

FINANCE COMMITTEE

Tuesday 9 December 2003
(*Morning*)

Session 2

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FINANCE COMMITTEE

17th Meeting 2003, Session 2

CONVENER

*Des McNulty (Clydebank and Milngavie) (Lab)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

*Ms Wendy Alexander (Paisley North) (Lab)

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

*Kate Maclean (Dundee West) (Lab)

Jim Mather (Highlands and Islands) (SNP)

*Dr Elaine Murray (Dumfries) (Lab)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

*John Swinburne (Central Scotland) (SSCUP)

COMMITTEE SUBSTITUTES

Mr Adam Ingram (South of Scotland) (SNP)

Gordon Jackson (Glasgow Govan) (Lab)

David Mundell (South of Scotland) (Con)

Iain Smith (North East Fife) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Stephen Fitzpatrick (Convention of Scottish Local Authorities)

Ron Lancashire (Convention of Scottish Local Authorities)

Ed Morrison (Scottish Children's Reporter Administration)

Margarita Morrison (Convention of Scottish Local Authorities)

Jackie Robeson (Scottish Children's Reporter Administration)

CLERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Jane Sutherland

ASSISTANT CLERK

Emma Berry

LOCATION

Committee Room 1

Scottish Parliament Finance Committee

Tuesday 9 December 2003

(Morning)

[THE CONVENER *opened the meeting at 10:04*]

The Convener (Des McNulty): I welcome members to the 17th meeting of the Finance Committee in this session. I do not need to welcome the press and public because, at the moment, no members of the press or public are here. I ask members to switch off their pagers and mobile phones. We have received apologies from Jim Mather. The press and public are now coming into the committee room—I welcome them.

Antisocial Behaviour etc (Scotland) Bill: Financial Memorandum

10:05

The Convener: Agenda item 1 is on the Antisocial Behaviour etc (Scotland) Bill, which Margaret Curran introduced on 29 October. To assist our consideration of the financial memorandum that was published to accompany the bill, we have with us this morning representatives from the Convention of Scottish Local Authorities: Stephen Fitzpatrick, community resourcing team leader; Margarita Morrison, corporate adviser; and Ron Lancashire, an adviser on criminal justice and social work issues. From the Scottish Children's Reporter Administration, we have Ed Morrison, director of finance, and Jackie Robeson, head of practice. I welcome you all to the committee.

Members have before them a briefing paper that has been prepared by the Scottish Parliament information centre; copies of the bill, the policy memorandum and the explanatory notes; and a submission from the Scottish Children's Reporter Administration. I invite COSLA to make the first opening statement.

Stephen Fitzpatrick (Convention of Scottish Local Authorities): I thank the convener for inviting COSLA to provide evidence on the financial aspects of the Antisocial Behaviour etc (Scotland) Bill. I apologise for our failure to submit written evidence before today's meeting, but it proved impossible to do that within the time scale. We would be happy to submit written evidence as a follow-up to today's meeting, if the committee considers that to be helpful.

I know that members will be keen to ask questions about the specifics of the bill's financial memorandum, but I would like to take the opportunity at the outset to restate some of the key principles that govern COSLA's approach to all issues of local government finance, with which I am sure most committee members are already more than familiar. The principles are as applicable to antisocial behaviour as to any other policy area that relates to local government. Our approach is underpinned by the basic requirement to ensure that any new legislative burdens or duties on local authorities are adequately resourced.

The first key principle for COSLA relates to the need for a clear understanding of and transparency in local government resources. When new resource announcements are made, it is often difficult to determine whether the funding is genuinely new or simply a clarification or

confirmation of resources that the Executive has previously announced. The resultant uncertainty and confusion emphasises the necessity for transparency and for resources to be reconciled.

Some people in local government are unclear about whether the £65 million that is referred to in the financial memorandum to the Antisocial Behaviour etc (Scotland) Bill includes the moneys announced earlier this year for community wardens and other community-based antisocial behaviour initiatives or whether the resources are additional to those funds. There is a lack of transparency.

A second key principle is that resources must be able to provide sustainable services in the short term and in the long term. Although the allocation of £65 million over the next two years is welcome, we cannot at this stage confirm whether it will be sufficient to cover the additional costs associated with the implementation of the bill and of the wider antisocial behaviour strategy that surrounds it. We make it clear that the cost of implementation will be established over the period as the impact of the new duties and services that are introduced as part of the antisocial behaviour strategy becomes clear. That is an important point.

COSLA's preference is always to have all available resources identified from the outset rather than announced in instalments. However, from the starting point of relative uncertainty in relation to the bill, it would be helpful if in the short term a commitment were given to consider additional resource requirements as they arise over the next two years, as the bill takes effect.

In the longer term, the provisions of the bill and the implementation of antisocial behaviour strategies will have financial implications beyond the two-year period for which the £65 million has been allocated. It is therefore vital from COSLA's point of view that a continuing and flexible long-term funding mechanism is established that will support strategic implementation on an on-going basis. In that regard, COSLA is working in partnership with our colleagues in the Executive on the latest spending review. We hope to use that process to determine the level of resources that are required to deliver an effective antisocial behaviour strategy in the long term.

The third principle is that local authorities must be trusted to deliver according to local needs. That is a key starting point for COSLA. As well as ensuring that overall resources are adequate, local authorities require flexibility and must be trusted to deliver on agreed priorities—it is clear that COSLA and the Executive have agreed that tackling antisocial behaviour is a priority. That is why COSLA is opposed, wherever possible, to the ring fencing of moneys. The measures required to address antisocial behaviour can vary from one

local authority area to another, so councils should have flexibility to identify the policy responses that are most appropriate for combating the problems in their areas.

