

FINANCE COMMITTEE

Tuesday 10 March 2009

Session 3

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FINANCE COMMITTEE

† 7th Meeting 2009, Session 3

CONVENER

*Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

*Jackie Baillie (Dumbarton) (Lab)

COMMITTEE MEMBERS

*Derek Brownlee (South of Scotland) (Con)

*Linda Fabiani (Central Scotland) (SNP)

*Joe FitzPatrick (Dundee West) (SNP)

*James Kelly (Glasgow Rutherglen) (Lab)

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

*David Whitton (Strathkelvin and Bearsden) (Lab)

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)

Kenneth Gibson (Cunninghame North) (SNP)

Lewis Macdonald (Aberdeen Central) (Lab)

Liam McArthur (Orkney) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Stephen Sadler (Scottish Government Constitution, Law and Courts Directorate)

Andrew Sinclair (Scottish Government Constitution, Law and Courts Directorate)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Lewis McNaughton

ASSISTANT CLERK

Allan Campbell

LOCATION

Committee Room 1

† 6th Meeting 2009, Session 3—held in private.

Scottish Parliament

Finance Committee

Tuesday 10 March 2009

[THE CONVENER *opened the meeting at 14:02*]

Scottish Local Government (Elections) Bill: Financial Memorandum

The Convener (Andrew Welsh): Good afternoon and welcome to the Finance Committee's seventh meeting in 2009 in the third session of the Scottish Parliament. I ask everyone to turn off mobile phones and pagers.

Agenda item 1 is oral evidence on the financial memorandum to the Scottish Local Government (Elections) Bill. The committee agreed to adopt level 2 scrutiny of the memorandum, which means that, as well as seeking written evidence, we have agreed to take oral evidence from the Scottish Government bill team. We invited local authorities and the Convention of Scottish Local Authorities to submit written evidence; five responses were received and have been included in the committee papers.

I welcome from the Scottish Government Stephen Sadler, head of the elections and local governance team; and Andrew Sinclair, senior policy officer in the elections and local governance team. I invite Mr Sadler to make some opening remarks before we move to questions.

Stephen Sadler (Scottish Government Constitution, Law and Courts Directorate): Among the key recommendations made in the independent review of the 2007 elections was that local government elections should not be held on the same day as elections to the Parliament. The Scottish Government consulted on whether the elections should be decoupled and, if so, how such a separation might be achieved. The responses that we received overwhelmingly supported the separation of elections and the Government's preferred option of moving local government elections to the mid-point in the term of the Scottish Parliament. The bill seeks to give effect to that recommendation by extending to five years the next two local government terms of office. Afterwards, terms of office will revert to four years.

The bill also seeks to give ministers the power to make regulations to allow voting information to be analysed in greater detail. At present, once the result has been declared, the returning officer in local government elections is required to publish

certain information at ward level, including the number of votes cast and transferred at various stages.

The introduction of the single transferable vote system and the use of e-counting have led to data being produced that were not previously available, and parties can use that information to analyse the way in which their total vote has been compiled. By moving things down to polling station level, the proposed new regulations will increase not only the level of data available but transparency of the process and confidence in the electoral system and the method of counting. However, the secrecy of the ballot will remain the underlying principle, and provisions in the bill ensure that ministers cannot introduce arrangements that might reveal whether an individual elector has voted.

The financial memorandum estimates the additional costs that will fall on local authorities as a result of the bill and we are grateful to the electoral management board for Scotland, which includes representation from the professional bodies involved in election administration and COSLA, for its help in this matter. We have used the costs incurred by local authorities in 2007 to estimate the cost of decoupling.

In that respect, we outline two options. In the first, we assume that most if not all of the costs of the 2007 combined elections will be incurred by local authorities when the next local government elections are held. Those costs include fees, staff training, renting and adapting polling stations, transport and election stationery. On that basis, the cost of holding separate local government elections will not differ greatly from the 2007 costs, and the memorandum puts the additional costs at around £5 million.

