effective. We are already working around that agenda with colleagues in the police and health and across local authorities. In our experience, that work is intensive. For example, in some of the Barnardo’s projects that are funded to work in the youth justice area, each worker works intensively with three to four young people over a six-month period. Those projects have good outcomes—they reduce and stop offending—but that is an extremely expensive way of working with people in the short term, although it has longer-term benefits.

Mr Davidson: You mentioned on-going work, which is obviously being funded from existing pockets of resource. Do you foresee new burdens specifically on local authorities?

Colin Mackenzie: When the bill is enacted and its provisions begin to roll out, there will be new burdens on local authorities. The answer that we are getting is that expenditure for those new burdens will be contained within the 100 per cent funding arrangements and the funding for the pilots. If that is so, we will be satisfied, because we support the broad intentions of the bill. However, we must be clear about whether that is the case.

The Convener: John, you indicated in your letter that the provisions on non-custodial disposals are not significant. However, it is clear that, if there were to be a significant shift from

custodial to non-custodial disposals, there would be a differential impact on aspects of the relevant budgets, such as the justice budget and local authority budgets. Is it possible for modelling to be done on the financial impact of different trajectories and different types of non-custodial disposals? That would allow us to see the impact of policy processes in a financial context and where the consequences applied. I recognise that you will respond from within the silo of your area of responsibility, but it is clear that the decisions that are made and the policies that are put in place will impact on jurisdictions outside yours. Would it be possible to put in place a financial model to allow us to understand that impact?

John Ewing: I suggest that that is a question that the committee might want to put to the Executive when it takes evidence on the bill’s proposals. The financial memorandum tries to pick up on the areas that are affected by the proposed changes. The exercise that you are asking for sounds rather more like something that would be worth looking at in relation to the overall justice budget. I cannot bind the justice department, but I suspect that it would be able to give the committee some information about the relative costs of different forms of non-custodial sentence, if that would be helpful.

The Convener: It would be useful for us to look at that information.

10:45

Colin Mackenzie: The Executive published some figures in 2001—they are the most recent figures that I have, although more recent figures may have been published. The cost of six months in prison was given as, roughly, £14,000, whereas the average cost of a probation order was roughly £2,000 and the average cost of a community service order was about £1,800. Therefore, some comparative information on the cost of keeping someone in prison and the cost of a community disposal is already in the public domain.

Alasdair Morgan: I note that the Scottish Children’s Reporter Administration says of part 7 that any

“increase in child protection investigations or referral to the Children’s Hearings System ... is likely to be small and absorbable”.

Of course, one of the main impacts of any such increase would be on local authority child and family social work expenditure. I understand that those departments are already pretty hard pressed and are not really coping with their existing work load. COSLA does not mention that aspect of part 7. Does section 43 give COSLA any concern, or do you think that the numbers will be so small as to be insignificant?

Colin Mackenzie: Section 43 will create a significant amount of work for local authorities. The problem that we face is trying to pick out which parts of the funding go to which initiatives. The Executive provides us with sure start funding and there is a raft of new initiatives that will change child and family services. The initiatives will pick up some of the costs of implementing section 43 because they are about integrating education, health and social work services.

The main cost of section 43 will come from the advice and support that families will require. We expect the increase in work to come from that softer, or preventive, end rather than from the areas at which initiatives are currently targeted. That is extremely important work.

I am concerned about the community advice services that local authorities fund, as they are likely to see an increase in their work load and in the number of people who are referred by their general practitioner or health visitor for assistance. People want to know what is right and what is wrong and how they can play with, or discipline, their children. We expect a significant increase in that area of work, yet we know that child and family social work services in Scotland are not properly funded at present.

Alan Miller: I agree that there is a wider issue about the resourcing of child and family social work services. In my view, the purpose of the measures in section 43 is to clarify the law and to make clear what is already reflected in practice. There is already a high level of inter-agency work and input on child abuse issues, and well-used channels for referrals and advice already exist. It is difficult to say with any confidence that section 43 will increase the demand on those resources, but the bigger issue that was rightly identified is the enormous pressure that is already on child and family social workers, and, more generally, on their departments.

