

# **FINANCE COMMITTEE**

Tuesday 18 April 2006

Session 2

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# CONTENTS

Tuesday 18 April 2006

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CRIMINAL PROCEEDINGS ETC (REFORM) (SCOTLAND) BILL: FINANCIAL MEMORANDUM .....	3511
ADOPTION AND CHILDREN (SCOTLAND) BILL: FINANCIAL MEMORANDUM .....	3521
ITEM IN PRIVATE.....	3522

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## FINANCE COMMITTEE

### 11<sup>th</sup> Meeting 2006, Session 2

#### CONVENER

\*Des McNulty (Clydebank and Milngavie) (Lab)

#### DEPUTY CONVENER

Mr John Swinney (North Tayside) (SNP)

#### COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

\*Mark Ballard (Lothians) (Green)

\*Derek Brownlee (South of Scotland) (Con)

\*Jim Mather (Highlands and Islands) (SNP)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Dr Elaine Murray (Dumfries) (Lab)

#### COMMITTEE SUBSTITUTES

Robin Harper (Lothians) (Green)

Janis Hughes (Glasgow Rutherglen) (Lab)

Alex Neil (Central Scotland) (SNP)

John Scott (Ayr) (Con)

Iain Smith (North East Fife) (LD)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Wilma Dickson (Scottish Executive Justice Department)

Noel Rehfisch (Scottish Executive Justice Department)

Richard Wilkins (Scottish Executive Justice Department)

#### CLERK TO THE COMMITTEE

Susan Duffy

#### SENIOR ASSISTANT CLERK

Rosalind Wheeler

#### ASSISTANT CLERK

Kristin Mitchell

#### LOCATION

Committee Room 4



# Scottish Parliament

## Finance Committee

*Tuesday 18 April 2006*

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

### **Criminal Proceedings etc (Reform) (Scotland) Bill: Financial Memorandum**

**Des McNulty (Clydebank and Milngavie)**

**(Lab):** Good morning. I welcome the press, the public and our witnesses to the 11<sup>th</sup> meeting in 2006 of the Finance Committee. I remind people, as usual, to switch off all pagers and mobile phones. We have this morning received apologies from Wendy Alexander and John Swinney.

The first item on our agenda is consideration of the financial memorandum to the Criminal Proceedings etc (Reform) (Scotland) Bill. Members will recall that we decided to adopt level 2 scrutiny of the bill, which involves our taking written evidence from bodies on which costs will fall. We will also today take oral evidence from Executive officials.

I welcome to the committee Wilma Dickson, who is head of the Scottish Executive's criminal procedure division, and Noel Rehfisch and Richard Wilkins, who are also from the criminal procedure division. As is customary, I invite Wilma Dickson to make an opening statement, after which we will move to questions.

**Wilma Dickson (Scottish Executive Justice Department):** I will clarify a couple of outstanding points. Members will have read the financial memorandum, which sets out the basic costs and savings that will arise from the bill. Since we published the memorandum, we have sent the committee more detailed information about two issues, both of which arise from the decision to unify the administration of the Scottish court system.

First, we have been able to quantify further the likely pensions liability that the Scottish Court Service will have to meet as it takes responsibility for the courts in each sheriffdom. Court unification will not create that liability; it exists, although unification will mean that the service will need to cover any shortfalls in local authority pension schemes at the point when staff transfer from a local authority to the Scottish Court Service and hence into the principal civil service pension scheme.

As members can see from our submission, we estimate that the total pensions liability throughout Scotland might be around £5 million, which will be spread over several years. We are confident that we have sufficient resources to cover the costs of pensions liability for the transfer of the Lothians and Borders sheriffdom in 2007-08, which is the only one that will fall in that spending review period.

Secondly, members will note that we have now reached agreement with the Convention of Scottish Local Authorities about the level of revenue support grant transfer that should take place as a consequence of court unification. RSG will be reduced in line with the amount that is notionally allocated to district courts in grant-aided expenditure. Grant-aided expenditure and retained fine income do not cover the full costs of running the district courts so—following unification—that level of transfer should leave local authorities with about £1.68 million, which previously they had to spend on administering the district courts.