The second option assumes that the costs of decoupling will be lower through a combination of employing fewer polling clerks and using fewer polling stations. On that basis, the additional costs might be reduced to around £4.5 million. If the bill is passed, the next local government elections will be held in 2012, which means that the additional costs to local authorities will be incurred in 2012-13.

Any additional costs associated with the publication of voting information will be incorporated into the e-counting contract, which will need to be let before the 2012 local government elections, and will be marginal to the contract's overall costs. The costs of any future e-counting system will fall in the next spending review period and the funding of the system will be discussed by the Government and COSLA in the context of the next spending review.

The Convener: Thank you. I point out that, although James Kelly and I have been designated

to lead on this bill, other members are welcome to intervene. All they need to do is catch my eye.

James Kelly (Glasgow Rutherglen) (Lab): First, I want to drill down into some of the financial obligations that the bill will place on local authorities. In setting out in the financial memorandum the two options that you have just highlighted, you have netted off a sum of £1.9 million that you say was an allocation that local authorities have already received to cover elections. Are you saying that, in the current spending review period, £1.9 million has been allocated to local authority budgets for elections?

Stephen Sadler: That is the assumption on which we have based these figures. If we decided not to decouple the elections and simply repeated the 2007 election process the next time around, the costs would be as set out in paragraph 22 of the memorandum. The memorandum also explains the different contributions that were made by local authorities and the Scotland Office with regard to fees and charges.

James Kelly: I understand all that. However, that £1.9 million was made available to local authority budgets for the 2007 elections, which were held in the previous spending review period. I am not clear whether that £1.9 million remains in the budget during the current spending review period, when there will be European and United Kingdom Parliament elections but not elections for the Scottish Parliament or local government.

Stephen Sadler: That is the information that we have. We went to COSLA and the electoral administrators for these figures, and they are satisfied with them.

James Kelly: The information that you have suggests that £1.9 million has been allocated in this spending review period.

Stephen Sadler: Yes.

James Kelly: Depending on which option applies, local authorities will incur additional costs of either £4.5 million or £5 million come 2012. What discussions have you had with local authorities on the allocation of funding to meet those costs? Is there an understanding that additional resources will be made available to local authorities to fund these requirements?

Stephen Sadler: The discussions on the future allocation of money have not yet taken place, but in the memorandum we acknowledge the additional pressures that will arise. Those pressures will be taken into account at the right time in the discussions on the next spending review and future budgets. The discussions that we have had so far have been with local authorities, returning officers and other people in the electoral profession to ensure that we have

identified the correct additional costs. Future discussions about allocation will come in the context of the next spending review.

James Kelly: The figures are based on 2007 prices, but the elections are not to be held until 2012, which is five years down the line. Would it not have been prudent to reflect in your forecasting the costs at 2012 levels?

Stephen Sadler: In thinking about the inflation rate between now and 2012, I speak as a non-economist. We tried to get an agreed basis for the figures at 2007 prices. I am sure that, when the time comes to have the discussions that I mentioned, both sides in the negotiations will have figures for the inflation rate and will take that into account.

James Kelly: Bearing in mind that there will be a five-year gap between the two sets of elections, do you accept that inflation will occur during that time and that the figures that are provided in the financial memorandum will be materially different from the actual costs in 2012?

Stephen Sadler: Yes—I imagine that the appropriate calculation will have to be done to uplift the figures. As I said, we tried to identify the components of the total figure. Any uplift that is required can be taken into account at the correct time.

James Kelly: You calculate that the additional cost will be £156,000 per local authority area. Has any thought been given to how money will be allocated to individual authorities, bearing in mind the big differences between them in size and geography?

Stephen Sadler: Not at this stage. We included that figure, which is an average, as an illustration. The size of the electorate in the various local authorities varies considerably, so that will need to be taken into consideration. The figure is there for illustrative purposes.

James Kelly: The voter turnout in 2012 could be lower, because only one set of elections is being held and, traditionally, turnout in local authority elections is lower than that in parliamentary elections. Was that factor taken into account in working out the costs?