My final point is that we are not here to suggest alternative figures to those that are presented in the financial memorandum. We can only set out our thoughts on the cost assumptions that the financial memorandum contains and the long-term financial implications of the bill.

That is our opening statement. We are happy either to go into some of our concerns about specific areas of the financial memorandum or to take questions from the committee. That is entirely for the committee.

The Convener: It would be helpful to get an opening statement from the Scottish Children's Reporter Administration, too, so that we can fire questions at both sets of witnesses. I invite Ed Morrison or Jackie Robeson to make an opening statement, if they wish to do so.

Ed Morrison (Scottish Children's Reporter Administration): I will be brief, as we set out our key points in the written evidence that we submitted last week.

It is probably fair to recognise that the figures in the financial memorandum are inevitably guesstimates at this stage. Although we were not fully consulted on the details, we were advised of the figures before coming to the Finance Committee. We understand the basis for the calculations, which are based on relatively low uptake in early years during the pilot phases. The investment of the £65 million to which COSLA referred will have an impact in improved outcomes over coming years.

We are continuing to work on some detailed figures for the SCRA. Like COSLA, we would be happy to submit further written evidence if that would help the committee. We feel that there may be a gap in some of the one-off set-up costs during the early years. Perhaps we could explore that during the discussion.

Kate Maclean (Dundee West) (Lab): I know that Stephen Fitzpatrick said that he is not here to provide alternative figures—obviously, I would not expect him to do that—but many of the costs that are outlined in the financial memorandum are for local authorities. From previous experience as a local authority leader, I know that many discrepancies can arise between the budgeted costs and the actual costs. If the bill is to work, it is important that every part of it is adequately resourced. The financial memorandum gives estimates for the costs of the provisions and says that some of them will involve no additional costs. Is it likely that the cost of introducing the bill will be within those estimates or will it cost local authorities a lot more?

I know that Stephen Fitzpatrick said that he cannot give alternative figures. He gave a general statement about what COSLA would like to see in respect of finances. However, it is important that, before the committee reports on the financial memorandum, we are sure that the figures that we have in front of us are broadly accurate.

Stephen Fitzpatrick: We were planning to go into some of the details of aspects of the figures that we have concerns about. Like the SCRA and others who are considering the bill, we find it difficult to predict at this point what the impacts of the bill will be. We have been quite honest with the committee about that. Given the predictive situation that we are in, some of our concerns are perhaps not based on the empirical evidence that we would like to have at our disposal, but we are certainly happy to come back to the committee on those elements of the bill about which we have concerns over the proposed costs.

We have concerns about some of the major expenditure areas that are identified in the financial memorandum. Those include the noise provision allocations and the intensive support programmes, which are the biggest single element in the financial memorandum. We are happy to explore some of those issues with the committee if members want us to do that.

Kate Maclean: Can you do that now or will you come back to us in writing at a later stage?

Stephen Fitzpatrick: We will perhaps come back on that in writing, but we are happy to go into it just now. Perhaps Ron Lancashire can say something about the parenting orders and the intensive support programmes.

10:15

Ron Lancashire (Convention of Scottish Local Authorities): Good morning. Some of what I say reflects the point of view of the Association of Directors of Social Work. Although the financial memorandum sets out allocations for intensive support programmes, there is also the Executive's associated expectation that those will be linked to antisocial behaviour orders and supervision orders and perhaps to parenting orders and electronic monitoring of young people. I will use the projections of my council as an example. The City of Edinburgh Council expects something like 60 or 70 cases to accrue in a full year as a consequence of the bill. However, please do not take that as empirically researched.

For the costs of the bill, we need to think about who will implement it. For example, who will carry out the supervision? It will be done by social workers. Irrespective of whether those social workers are part of a social work department, the bill will require qualified social workers to

supervise the orders—the assumption is that social workers will be the lead persons in doing that. We should also bear in mind the other programmes from the independent sector that are in place across Scotland. Of the £4 million allocation for 2004-05, something like £400,000 might accrue to the City of Edinburgh Council. We do not think that that would wash the face of the matter. The committee could legitimately ask how much we think would be required, but it is difficult to be exact on that. What I can say is that we want to engage with the proposals.

Just as important is the fact that there is a major issue at the moment with recruitment and retention of social work staff in Scotland. I am sure that members are aware of the steps that have been taken to fast-track opportunities so that we can have the requisite number of qualified staff, but that is only to meet existing demands on social work services. There is a concern not that we will not engage with the legislation, but that we will not be able to engage in delivering the expectations that the legislation lays on social work services, among others.

Kate Maclean: Before the committee has to agree a stage 1 report, it would be useful to have a bit more detail in writing about where COSLA feels the financial memorandum is out and by how much. Obviously, you need not give exact figures, but it would be useful for the committee to have something before we agree to our report on the bill. I think that we have time for that.

Stephen Fitzpatrick: We could turn that round very quickly, but we did not have much notice for doing it before today.

Kate Maclean: That would be really helpful.

The Convener: I do not want to direct this question at Stephen Fitzpatrick personally, but we are told that the bill has significant financial implications for local authorities, yet we do not have a written submission from COSLA. Both Stephen Fitzpatrick and Ron Lancashire have indicated that they do not have much of an assessment of what the financial implications of the bill will be. Given the extensive consultation on the bill and given its detailed provisions, frankly, what is COSLA doing?

Local authorities must surely recognise that the bill is coming over the horizon relatively quickly. It is a flagship bill for the Executive. Surely you must have done some serious strategic work on the bill's financial implications for larger authorities such as Edinburgh and Glasgow and for smaller authorities. Simply to say, as Ron Lancashire did, that social work is barely coping as things stand is not the kind of strategic assessment that helps the committee. To be honest, I find it surprising that we do not have a written submission. The lack of

one does not help the Finance Committee to do our work but, more worrying, it suggests that COSLA has not done its work on what the bill will mean for local authorities.