The Convener: Colin Mackenzie suggested that sure start money might be a source of funding for the additional expenditure that may be associated with the new rules on monitoring the physical punishment of children. I know that controversy exists over what sure start money should be used for—the Executive is sending out messages about that. Do you think that you will be allowed to use sure start money for that purpose?

Colin Mackenzie: I was not trying to suggest that we could use sure start moneys for that. I was saying that there is a range of options within the system, because so many funding initiatives are aimed at different things. If sure start is about helping children and families, that money will pick up a part, but by no means all, of that agenda. The pilots that are envisaged will be helpful, as they will advise us how to move forward.

The Convener: My final question is about victims' rights. It has been suggested that the victim statement scheme has no evident financial implications. The scheme will be complicated and difficult to operate and it will have a series of potentially complex ramifications for court time and support. Has progress been made on how the scheme will work? Are financial implications envisaged now that were not envisaged when the financial memorandum was drawn up?

John Ewing: Those questions are best addressed to the Executive. As the financial memorandum makes clear, the bulk of expenditure is likely to be for the Crown Office and the police. My letter to the committee points out that the reading of victim statements in court and judges' consideration of them will not dramatically change the duration of cases. The committee should ask the Executive whether the scheme will involve more expenditure than is set out in the financial memorandum. The purpose of the pilot is to test whether those assumptions are realistic.

Alan Miller: A pilot is the correct way to proceed because many other questions must be answered, apart from the unknown financial implications, such as how victim statements are used, how effective they are and how much of a support they are for victims.

Colin Mackenzie: I want to correct something that I said earlier. In section 43 there are, of course, no pilots. I am sorry, I did not mean to connect pilots to that section of the bill.

The pilots for the victim statements scheme are important. The scheme is a good way to give victims an important part to play in the justice system and the pilots will help to identify the costs.

The Convener: On behalf of the committee, I thank the witnesses for their evidence. It is useful to explore questions of detail. The witnesses have provided us with questions to ask the Executive next week.

Financial Scrutiny Review

The Convener: Agenda item 3 is the financial scrutiny review. In a sense, it follows on from the evidence session on the Criminal Justice (Scotland) Bill, because it deals with the need to appoint an adviser to help the committee to provide improved scrutiny of financial memoranda. An earlier paper by Arthur Midwinter stated that there is a need for such an adviser and we agreed to that in principle. The paper before the committee sets out the specification for an adviser. I invite comments from members.

Mr Davidson: Not only will we not get an adviser who has no interests to declare, but it will be difficult to find someone who can deal with matters at short notice. The adviser will have to be available within a few days whenever the Parliament is sitting. To ensure that we have the appropriate support, should the post be a job share?

David McGill (Clerk): That is a good point. We will require an immediate steer on whether there is merit in taking evidence on a bill. We are looking for someone who can respond in a matter of days when a bill is introduced. I do not know as yet whether such people are widely available. We will definitely bear that point in mind. We can beef up the specification to make it more categoric on that point.

Mr Davidson: If we are to examine in detail the financial consequences of bills, the adviser should be able to provide projected costs, which can then be tested against witnesses' views.

The Convener: The difficulty is that we will have to suck it and see. We cannot predict how much advice will be required on specific bills or what proportion of bills we will want to examine in detail. We can try to phrase what we say to the Parliamentary Bureau to allow us to make a definition based on practice as the situation develops.

Mr Davidson: I presume that the adviser will require a retention fee plus payment of costs.

The Convener: If we agree the principle and the broad specification for the adviser, we can consider the practicalities later. Normally the Scottish Parliament information centre conducts such processes, so perhaps it should consider the best method of proceeding. Different payment arrangements will suit different individuals who can do the job in different ways. As long as our requirements are met, we have a degree of flexibility in the arrangements for the adviser.

Do members agree to forward the specification, modified to take account of David Davidson's points, to the Parliamentary Bureau?

Members indicated agreement.

The Convener: As we have agreed to take agenda items 4 and 5 in private, I ask the press and public to leave and the official report to shut down.

10:56

Meeting continued in private until 12:57.

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