Stephen Sadler: No, not in itself. When the time comes, we hope to run an effective information campaign to increase voter turnout. The costs are based on the potential electorate and vote and on the actual cost in 2007 of matters such as hiring halls and transporting ballot papers. We have not knocked down or lifted up the figures based on a guess of what the turnout might be in 2012.

James Kelly: If the turnout is lower—say about 35 per cent compared with 50 per cent—will the costs decrease?

Stephen Sadler: I do not think so, because the bulk of the costs will arise from fees for information officers and counting clerks, staff training, the renting of polling stations and the transporting of ballot boxes. Those costs are likely to be constant.

David Whitton (Strathkelvin and Bearsden) (Lab): On that point, if you do not expect turnout to be down, why do you say that you will need 50 per cent fewer polling clerks and 15 per cent fewer polling stations?

Stephen Sadler: We took advice on that from returning officers. The reason for those reductions is not to do with reduced turnout, but rather because it will be simpler to manage polling stations when only one election is being run. As I understand it, at the 2007 election, most returning officers in polling stations hired two polling clerks—one to supervise the Scottish Parliament election and one to supervise the local government election. The issue is more to do with administration and management. That is the information that we received from returning officers.

14:15

David Whitton: I find that astonishing. I did not think that one clerk at the polling station was dealing with the Scottish Parliament election and another was dealing with the local government election. I can think of several polling stations in my constituency in which, if there is only one polling clerk, and you have reduced the number of polling stations, there will be queues out the door, and chaos.

Stephen Sadler: Our information has come from the people who ran and managed the 2007 elections. The information that we have produced is at the lower end of the scale. If returning officers decide not to reduce the numbers of polling clerks or polling booths—

David Whitton: Costs will go up.

Stephen Sadler: The costs will be at the higher end of the scale, yes.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I want to ask about the method of counting. The financial memorandum says that the method is not specified in the bill, and that is why the costs of the method do not come into the financial memorandum. However, the method is relevant to issues of decoupling.

Paragraph 28 of the financial memorandum says:

“the Scottish Government contribution to the cost of e-counting in 2007 was approximately £4.8m.”

If that was just the Scottish Government contribution, it was not the total cost, or did the Scottish Government pay the whole cost?

Stephen Sadler: No, it did not pay the whole cost.

Jeremy Purvis: What was the total cost?

Andrew Sinclair (Scottish Government Constitution, Law and Courts Directorate): The cost was just short of £8 million. The Scottish Government paid for the development stage, which came to £1.25 million, and then for half of the final costs, with the Scotland Office paying the other half.

Jeremy Purvis: If e-counting is used in the next election, the cost will have to be added to your estimate of £5 million for the running of the election.

Stephen Sadler: The cost of e-counting will depend on the result of the tendering process for an e-counting system that we will initiate before the election. However, you are right to say that the cost will be additional.

Jeremy Purvis: Evidence that we have heard from councils suggests that we are in a bit of a no-man's land. It is clear that e-counting will be used for local government elections; although it is understandable that the law will not specify the counting method, it is pretty inconceivable that e-counting will not be used for STV elections. Councils are therefore concerned that they may have to find £13 million to cover the cost. That is a substantial amount of money, and the Government has yet to give a commitment that it will provide any additional funds.

Stephen Sadler: As you say, it is highly likely that e-counting will be used, although we would have to ensure that the system was adequate and had been tested thoroughly. We have recently started discussions with COSLA and the electoral management board for Scotland about the early stages of the development of the specification for the system. In the financial memorandum, we say that costs and funding will have to be discussed by the Scottish Government and COSLA in future. There are no figures in the memorandum at the moment.

Jeremy Purvis: Electronic counting will not be used for the 2011 Scottish Parliament elections, so it might be that the local government elections in the following year will cost three times as much.

Stephen Sadler: I am sorry, but I am not sure that I follow that.

Jeremy Purvis: I think that you said that the UK Government has said that electronic counting will not be used for the next Scottish Parliament elections.

Stephen Sadler: That is correct.