Stephen Fitzpatrick: I accept some of what you say. Our difficulty in projecting what the costs might be is that, at this point in time, we are not certain what the new measures will result in. Much of the financial memorandum makes assumptions about the new demands that will arise from the bill, the new duties on councils and the new powers to provide services. We are in the same situation as civil servants are. I am sure that, when civil servants give evidence to the committee, they will say that they have had to make several best guesses about the implications of some of the bill's social work and housing provisions. We have heard a similar message from a number of our colleagues in local authorities. The question that applies to much of the bill is: how long is a piece of string? We will not know the bill's effects until it is enacted, so it is difficult to make predictions.

Ms Wendy Alexander (Paisley North) (Lab): Ron Lancashire said that the bill might generate an additional 60 cases. What measure might result in those additional cases? Would they arise from antisocial behaviour orders or from community reparation orders?

Ron Lancashire: The assumption was that 60 or 70 additional young people would require to be supervised compulsorily through the children's hearings system. Our interpretation of the philosophy behind the bill is that antisocial behaviour orders would not be applied in isolation from supervision orders, for example.

Ms Alexander: That point is material. It does not help the committee to consider only one small part of the bill when we are trying to predict the number of cases in Edinburgh that would be affected by what, on the most superficial look, I have counted to be at least six additional measures that the bill will introduce. We have ASBOs at the moment and local authorities constantly complain that they do not have the resources to implement them. Do you know how many ASBOs are operational in Edinburgh or Scotland?

Ron Lancashire: I am not sure.

Stephen Fitzpatrick: The Chartered Institute of Housing in Scotland produced a report recently on the use of ASBOs.

Ms Alexander: Do you have any idea of the number of ASBOs?

Stephen Fitzpatrick: I am not sure, but the figure is in my papers somewhere.

Ms Alexander: My view is that the number is very small because local authorities believe the

legislation to be unworkable. The bill proposes to extend the application of ASBOs, but we have no assessment of the legislation that has been on the statute book for five years.

The bill is precise about the extension of ASBOs, which, as I said, have been on the statute book for a few years. Local authorities feel that ASBOs do not work, so surely COSLA now has a golden opportunity to say what number of ASBOs have been obtained, why the number is so few and how local authorities intend to increase that number, because the bill extends the use of ASBOs to more people.

Interim ASBOs are a more recent measure. How many additional cases are interim ASBOs likely to generate and what costs are associated with the existing limited regime? The bill also introduces parenting orders and community reparation orders. It deals with the noise nuisance service and creates the possibility of extending the fixed-penalty regime. That is a precise list of proposals, which has altered little since it has been under discussion. It would not be particularly difficult to cost the implementation of those proposals, which would involve estimating the uptake of the measures.

We are perplexed because the lead organisations for at least some of those measures will be local authorities, which often decide whether to pursue ASBOs and interim ASBOs. It is self-evident that local authorities have chosen not to pursue those options in the recent past. Having put that power into local authorities' hands, we need to understand why they do not use it. The anecdotal evidence is that the reason is financial. We would explore that issue if we had information about it.

Margarita Morrison (Convention of Scottish Local Authorities): Local authorities could have provided ballpark figures early about the costs of each measure, but, in the past, we have been guilty of just taking figures from thin air. We were keen to bring all local authorities together to have a baseline figure.

Much of the antisocial behaviour order work has been based in housing services. We need to move away from that situation, but that will have resource implications. We want to take a broad view of the impact of delivering the new measures on each local authority service affected. As members know, those services can range from social work and housing to community safety. Some of the measures will also have an impact on youth services generally.

Some local authorities work from different baselines. The infrastructure is extremely good in some local authorities, such as the City of Edinburgh Council, and some local authorities are

working towards improving their baselines. Local authorities come from different backgrounds.

We wanted to ensure that we provided to the committee not ballpark figures, but figures that were based on evidence and that showed that best value was being achieved and that services were integrated. That has taken time to produce and we are not yet in a position to give accurate costs. We have had information from local authorities, which we will gather and submit as soon as possible to give the committee a good starting point, but work still has to be done. From our discussions with civil servants, we are conscious that they, too, are having difficulty in bringing everything together.

Ms Alexander: I say with respect that there is nothing new about ASBOs, which should have nothing to do with ballpark figures. We want to know the cost of supporting the current regime. The anecdotal evidence is that local authorities simply refuse to use the orders to tackle antisocial behaviour because the costs that are associated with pursuing cases involving ASBOs are too high.

Since they were put on the statute book, have ASBOs not been used? Do local authorities say that they are too costly? If they are too costly, you now have a chance to produce evidence about that and suggest how enforcement costs might be reduced so that the disposal is used for its intended purpose. Local authorities, not individual tenants, pursue ASBOs, so the entirety of Scotland is at the mercy of whether housing departments are prepared to use the legislation that is available to them. This meeting was an opportunity to consider the evidence—the hard facts and figures—about how the measure has been used in the past couple of years.

Margarita Morrison: I was involved in discussion about the issue no later than yesterday. The cost of an ASBO ranges from about £5,000 to £20,000. It has been difficult for local authorities to gather evidence on what will happen in the private sector. ASBOs are now available to new people, who are—rightly—asking for local authorities' help. The evidence-gathering process is long and, with the court process added, the cost has ranged from £5,000 to £20,000. Some local authorities have quoted higher figures than that.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I do not wish to be provocative, but I wonder whether we are wasting our time. By their own admission, the witnesses do not have at their disposal the facts and figures that they would like to present to us. They seem to be saying that they would like a blank cheque to be produced from midair so that local authorities could spend money in the way that they chose, but they have nothing to back that up and they say that it is too early for local authorities to provide a costing. Are we wasting one another's time?