The changes will alter the total costs of the bill and are shown in the summary table at paragraph 384 of the financial memorandum. The recurring costs of the bill are now likely to be £3.76 million rather than £3.37 million. Those costs should be set against estimated annual savings of £5.75 million, although the majority of the savings will be time-releasing savings rather than cash-releasing savings.

I have provided a brief summary of the new information that we sent to the committee and we have copies of the financial memorandum with the changes, which might be helpful to members. We are happy to answer questions.

**The Convener:** Thank you. The committee agreed that Dr Elaine Murray and Frank McAveety would take the lead on the bill, so I invite one of them to start us off with questions.

**Dr Elaine Murray (Dumfries) (Lab):** The evidence that we received from the Executive suggests that the financial memorandum is fairly accurate as far as anybody can tell, so that has given us problems in determining what our questions will be because nothing really jumps out as being controversial. Wilma Dickson mentioned cash-releasing and time-releasing savings—she said that the majority will be time-releasing savings. Will the cash-releasing savings—£0.2 million for legal aid and £1.68 million for local authorities—feature in the revised technical notes for the efficient government initiative?

**Richard Wilkins (Scottish Executive Justice Department):** The £0.2 million for legal aid will feature in the revised technical notes, which should be published soon.

The COSLA savings are more difficult because we are not badging them as efficiency savings for the purposes of the efficient government review: they will not come as a consequence of doing things more cheaply. Money is being left with COSLA that COSLA would normally have spent on running the district courts, but COSLA will spend £1.68 million less than it would previously have done on running the district courts. To compensate for that, the Executive will have to spend more money from central Government resources. We are talking about a transfer of spending responsibilities rather than about an efficiency saving. As the financial memorandum has to show the additional cost to central Government resources, we felt that it also had to show the savings for local government, which is why a saving is marked in the memorandum even though it is not really an efficiency saving, but will come about as a result of the transfer of spending responsibility.

The £0.2 million legal aid savings will be in the efficient government technical notes, but the local authority savings will not.

**Dr Murray:** Will the local authorities retain the money that they do not have to spend?

**Richard Wilkins:** Yes—they will be allowed to use the money for other purposes.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** Why did you make a shift in the debate? The initial financial memorandum explained how we would calculate the resources that local government would need to have or transfer, so why have you shifted to the GAE figure? Is it a more appropriate model than you first thought?

**Noel Rehfisch (Scottish Executive Justice Department):** That is a fair question. The initial financial memorandum made it clear that discussions with COSLA were still at an early stage when the bill was introduced. We have used the time between then and now to advance discussions with COSLA. COSLA came back to us with the submission that transfer at the GAE level would be more equitable for local authorities for a couple of reasons. The first is that, as COSLA was right to say, GAE represents the Executive's assessment of what ought to be spent to provide an adequate district court service.

Secondly—and more important—COSLA made the point that an 80 per cent transfer might unfairly penalise local authorities that have invested significantly in district courts in recent years, because areas that had not invested as significantly would have a lower level of transfer. We felt that that would be a double punishment, because the Scottish Court Service and the Scottish Administration will incur fewer costs when the service is transferred in areas where the

district court estate has been invested in and is in good condition. For that reason, we took COSLA's view that to move back to an objective assessment of the funding allocation for the district court service would be fairer to local authorities across the board.

**Mr McAveety:** I am reasonably familiar with the district court system—on a quasi-judicial basis, I hasten to add. You mentioned COSLA's legitimate concern in respect of some local authorities' having invested in district courts while others have not. Are ways of incentivising, encouraging or driving forward improvements that are probably required in local authority areas that have not invested in district court provision built into the model?

**Wilma Dickson:** We are taking over district court administration, so what matters is not so much forward incentivisation of local authorities—which is not a long-term issue—as recognising and not penalising local authorities that have invested. The 80:20 split that we originally proposed to COSLA was based on objective figures that we obtained through detailed joint work with COSLA on how much is actually spent on district courts. However, the problem is that some authorities have spent considerably more than the GAE line, whereas the spending of others was perhaps just on the GAE line. It is fairer to incentivise retrospectively the local authorities that have spent more by leaving them more money.