Jeremy Purvis: Therefore, because it will include the cost of e-counting, the overall cost of the 2012 local government elections could be three times as much as that of the Scottish Parliament elections.

Stephen Sadler: We do not yet have a figure for the cost of e-counting. However, whatever it is, it will have to be added to the cost of decoupling.

Jeremy Purvis: Is it correct that ministers have not yet made a policy decision that the cost of e-counting will be covered by the Scottish Government? Falkirk Council and North Lanarkshire Council expressed concerns about that.

Stephen Sadler: No definite decision has yet been taken on e-counting. That is correct.

The Convener: You said that it is highly likely that e-counting will be used. When will the decision be taken and what is the timetable?

Stephen Sadler: We have approximately three and a half years before the next local government elections—subject, of course, to the passing of the decoupling bill. We have started discussions with COSLA and the electoral management board for Scotland on a timetable and are looking to put in place an e-counting contract a year and a half or two years before any election takes place to allow time for thorough testing and training. The timetable is between now and 18 months before the 2012 elections.

Joe FitzPatrick (Dundee West) (SNP): My question follows on from the point that Jeremy Purvis made on e-counting and the decision whether it will be used in the next local government elections. Given the UK Government's decision that e-counting will not be used in the next Scottish Parliament elections, surely the whole cost of e-counting will fall on the next council elections whether or not we decouple elections. The cost of e-counting is irrelevant to decoupling, as the cost will exist whether we do not decouple and have the council elections in 2011 or decouple and have them in 2012.

Stephen Sadler: That is correct. Whatever happens, the single transferable vote system will be used in the local government elections. We will have to meet the cost in any case.

The Convener: Some of my questions have been put, but I have one on decoupling. The second cost option in the financial memorandum suggests that savings in 2012 could be derived from reducing the number of polling clerks by 50 per cent and the number of polling stations by 15 per cent from the numbers for the 2007 elections. What is the rationale behind those estimates?

Stephen Sadler: Polling clerks are employed by local authority returning officers to supervise elections. If only one election is to be held on the day, the returning officers' advice is that the process will be simpler from a management point of view, so fewer polling clerks will be needed.

The Convener: Halving the number of polling clerks and reducing the number of polling stations will result in savings, but surely many practical problems still need to be overcome. Halving the number of polling clerks might save £330,000, but there is also the danger that it could lead to disputes. I am thinking of the need for corroboration and whether one polling clerk could handle emergencies. The proposal raises practical problems.

Stephen Sadler: Yes. I am sorry if I may have misled the committee in my previous answer. I did not mean to suggest that a polling station would be manned by one person, simply that a station could be managed by one person.

Obviously, nearer the time, we will need to look at the concerns that the committee has raised today, and others that we have received. We will do that with the local authorities and returning officers. They will need to decide whether the election can be run properly with fewer staff. If they decide that that cannot happen, the lower estimate would not come to fruition. We would return to the higher estimate, under which the same number of staff would be used as in previous elections.

The Convener: There will be no single-manned polling stations.

Stephen Sadler: No.

The Convener: I would hope not.

Reducing the number of polling stations would be a problem, particularly in rural areas, where people could be deterred from voting. The proposal makes the assumption that transportation is practical and available. Has consideration been made of transport needs?

Andrew Sinclair: This is a question of the definition of "polling station". In this instance, a polling station is an area within a polling place. The proposal refers not to schools where a polling place is set up but to areas within polling places. For example, where two or three rooms have been used at a polling place, the number might be reduced to two, rather than the number of polling places being reduced.

The Convener: Thank you for that clarification.

James Kelly: My question is on the provision of electoral data at polling station level. Has any assessment been done of the costs that are involved?

Stephen Sadler: I do not have the figures to hand. However, the information is available under the e-counting system that was put in place for the last election. The figures have been aggregated to ward level. The way in which votes are counted means that they can easily be counted on the basis of individual polling stations, so the information is available. We will specify to the successful e-counting contractor how the information should be disseminated after the count. It is not that we will be collecting new information—it is simply a question of how that information will be presented. Rather than putting together numbers of polling stations to give an area or a ward figure, that information will be available at the level of individual polling stations.