The Convener: I think that that is a rhetorical question.

Dr Elaine Murray (Dumfries) (Lab): The financial memorandum contains a large range of figures. It is unclear where all the figures came from, but I assume that local authorities were consulted in some way, as the Executive makes statements about the numbers of different types of cases.

The financial memorandum says:

"the average cost of an ASBO was just over £2,000, but costs varied between £500 and £6,500".

Those figures are different from the ones that Margarita Morrison just provided. What consultation took place between the Executive and local authorities to obtain those figures? The financial memorandum refers to mapping exercises and evidence from local authorities. I wonder how much consultation was undertaken if local authorities feel that they have no way of providing such figures at the moment.

Stephen Fitzpatrick: Informal consultation might have taken place with individuals in local authorities, but the Executive did not consult COSLA formally in producing the financial memorandum.

Dr Murray: Such consultation should have taken place.

Stephen Fitzpatrick: When civil servants give evidence to the committee—I understand that that will happen after Christmas—they will be able to account for their figures. I know from discussions with civil servants after the financial memorandum was published that those figures are generally based on available evidence. However, much of the evidence to support some figures is fairly patchy, because the existing evidence has gaps, not only on provisions that will affect local authorities, but on all the bill's provisions. To answer your question, there has not been any—

Dr Murray: There has been no formal consultation with COSLA—maybe with individual authorities, but not with you.

Stephen Fitzpatrick: That is correct.

Dr Murray: Was the SCRA formally consulted on the financial memorandum?

10:30

Ed Morrison: Not on detailed costings, as I said at the outset. We were advised of the figures, which, in relation to the provisions affecting the SCRA, look reasonable in terms of the suggested level of uptake of the new measures in the bill. However, that is a small part of the overall bill costings.

Kate Maclean: That is not good enough. The Executive should be consulting COSLA. If there are huge financial implications for local authorities, COSLA should obviously be consulted. There will clearly also be financial implications for the SCRA, so the Executive should have consulted that organisation, too. We end up with figures in the financial memorandum, but we do not know where they come from. The people and organisations that the bill will affect the most cannot tell us where those figures came from or what the real figures might be.

It is difficult for us to agree to the financial memorandum unless we have a little more clarity. I could not agree to a stage 1 report until we at least had something in writing from COSLA—we already have a written submission from the SCRA—with some estimate of whether the figures in the financial memorandum are even anywhere near accurate. We could agree those figures and they could be a million miles out.

The Convener: COSLA either has to provide us with corroboration of the Executive's figures or point out discrepancies between its figures and the Executive's figures. We have not heard from the Executive yet, but it is disappointing that COSLA is not in a position to provide us with detailed information at this point.

John Swinburne (Central Scotland) (SSCUP): I find that what the witnesses are saying is strange because we are introducing new legislation to cover antisocial behaviour and we are obviously trying to cure the problem. I am inclined to agree with Ted Brocklebank, who stated that the answers that we are getting are not adequate. If we cure the problem, the costs to the witnesses' organisations will drop dramatically—they will not rise. If we do not cure the problem, the bill will be a waste of time.

Stephen Fitzpatrick: Is that another rhetorical point?

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I am a bit puzzled, because the Executive's policy memorandum refers specifically to strong arguments by COSLA. If you are saying that you have not been consulted, why does the Executive refer to strong arguments from COSLA in paragraph 198 of its memorandum?

Stephen Fitzpatrick: We have not been consulted specifically on the financial memorandum and on the assumptions and calculations upon which it was based. Subsequent to the memorandum's publication, we have had a discussion with the civil servants, but we were not consulted during the process of points' being pulled together. The policy memorandum refers to our response to the consultation paper, "Putting our communities first: A Strategy for tackling Anti-social Behaviour".

Fergus Ewing: Am I right in thinking that Margarita Morrison's estimate of the cost of an ASBO was that it varies between £5,000 and £20,000?

Margarita Morrison: In discussions yesterday on the court process for antisocial behaviour orders, the officers quoted costs ranging from £5,000 to £20,000.

Fergus Ewing: Whose figures are those?

Margarita Morrison: They are from a meeting with the Chartered Institute of Housing in Scotland to discuss housing tribunals. Antisocial behaviour orders were obviously discussed.

Fergus Ewing: How are the figures calculated? Can you break down the £5,000 or the £20,000?

Margarita Morrison: The amounts are for officer time in both preventive action and action to gather evidence for the antisocial behaviour order.

Fergus Ewing: No. I mean can you provide a breakdown of the £5,000? How is that figure arrived at? What does the £5,000 comprise?

Margarita Morrison: As I said, it covers gathering the evidence, and sometimes it is a matter of working through preventive action so that the case does not actually lead to an antisocial behaviour order. However, we cannot—

Fergus Ewing: Perhaps I am not making myself clear. Does that £5,000 represent the aggregate cost of the time of the local authority staff who are involved in doing the work that is necessary in relation to an application for an ASBO? Is that your understanding of the cost, or am I off the point?

Margarita Morrison: Yes, that is my understanding of the cost. I will be happy to provide the committee with some case study examples, if that would be useful.

The Convener: That would be useful.

Fergus Ewing: As Dr Murray said, paragraph 260 of the explanatory notes tells us that

"the average cost of an ASBO was just over £2,000, but costs varied between £500"—

a tenth of the minimum figure that you quoted—

"and £6,500",

which is a third of the maximum figure that you gave. We therefore have two completely different sets of figures.

The main cost of the eventual act—estimated for 2005-06, which will be the first year of its full impact and full operation—is expected to be nearly £15 million, of which £9 million is the cost of ASBOs. ASBOs therefore account for 60 per cent of the total cost of the bill. Our job, as I am sure

you all appreciate, is not to examine the merits of the provisions, tempting though that may be, but to examine their costs.