**Mr McAveety:** COSLA's other key submission was on alternatives to prosecution—it said that resources should be provided for criminal justice social work services to deal with planned measures, such as work orders. If the pilot programme is a success—as we hope it will be—one question will be about how we will ensure that the resources local authorities should have continue to be provided so that they need not face the dilemma over district court support, which they might have faced in the past when they had to make difficult decisions about allocating budgets and such support was not seen as a front-line priority when compared with many other demands on our local authorities.

**Wilma Dickson:** We will pilot the proposals, and the financial memorandum makes it clear that we will examine their impact, costs and effectiveness. Roll-out will be an issue for the spending review 2007. I can give no absolute guarantees about SR 2007 but, broadly speaking, the measure falls within the ambit of 100 per cent funded criminal justice social work services. Apart from the fact that one can make no absolute guarantees about a spending review that has not begun, the understanding is that because money will be channelled to local authorities for the pilot, that is a reasonable basis of assumption for the future.

**Mr McAveety:** What is the timescale for discussions with ministers about the next spending round? When will they kick in? Will retaining the level of resource be a key priority for your department?

**Wilma Dickson:** To an extent, that will depend on how effectively the pilots operate.

**Richard Wilkins:** The answer will depend a little on the pilots. As for the timescale for SR 2007, it is obvious that some prioritisation will depend on the parliamentary election results, so final decisions will not be made until summer 2007.

10:15

**Dr Murray:** In its submission, the Association of Chief Police Officers in Scotland flagged up a little concern about the new provisions' possible impact on staff training. ACPOS feels that it needs more detail, particularly in relation to the new prosecution reports for bail proceedings, and it mentions that the onus will be on police officers to find out offenders' personal circumstances in order to ensure that they are given appropriate fines. Do you hope to gain from the pilots more information on whether the police will incur additional costs?

**Wilma Dickson:** It is fair to say that several different issues are raised. ACPOS's submission mentions the standard prosecution report 2, which is the new form of the Scottish police report. ACPOS and the Crown Office and Procurator Fiscal Service are working together to redesign the standard prosecution report. How police report differently will clearly have major training implications across the board, of which the bail implications will be a small element. However, that is a little bit down the track.

In the short term, as ACPOS's submission says, detailed Lord Advocate's guidance will be issued on how information that is relevant to bail should be reported. One issue that has arisen is the need for the information that might be relevant to a bail decision to be clear somewhere in the police report in a readily accessible form for everyone to see and pull out. That might involve a little more work for the police, but we are working closely with the police on that. I do not think that an inordinate additional burden will be created, given that the police train constantly for new initiatives and legislation. The police have a structured training programme into which the new provision can be built. Much depends on the detail of the Lord Advocate's guidance on how fiscals and the police should operate.

**Dr Murray:** So, you feel that the new measure could be assimilated into the regular training programme.

**Wilma Dickson:** There is no doubt about that. The financial memorandum stresses that the new provision to impose conditions on undertakings will be phased in after discussion with the police and when resources become available. I understand that the police are quite keen to have that power, which will give them useful additional flexibilities.

**Mr McAveety:** I would like clarity on another point that ACPOS raised. It said that it expects fines enforcement officers to produce efficiency savings more than cost savings. Do you agree?

**Richard Wilkins:** Yes. Possible savings from fines enforcement officers are considered to be time-releasing savings rather than cash-releasing savings. We need to do more work, which the Scottish Court Service is leading, with the police on the scope for savings in the Scottish Court Service and in legal aid. We think that any savings for the police would allow them to concentrate resources on other tasks, rather than free up cash.

**Noel Rehfisch:** Fines enforcement officers will provide scope for additional effort on the part of the police on some matters and, if the officers' role and function are successful, that will provide scope to remove fairly large amounts of work from the police. Burdens and savings will push and pull in different directions, so it is important for us to do detailed work with the police. A working group has been established to consider fines enforcement in detail—as Richard Wilkins said, it is led by the Scottish Court Service—and is engaging with ACPOS and with police groups to ensure that we have a handle on the matter, that we take no one's costs or savings for granted and that we have an agreed basis.