James Kelly: Therefore, those costs are not reflected in the financial memorandum but will be incorporated in the discussions on the e-counting contract.

Stephen Sadler: Yes, that is right. We will not be asking a successful contractor to collect different information—we will simply be adding a specification on how the information is explained after the election result has been announced.

James Kelly: Aberdeen City Council expressed concern over whether those provisions will still apply if there is a manual count. I was involved in a council by-election in my constituency about this time last year in which the equipment was faulty. The problem was resolved, but if that had not been possible, we would have had to proceed with a manual count. Will the bill dictate that the provision of such data will still be made if there is a manual count?

Andrew Sinclair: That is the intention. As a by-election involves about 2,000 or 3,000 votes, it would be possible to present that information. It would be more of a management issue on the night, with regard to how the votes are counted. I was at the by-election in your constituency last year when the system did not quite work as planned. The idea is that e-counting is necessary for a full-scale election—it would not be possible to do that manually. Your question does not really equate to that situation but, as you said, for by-elections it would definitely be possible to present the information if the count was done manually.

James Kelly: Are there cost implications involved in presenting that information if there has been a manual count?

Andrew Sinclair: I would not have thought so. The returning officer would set up different procedural systems on the night to count the votes in a slightly different way, so it would be a question of how the staff are organised and where the different piles of ballot papers are placed. It is a procedural rather than a cost issue.

James Kelly: I accept that the cost implications might not be vast, but it would surely take longer, so there must be some cost implications?

Andrew Sinclair: Again, that could be the case.

The Convener: Although the costs of the e-counting contract for 2012 do not arise as a direct result of the bill, and are not dealt with in the financial memorandum, we have received written evidence from Dundee City Council that refers to the cost of purchasing “special ballot boxes” for the 2007 elections, which were paid for under the e-counting contract. The council suggests that

“If we have to purchase boxes”

for the 2012 elections

“and they do not form part of the e count contract then the additional costs (just under £20 per box) needs to be factored in. With about 3000 polling stations Scotland wide this equates to approx £60,000.”

Can you respond to that?

Stephen Sadler: We have seen the council's response, and we agree with the figures and the rationale. We will take into account the need to provide ballot boxes for e-counting. As I understand it, the way in which the scanners were set up in the last election meant that ballot papers could not be folded. The traditional ballot boxes could not be used, so new ballot boxes had to be provided, which is something that we would put in the e-counting contract specifications for the next set of elections.

Linda Fabiani (Central Scotland) (SNP): I note that there have been five responses to the committee's consultation. Can you remember how many responses there were to the Government's consultation, and what the general level of support was for the legislation?

I noticed that the five respondents have said in response to question 2 that the financial memorandum reflects the comments that they made during the consultation. In response to question 5, the local authorities quite naturally said that more money would be needed from the Government to fund the decoupling of the elections. Could you confirm my understanding that that is an entirely separate issue from what is in the financial memorandum that the committee must consider?

14:30

Stephen Sadler: Yes. The additional costs have been acknowledged in the financial memorandum and the process. The evidence that the financial memorandum gives can be used in future discussions at the appropriate time, as has been said.

From memory, there were around 32 or 33 responses in the decoupling consultation. All but one were in favour of the concept of decoupling elections.

The Convener: There are no further questions. Do you wish to make a final statement?

Stephen Sadler: No, thank you. That is fine.

The Convener: I thank Mr Sadler and Mr Sinclair for attending the meeting and their contributions. The committee will produce a report for the lead committee.

Decision on Taking Business in Private

14:31

The Convener: Item 2 is to decide whether to consider in private at a future meeting a draft report on the financial memorandum to the Scottish Local Government (Elections) Bill. Do members agree to do so?