I have no idea whatever about how any of the figures are arrived at. At present, I would have to vote against the bill, because there has been a complete failure by the Executive and by COSLA to address the topic that brings us here today. To be quite frank, convener, I suggest that we terminate this evidence-taking session right now and invite the witnesses to make written submissions to us so that we can address the job that brought us here this morning.

The Convener: It is probably not appropriate to terminate evidence taking at this point. There are questions that members might want to ask, particularly of the witnesses from the Scottish Children's Reporter Administration. Members might also wish for clarification from the COSLA witnesses. The main people whom we want to tackle on the costing issues are probably from the Executive, so we want to gather information to put to the Executive. However, I share members' exasperation—we are not being given the information that the Finance Committee is entitled to expect.

Kate Maclean: There is no point in having the Executive's representatives here at a future meeting to question them unless we have more information from local authorities. The Executive witnesses would obviously answer questions based on what they have put in the financial memorandum, so it does not help us at all if we do not have any information from local authorities to back up the figures or to allow more forensic questioning of the Executive's figures. Whatever we decide to do—I agree that today's evidence session is perhaps a bit pointless—we cannot have the Executive here to give evidence until we have more information.

The Convener: I agree.

Dr Murray: We also need to ask the Executive from where it got its figures and whom it consulted. Paragraph 327 of the explanatory notes, on the cost to local authorities of registration of private landlords, states:

"it is assumed that 4"

authorities

"would employ an additional full-time member of staff ... 16 would require an additional half-time post each, and the remaining 12 would not require additional staff."

I do not know whether the witnesses are able to comment on that, but I wonder where those figures came from and how they were arrived at, without the Executive's actually going to the local authorities to ask them about the private housing stock in their areas and whether they think they

could deal with that volume of properties. I am completely at a loss to know whether or not the figures are mince, quite honestly.

Ms Alexander: I invite COSLA, in reflecting on the evidence that it will submit at a subsequent stage, to consider this point: the pre-legislative scrutiny stage is intended to try and get legislation right. It is not simply about stating, months after the bill has been out to consultation, "This is what bad legislation costs us at the moment—we think." It is about getting legislation right—particularly in circumstances where, until this bill, the only bodies capable of applying antisocial behaviour orders have been local authorities. Nobody else in Scotland can act against antisocial neighbours; the only bodies that can use that weapon are local authorities. In those circumstances, I would be looking for some reassurance that, during consultation on the bill, the local authorities—knowing that they were the only bodies that are capable of enforcing that particular remedy against antisocial behaviour, and having had more than two years' experience of doing so—would have suggested some of the ways in which the enforcement costs could be reduced.

The simple statement that, because of efficiency or inefficiency, some ASBOs cost £5,000 and others cost £20,000 does not represent good stewardship of public moneys. Given that local authorities are the only bodies that can enforce ASBOs, COSLA is obliged to suggest how the costs can be reduced.

As there have been cost difficulties with ASBOs, I am interested in COSLA's proposals at the consultation stage for ways in which the procedures could become less bureaucratic and less costly. It would be a great pity if COSLA did not make such proposals at the consultation stage because that is why the pre-legislative stage exists. If that did not happen, we should try to fix the situation. COSLA's simple assertion that some ASBOs cost £20,000 does not help us to make good legislation. Good legislation will come from considering how local authorities, as the only bodies that are capable of enforcing the remedy against antisocial behaviour—although they will be complemented by registered social landlords—can apply ASBOs for the much smaller sums that are suggested in the financial memorandum. That will allow us to use the remedy to tackle the wide range of antisocial behaviour that exists.

Simply to demonstrate that some ASBOs have cost £20,000 does not help the committee to make good law. We need suggestions as to how the legislation might be improved so that the remedy can be expedited and allowed to apply in all the circumstances in which it should apply in communities in Scotland.

The Convener: The committee seeks more detailed information from COSLA in time for it to fit in with our schedule of scrutiny for the bill. If I heard Margarita Morrison right, COSLA's process of gathering information is on-going. It would be helpful if COSLA submitted written information before 13 January, when we will speak to the Executive about the bill. To help, we could marshal some of the questions that we want to ask and relay them to COSLA, which would allow us to receive specific responses to the questions that we feel need to be addressed. Is that possible?

Stephen Fitzpatrick: Yes. We have heard the committee's comments and we will work on such a response. Perhaps we underestimated the level of detail that the committee expected, for which we record our apologies. We will do everything that we can to provide the committee with the evidence and information that it requires to question the civil servants from the Scottish Executive when they give evidence. We would be happy to answer specific questions to which members would like responses. If evidence exists, we will seek to pull it together.

The Convener: We will liaise on the issue and send a paper to you, I hope, by the end of the week, which will allow you to respond in time. I realise that Christmas and the new year are in the way, but we will need the detailed written submission early in January if it is to be useful.

Do members have questions for the Scottish Children's Reporter Administration, which is represented today?

10:45

Fergus Ewing: Members will obviously have in mind questions that they would have liked to ask COSLA, had the witnesses been armed with the necessary information. Given that we are here, I will mention some points that I hope COSLA will address prior to 13 January, if that is in order.

As ASBOs represent 60 per cent of the estimated cost of implementing the bill, could we have quantitative information about the number of ASBOs that each local authority has sought and how many they have granted? Is there a difference between the cost of seeking an ASBO and the cost of obtaining one? I presume that obtaining one is more expensive. Also, how many abortive cases are there in which an ASBO is not formally applied for? I guess that the answers will involve an element of complexity, but as Wendy Alexander said, there should be a track record or an existing corpus of information on the matter. How is the cost worked out? An analysis of the average cost would be useful because the figures that we have heard vary massively.