**Jim Mather (Highlands and Islands) (SNP):** You told us that there are a number of stakeholders involved. Is there a continuing process to develop a culture of perpetual improvement so that financial performance improves over time?

**Wilma Dickson:** Behind the bill, we have an extensive programme of culture change and structural change. For example, we have folk working on end-to-end modelling of how the summary justice system should work. That work is partly about the flexibilities that the bill will introduce, but a lot of it is about developing mutual understanding and doing things earlier and faster. We accept that what is in the bill is only part of what is needed to improve summary justice. The procedural stuff that is at the core of the bill will give us useful additional flexibilities, but to make things work better and more tightly the partners need to work together more effectively, the legal aid incentives need to be right and so on. Behind the scenes, we have a separate programme in which all the stakeholders are working on that.

**Jim Mather:** What measures are in place to let you know how you are doing over time?

**Wilma Dickson:** We are working up a detailed evaluation monitoring programme for each aspect of the bill. In relation to the provisions on courts unification, the Scottish Court Service already has a well-developed model. We are taking a balanced scorecard approach with some quantitative measures—the speed of handling cases is a simple example—and some qualitative measures, such as whether victims and witnesses perceive that they are getting better treatment from the courts. The programme has not yet been finalised. Obviously, we are still at a reasonably early stage and the bill has not been passed, but the bill's progress is running in parallel.

**Jim Mather:** Do you have any financial measures in train to enable you to monitor performance over time?

**Wilma Dickson:** I suppose that the answer is the same as that which I gave in response to the question on High Court reform. In a sense, efficiency is a proxy for cash because many of the savings will not be cash-releasing savings; for example, if the summary courts' workload is to increase, we will be trying to achieve more with the same funding. Our focus is not on cash-releasing savings but on doing more with the same funding. I suppose that that comes to something broadly similar.

**Jim Mather:** When and where are statistics published on how much you have done with £X of funding?

**Wilma Dickson:** Do you mean at present or in the future?

**Jim Mather:** I mean at present and in the future.

**Wilma Dickson:** There is a basic publication on the costs of various processes in the criminal justice system. It is called—

**Richard Wilkins:** Section 306.

**Wilma Dickson:** It is known as the section 306 annual report. However, we want to consider whether we will need to collect any more statistics to assess the impact of the bill. We are also working on having much more ready access to real-time information on how long cases take to go through the courts, which is an important proxy measure for cash. We have a large information technology development programme, which will help to show us where things are going slowly, where things are going quickly and what progress is being made.

**Jim Mather:** Do you have a procedure in place for people to suggest ideas that might improve or streamline things or speed them up, so that ideas can be reviewed and, if they are valid, implemented?

**Wilma Dickson:** We have a programme that involves all the major stakeholders, including the police and the Scottish Legal Aid Board. We also consult widely with, for example, the Law Society of Scotland and organisations that represent victims and witnesses. We do not have a postbox system or an open-access website where people can click and post their comments, but we are happy to receive ideas. The process that we have involves all the stakeholders and we consult all the key interest groups.

**The Convener:** Do you wish to identify any areas of particular uncertainty in the financial memorandum?

**Richard Wilkins:** I do not know whether there are particular uncertain areas to identify. In our submission, we highlight the pensions liability of the Scottish Court Service. The figures that we give are the best estimate—obviously, liability will fluctuate with the health of the local government pension scheme funds as court unification approaches in different sheriffdoms. I suppose that that qualifies as an area of uncertainty.

The committee will also note that the savings in one or two areas are difficult to pin down. For example, we do not have particularly good data on the costs of processing cases in district courts, so it is difficult to put precise figures on the savings that might arise from increased use of alternatives to prosecution. Those are the two areas of uncertainty that leap out—one is about possible savings that we cannot quantify very well and the other is about potential costs that we can estimate but which might fluctuate.