Members *indicated agreement.*

Criminal Justice and Licensing (Scotland) Bill: Financial Memorandum

14:31

The Convener: Item 3 is to consider our approach to the scrutiny of the financial memorandum to the Criminal Justice and Licensing (Scotland) Bill. Due to the time when the bill was introduced, the clerk's paper was marked as "to follow" on the agenda and was issued on Friday. Members will see from the paper that level 3 scrutiny has been proposed. That means that we would take oral evidence from affected bodies and then from the Scottish Government's bill team. We would also seek written evidence from relevant parties. Do members agree that we should conduct level 3 scrutiny?

Jackie Baillie (Dumbarton) (Lab): Yes, but I would like to make an observation. The bill is called the Criminal Justice and Licensing (Scotland) Bill, but I understand that it will not include a whole set of licensing provisions, which will be taken forward under secondary legislation. Substantial financial commitments may or may not be attached to those provisions, but it would be remiss if they were not considered by the committee. I am not aware that a financial memorandum should be considered with secondary legislation. There is a scrutiny issue. Can we go back to the Government and tell it that its chosen method of including some licensing provisions in secondary legislation is unhelpful and lacks the transparency that the committee would want in scrutinising all the financial implications for the consolidated fund?

The Convener: Do you wish to press that? We can certainly write to the Government, but doing so would delay a decision on level 3 scrutiny.

Jackie Baillie: I am not suggesting that we should have a delay. I think that we should carry out level 3 scrutiny. The question is whether we can scrutinise everything that lies at the heart of the proposals.

Joe FitzPatrick: We should go ahead with level 3 scrutiny. Perhaps our letter should be more to request an explanation of why it was decided to use such a route. We will have the opportunity to examine that decision at some stage.

The Convener: I have been informed that the committee can consider the consequences of financial regulations if it wishes to do so.

Jackie Baillie: We should resolve to do that as well as to inquire why the approach that has been taken has been taken.

The Convener: Does Derek Brownlee wish to press a point?

Derek Brownlee (South of Scotland) (Con): I am less convinced that the issue of why such an approach has been taken is one for the Finance Committee. The Justice Committee will probably ask about that. Provided that we have access to the same level of information on the measures that will not be included in the bill as we would have had if they had been included in it, we will at least be allowed to do the financial scrutiny. We should simply try to get a confirmation from the Government that it will provide us with the same level of detail to allow us to probe the proposals to the same extent as if they had been in the primary legislation. That would allow us to do our part. Obviously, the Justice Committee will take a view on the appropriateness of the policy decisions.

The Convener: On the basis of what has just been said, can we proceed with level 3 scrutiny? We will get a response from the Government.

Members indicated agreement.

The Convener: Do members agree that we should seek written evidence from all local authorities?

Members indicated agreement.

The Convener: Do members agree that we should invite two local authorities to give oral evidence?

Members indicated agreement.

The Convener: Do members want to suggest which local authorities should give oral evidence?

Linda Fabiani: We should wait and see what evidence comes in and what the issues are.

The Convener: We would normally try to balance urban and rural authorities. Do members wish to see what evidence comes in and then take a decision?

Linda Fabiani: We do not want to take oral evidence from somebody who has not put a lot of thought into their written evidence. Things might come out of the written evidence that we want to explore more.

The Convener: Okay. That approach will not delay us.

Linda Fabiani: We should take that approach as long as it does not delay us.

Jeremy Purvis: I agree with that.

Linda Fabiani: And the heavens opened.

Jeremy Purvis: I am sorry—I was talking about Jackie Baillie's point. No—I agree with Linda Fabiani. However, certain council functions will be relevant to certain aspects of the bill. Some

functions will be within licensing boards and some will probably be within community justice authorities. Therefore, we should invite a couple of community justice authorities as well.

Joe FitzPatrick: We do not have them in Dundee.

Jeremy Purvis: There are community justice authorities everywhere. Dundee City Council will be part of one.

The Convener: I will consider your suggestion and its practicalities. Do members agree that we should await the evidence and then decide which authorities to invite?

Members *indicated agreement.*

The Convener: Do members wish to suggest any other bodies from which to seek written evidence?

Members: No.

The Convener: As previously agreed, we will now move into private session to discuss our review of the budget process.

14:36

Meeting continued in private until 15:05.

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