One figure that we heard—from Mr Lancashire, I think—was that there might be 60 or 70 cases a

year in a local authority. How was that estimate arrived at? The financial memorandum provides figures on the likely additional number of ASBOs in general and on the likely number of ASBOs for 12 to 15-year-olds. I am interested in that age group because we are all conscious that it is a problem area. Whether ASBOs are the answer is a separate issue, but I would be interested to know how many ASBOs for kids under 16 there might be and how that figure has been calculated. I would also like to know how those ASBOs fit in with the children's hearings system.

I raise those issues while the COSLA witnesses are here, rather than in a letter that will wind its way to you just after Hogmanay.

The Convener: It will wend its way rather more quickly than that.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I think that Ron Lancashire said that the City of Edinburgh Council anticipates that 60 supervision orders for youngsters—which are different from ASBOs—will be required every year. Is that correct, Mr Lancashire?

Ron Lancashire: I was highlighting, as an example, my council, which has estimated the bill's impact on social work supervision requirements, although the estimate may be wrong, right or indifferent. We could extrapolate a figure for the national arena—the committee is entitled to our best estimates, or guesstimates, on the matter. As I understand the matter, ASBOs will be linked to compulsory supervision and to other activities that may go on. Paragraph 266 in the financial memorandum outlines the financial implications. In short, I was trying to put a handle on the implications, not for housing departments and local authorities that seek ASBOs, but for the professional social work side or the Association of Directors of Social Work side. I wanted to attach a costing.

Jeremy Purvis: I presume that COSLA has received a lot of general feedback from local authorities about the bill's financial implications. Have concerns been expressed about those implications?

Margarita Morrison: Concerns have been expressed and we are in the process of gathering information. As I said, we want to give to the committee as much detail as possible, but we want to think things through so that when we raise concerns we are sure that we have examined the impact on the departments that will be involved in the different measures.

Jeremy Purvis: I am conscious of the complicated nature of putting either general or detailed figures into the public domain. Considerable cost might arise early in the process, especially for mediation, but that is not covered in

the bill. Mediation might mean that an ASBO is not required, which would be welcome, but mediation has cost implications.

During the summer, with the Deputy Minister for Communities, I met the Scottish Borders Council's antisocial behaviour team. When you get back to the committee, it would be useful to hear details of the local authorities that have members of staff who are involved full time in such work. That is an on-going cost, and we would be interested in whether it is reflected in the financial assumptions that the Executive has made. Also, Margarita Morrison mentioned a number of case studies. Those would be interesting to us, because they will highlight the complex nature of the matter and help us to challenge the way that the Executive has arrived at its assumptions.

The Convener: I will ask the Scottish Children's Reporter Administration about the new measures' impact on its work load. Every time I speak to people who are involved in the children's reporter service in West Dunbartonshire, they argue that there are limits to what they can do and to the pressure that they will be able to put on volunteers and professional staff if new work is associated with the new measures. Have you quantified the impact that you expect the bill to have on you as a professional service and on the volunteers who are involved in the children's reporter service?

Ed Morrison: We have considered the impact on work load in a bit of detail and feel that the assessment of an increase of 1 per cent in our work load, or £200,000 in our costs, is relatively consistent with the suggested level of uptake of each of the bill's new measures. We examined the brief history of ASBOs to date and the experience in England and Wales, which suggested that the level of uptake for ASBOs for under-16s that is suggested in the financial memorandum, which is 100 per annum, is slightly higher than we would have estimated it to be. The situation was similar with parenting orders, but I think that our estimates were slightly higher than the financial memorandum's estimate of 10 to 50 parenting orders per annum.

On the accountability of the local authority, we feel that the assessment of a cost of £200,000 will be reasonable for the new or additional activities for reporter staff if the levels of uptake in the early years are as is suggested in the financial memorandum. Perhaps Jackie Robeson can comment on the impact on voluntary staff.

Jackie Robeson (Scottish Children's Reporter Administration): This is not so much about the impact on volunteers, but the SCRA will have an increased consultative role, and extra work will be involved in bringing in the new procedures. Parenting orders and the implementation of supervision requirements will

probably cause the most activity and, as Ed Morrison indicated, we have been made aware of the likely uptake and have considered estimates of the impact based on that. I am sure that panel members would be happy to respond on the impact on volunteers.

There are always difficulties with new legislation's coming into force and with whether, given our increased funding, we are able to take these new measures on board along with other new issues that come along, so there will ultimately be a question of capacity—how many measures we can subsume into our increased funding—and we are examining that in detail. The two matters that will have the most impact on work load are parenting orders and the implementation of supervision requirements.

The Convener: I presume that most of the people to whom the additional measures might be applied are already in contact with the various services concerned, so any additional costs will be associated with processing orders rather than additional clients. Is that your understanding of the situation?

Jackie Robeson: Yes. We certainly hope that the hearings system would already be aware of many of the people to whom the new measures would be applied, but new measures are being made available to the hearings and reporters, and they might involve new financial implications for the SCRA.

Ms Alexander: I will ask some questions on the cost to local authorities. Paragraph 263 of the financial memorandum, which considers the number of young people who might be affected, says:

"The mapping suggests there are around 200 intensive programme places currently available across Scotland aimed at the kind of persistent young offenders who might be subject to ASBOs (and/or electronic monitoring). It is estimated that, based on SCRA referral data, there will be around 600 to 700 young people in need of this kind of programme at a time."

So you are saying that 200 places exist and up to 700 may be needed, which implies a deficit of 500 places. Paragraph 265 says:

"the mapping suggests that they cost between £200 and £500 per week, although services which include 24 hour support can cost as much as £1000 per week. Young people usually attend the programmes for around 6 months—although it may be for longer depending on the recommendations of the children's hearing."