**Noel Rehfisch:** Richard Wilkins is right to say that accurate information on the costs of district court cases is not available at the moment. It is implicit in the reform package that we will move towards a position in which we have information on those costs. By bringing district courts under the control of the Scottish Court Service, we will improve the management information that is available on case processing and, for the first time, we will know the costs of processing court cases at every level in the criminal justice system. That will be useful for comparative analysis and it will enable us to identify pinch points and other problem areas. Richard Wilkins's point is a fair one, but we hope to tackle the matter.

**Mark Ballard (Lothians) (Green):** In its submission, COSLA mentions the financial implications of the review of the safety camera partnerships. Is there anything in the bill that relates to the safety camera partnerships?

**Noel Rehfisch:** The short answer is that there is not. I think COSLA mentioned the matter because it knows that there has been a change to the structure and organisation of the safety camera



work in England and Wales. COSLA might have mentioned its concern in its submission on the Criminal Proceedings etc (Reform) (Scotland) Bill because, at the moment, the penalties tend to be collected by district court staff. The way district court staff are funded for that work is quite specific. Local authorities are allowed to recycle the income from penalties and they and other members of the partnership can spend the money on administration of the partnership and on investment in various road safety initiatives. My understanding is that there will be a need to consider the operation of the safety camera partnerships in Scotland as a result of the changes in England and Wales, but no changes to the system are made in the bill.

**The Convener:** I suppose that local authorities might make the point that they have had an implied entitlement to a proportion of the safety camera income because of their involvement in the district court set-up in the past. When that is removed, they might think that the money that they have previously received for road improvements or safety improvements will be swallowed up by the Executive. Have you done a financial assessment of that income and how it might be used?

10:30

**Noel Rehfisch:** We have not carried out a financial assessment because the bill does not propose changes to the operation of the safety camera partnership system. I will go out on a limb to an extent and I will make two points, one of which is factual and one of which is hypothetical. The fact is that local authorities are entitled to recover the costs of collecting the fines at cost. They submit invoices for the costs of collecting the fines to the lead authority in a safety camera partnership and that sum is reimbursed. Were, for the sake of argument, collection of the penalties to transfer to the Scottish Court Service, the only money that local authorities would no longer be entitled to would be the cost price of collecting the penalties. There would be a transfer of the function along with a transfer of the exact cost of the function.

**Mark Ballard:** You mentioned that in addition to the pure cost, the local authorities have also reckoned on the costs for road safety campaigns and so on being included as part of the legitimate expenditure that could be charged against income from safety cameras. COSLA is concerned about the implications that changes to the system will have for that.

**Noel Rehfisch:** I appreciate that concern. The most I can say is that the announcement that was made in England and Wales to review and reconsider the way in which the partnerships are structured, organised and funded has given rise to

a pause for reconsideration in Scotland. Given that that process is at an early stage, I am not in a position to say what ministers may or may not decide to do with the safety camera partnerships in Scotland in years to come.

**The Convener:** We could, separate from our consideration of the financial memorandum, write to ministers to seek clarification on how they might wish to progress the matter.

Members of the committee have no further questions. Our view is that this is a particularly good financial memorandum and that the way in which it has been approached is a good model, which we might like to use as a model for best practice for other bill teams in the future, if that is agreeable to you.

**Wilma Dickson:** Well done, Richard Wilkins.

**The Convener:** Thank you.

## **Adoption and Children (Scotland) Bill: Financial Memorandum**

10:32

**The Convener:** The second item on our agenda is to decide what level of scrutiny to apply to the Adoption and Children (Scotland) Bill. As members can see from the paper from the clerk, it is suggested that we adopt level 2 scrutiny, which will involve our taking written evidence from COSLA, the Scottish Legal Aid Board, the Fostering Network and adoption agencies, as well as our taking oral evidence from the Executive. Do members agree to that approach?

**Members** *indicated agreement.*

## **Item in Private**

10:33

**The Convener:** The final item on the agenda is to consider whether to discuss in private at our next meeting from which organisations and individuals we want to take oral evidence in connection with our accountability inquiry. I propose that we hold that discussion in private. Do members agree?

**Members** *indicated agreement.*

**The Convener:** I thank members for their attendance.

*Meeting closed at 10:33.*

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