I did some back-of-the-envelope calculations of the kind that I had hoped you might have done for us. If we assume that 500 young people may be in need of intensive programme places for between six months and a year each and that a small proportion of them might need 24-hour support, and if we take the mid-point cost of £500 per

week, we come to an overall cost of £12.5 million a year, although I see that the additional moneys that are being allocated are only £9 million a year.

Is the SCRA comfortable with the implication that there will be insufficient money to provide any more 24-hour places? Is that the policy position of the SCRA or of children's panel members? I was under the impression that many children's panel members thought that the deficit of 24-hour care would need to be reviewed, not for all children, but for a small number, and it seems to me that the sums of money that are being allocated simply make that review impossible. Have you done any analysis of those 500 children who might need places and whether we are looking at providing for them at a cost of around £200, which is the bottom of the range, rather than £500 a week or £1,000?

Jackie Robeson: My understanding, as far as the SCRA is concerned, is that it would be appropriate for the children's panel or for COSLA to answer that question, unless the convener—

Ms Alexander: If the figures in the financial memorandum—which are based on your referral data—are right in saying that 700 young people altogether will need intensive programme places, there will be a deficit of 500 places because we currently have only 200 available places. To calculate the likely cost per child is pretty easy. It appears to me that additional funding of £4 million next year and £9 million the following year would not allow for any additional 24-hour support, and I wonder whether the SCRA's position is that there is no need for any more 24-hour provision for young offenders in Scotland. If there is a need for such provision, you might perhaps consider, by the time we meet again, whether the cost estimates are adequate for the range of provision that you think might be appropriate for those 500 children whom your referral data suggest the bill's provisions might affect. Perhaps you could have a look at that and come back to us.

Jackie Robeson: I would certainly like to examine the information and find out where the figure of 600 to 700 young people came from—the Executive provided that figure based on our published information. I would be able to come back to the committee with some kind of clarification on the point.

The Convener: That would be useful.

Dr Murray: The bill will obviously mean on-going costs for the SCRA because of ASBOs and parenting orders, for example, being made all the time. The Executive assumes that there will be

"100 ASBO applications per annum, 10 to 50 parenting order applications and fewer than 10 local authority referrals."

I know that you have said that those are guesstimates, but do you think that they are in the

right ball park, or is it not possible at this stage to tell whether those figures are in any way correct?

Jackie Robeson: It is extremely difficult to tell. I understand that parenting orders will be piloted, so there will be an opportunity to find out how they work in practice along with the other available measures that could affect parenting. At this point, it is simply difficult to assess whether the figures are realistic or not. Although we have examined comparative figures that suggest a higher number, it is difficult to tell at this stage whether the implementation figures will be as low as has been estimated.

Dr Murray: Training will be an issue in the initial stages of the bill's implementation, but that will decline over time. However, I was surprised that the training for the fast-track children's hearings will cost only £100 a head—that is based on pilots, so the figures have come from somewhere—and that the Executive assumes that training for new panel members will cost about £50 a head. Perhaps it is only my ignorance of the cost of training, but I would not have thought that £50 would buy much training. Are those costs appropriate?

Jackie Robeson: There is provision for training for panel members. Although there is a capacity to prioritise issues, it may well be that many of the costs relating fast-track training were subsumed in that general budget. There are training implications.

Dr Murray: On page 37 of the financial memorandum, fairly detailed figures have been allocated to the training costs. As someone who is ignorant of the cost of such things, I think that those figures seemed quite low.

11:00

The Convener: The Scottish Children's Reporter Administration might be able to respond to us in writing on that.

I think that we have probably reached the end of our questioning session. We have asked COSLA to provide us with written information and we will send the organisation a letter in which we highlight some of the detailed issues that we want to raise. We will also send a letter to the SCRA in which we highlight any issues on which we require further information as a result of today's questioning. I thank the witnesses for coming along.

Dr Murray: Before we leave the subject, I would like to say that when I read the policy memorandum, I was struck by the fact that there were significant implications for the police force as well. I wonder whether we should seek information from chief constables about the resources and human resources implications of implementing the bill and whether the estimated costs adequately cover them.

The Convener: We have asked the chief constables for written evidence, so I hope that we will obtain that information.

Fergus Ewing: On that point, I have looked in vain to find an estimate of the costs that the Executive says will apply to the police in implementing all the measures—although I suppose that I could have missed it. There is certainly no statement of that in the summary at the end of the financial memorandum, which shows a figure of £15 million for local authorities. I was astonished at that omission, especially when a very senior police officer in Northern Constabulary advised me of the case of one particular problem family, to deal with which the police had been called out on 120 occasions.

The police do a huge amount of work on every ASBO that is sought, so the fact that zero cost has been estimated for the police is extraordinary. I thought that it would be fair to give notice to the Association of Chief Police Officers in Scotland—as I would wish to do to any witnesses, even those from the Executive—that we would like to explore that issue when its representatives appear before us.

The Convener: It is perfectly reasonable for us to highlight those issues. I am sure that the Executive reads the *Official Report* of our questioning sessions with some interest.

Fergus Ewing: That is a very bold proposition.

The Convener: In this case, I think that it does.

Today, we have received a letter from the chief constable of Dumfries and Galloway Constabulary, who was responding on behalf of ACPOS. He suggests that forces undertake a specific exercise “to determine the time and resultant costs attributable to applying the terms of the Bill.”

If we agree, he offers to progress that suggestion through the appropriate standing committee of ACPOS. I suggest that we agree that course of action and ask for the information to be made available as quickly as possible.

Dr Murray: I assumed that, in the financial memorandum, the financial implications for the police were somehow subsumed in the costs for local authorities, but that is not made explicit. It would be helpful if the Executive stated explicitly what the resource implications for the police will be.

The Convener: If members want, I will write to the Executive along the lines that Elaine Murray and Fergus Ewing have suggested and to the police to indicate that we would like the exercise that they have suggested to be undertaken, because it would be useful to us.

Ms Alexander: I have a third point on that. Since their introduction, there have been 56

ASBOs a year, which amounts to fewer than two ASBOs per local authority. Every member of the Parliament believes that there are more than two bad neighbours per authority in Scotland. It is clear that the remedy of ASBOs has not had full usage, so the policy question for the Executive is, “What steps have you taken in the bill to reduce the costs of enforcement so that the remedy can be used in a way that is commensurate with the scale of the problem?” That is the tragedy of COSLA’s disorganisation—it has missed the opportunity that the pre-legislative process provides to get the bill right and to reduce the costs of enforcement, whether for the police or for local authorities. ASBOs are a remedy that members of the public cannot pursue, so it is incumbent on us to reduce the cost to the public purse of pursuing that remedy.

We should put a little bit of pressure on the Executive and should ask, given the low uptake—over four years, there have been fewer than two ASBOs per local authority per year, although the figure is rising—what steps it has taken to reduce the costs of enforcement in the bill and what more might be done at subsequent stages.

The Convener: I can take that on board in the letter that I write to the Executive.

Jeremy Purvis: Have we also been in touch with registered social landlords?

The Convener: Yes, I think that we have been in touch with RSLs—specifically, the Scottish Federation of Housing Associations, which we have asked for information.

Fergus Ewing: I was interested in the letter that you mentioned, which we have just received. I endorse other members’ comments that we invite the senior police officers’ body to carry out the proposed exercise, but what worries me is the fact that the Executive has not pursued that diligently before now. Surely that is part of what it should have done to complete the task of preparing a financial memorandum.

When I read through the documents, I was struck by how infrequent are the references to the police—I could find only three or four such references. As the police must be consulted before an ASBO is obtained, I find it extraordinary that the Executive has not obtained the information that the Dumfries and Galloway chief constable was suggesting that the police would now seek.

Once again, we find ourselves addressing a task with incomplete and insufficient information. I wonder whether the committee could register its concern with the Executive about the fact that there has not been sufficient information on the police input. Would that be in order?

The Convener: It would be in order, but it might be more in order when we have questioned the Executive. At this point, it is appropriate to highlight to the Executive those issues on which we expected more information to have been made available to us. Once the Executive has appeared before us in three or four weeks' time, we will be able to pursue it on such issues. If we are not satisfied, we can raise the matter in our report on the bill.

Item in Private

11:08

The Convener: The second item on the agenda is to seek the committee's agreement to consider our draft report on the financial memorandum to the Education (Additional Support for Learning) (Scotland) Bill in private at our next meeting. It is clear that there are concerns within the committee about aspects of the financial memorandum. In my view, consideration of those concerns in detail in private would be the appropriate mechanism for arriving at a consistent shared report. Do members agree?

Fergus Ewing: I expect that I will be in a minority—perhaps of one.

John Swinburne: Possibly two.

Fergus Ewing: "Things can only get better", as someone once said.

I am struggling to understand why we need to go into the cloisters to have a secret discussion. If the Holyrood inquiry has revealed anything, it is that there is far too much secrecy. I am completely mystified about why we need to have a secret discussion on the financial memorandum to the Education (Additional Support for Learning) (Scotland) Bill. I would have thought that it would benefit democracy if people could see how we arrived at our conclusions.

That is of particular relevance to the bill in question, because it has been accepted—to a greater extent than with any previous bill—that the sums might be seriously wrong. Strong arguments have been made, not least by the convener, that the Executive's estimate of the numbers of orders that will follow the classification of additional learning needs is seriously skewed. If that is the case—I hope that I am not misrepresenting any member—it is more important than ever that our discussions should be in public. Before the election, civic bodies gave a great deal of support to the idea of considering matters in public.

My opinion has nothing to do with party politics; some people in my party take the opposite view. I am genuinely disappointed that the committee has decided on every occasion that we should go into secret session when we consider a report. I do not see what we all have to hide.

John Swinburne: On a matter of principle, I back that up 100 per cent. If the report is not open to public scrutiny, we should not even be talking about it.

The Convener: When we are considering draft reports on legislation, it is important that we have an opportunity to discuss all the issues on a non-

partisan basis in the hope that we will reach consensus. Collective committee scrutiny of the legislation is crucial. There is clear disagreement between members of the committee.

Kate Maclean: I know that the Procedures Committee was looking at the matter. Has it come to a conclusion yet?

The Convener: I am not aware whether it has reached a conclusion.

Kate Maclean: Perhaps we should find that out as a matter of interest.

The Convener: I know that the Conveners Group was in favour of dealing with such reports in private. However, we must deal with them on a case-by-case basis.

We will put the matter to a vote. The proposal is that we discuss the committee's draft report in private at the next meeting. Are members agreed?

Members: No.

The Convener: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Maclean, Kate (Dundee West) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)

AGAINST

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

It is agreed that we will discuss the committee's draft report in private at the next meeting.

Kate Maclean: That was not held in secret.

The Convener: We now move into private—

Fergus Ewing: Just before we move into private session, I want to make a statement for the *Official Report* about the next item—it is not in any sense about decisions on individuals, as I agree entirely that we should discuss those in private. I register my concern that we are embarking on an inquiry that is not a sensible use of our time. I regret that that is the case and I have tried to put my arguments in previous meetings. We will not be making the correct decision if go on with that piece of work.

The Convener: We move into private session to consider a paper that outlines proposals for commissioning external research for the committee's cross-cutting expenditure review on economic development. No members of the public are present.

Fergus Ewing: They do not realise what they are missing.

11:12

Meeting continued in private until 11:16.

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