

# **FINANCE COMMITTEE**

Tuesday 2 June 2009

Session 3

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## **FINANCE COMMITTEE**

### **15<sup>th</sup> 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:**

Phil Alcock (Marine Scotland)

Dr Gordon Barclay (Historic Scotland)

Wendy Geary (Marine Scotland)

David Palmer (Marine Scotland)

Linda Rosborough (Marine Scotland)

#### **CLERK TO THE COMMITTEE**

James Johnston

#### **SENIOR ASSISTANT CLERK**

Mark Brough

#### **ASSISTANT CLERK**

Allan Campbell

#### **LOCATION**

Committee Room 4



# Scottish Parliament

## Finance Committee

*Tuesday 2 June 2009*

[THE DEPUTY CONVENER *opened the meeting at 14:00*]

### Marine (Scotland) Bill: Financial Memorandum

**The Deputy Convener (Jackie Baillie):** Welcome to the 15<sup>th</sup> meeting of the Finance Committee in 2009. Agenda item 1 is evidence on the financial memorandum on the Marine (Scotland) Bill. Members have copies of all the written submissions. I welcome the following Scottish Government officials: Phil Alcock, policy officer in the marine biodiversity policy and sustainable management branch; Wendy Geary, marine strategy branch; David Palmer, branch head of marine strategy; and Linda Rosborough, deputy director of marine planning and policy. I welcome also Dr Gordon Barclay, who is head of policy at Historic Scotland.

Does anyone wish to make a brief opening statement?

**Linda Rosborough (Marine Scotland):** Is that a suggestion that you would prefer us not to?

**The Deputy Convener:** No. Brevity is a wonderful thing, but I am happy to allow for an opening statement.

**Linda Rosborough:** I shall be brief. The Marine (Scotland) Bill introduces a new system of marine planning, nature conservation and streamlined licensing in the marine environment. It introduces a new way of managing the seas, and many of its measures are trailblazing in terms of what they will achieve and how they will operate. There are many unknowns in bringing forward these measures.

The bill provides for a connection with inshore and offshore powers. That is why its provisions are closely linked to provisions in an equivalent bill in the United Kingdom Parliament, which is in the middle of its parliamentary stages.

The Marine (Scotland) Bill is very much a framework bill. There are big differences throughout Scotland in how communities relate to the sea, for example Shetland is very different from the Solway Firth, which is why the bill provides for flexibility in its implementation. We have tried to identify the cost of delivering the measures; the how and the who are the subject of more detailed consideration. We are trying to

identify how much it will cost to do the tasks, and to separate that from who will do them.

**The Deputy Convener:** Thank you. That was a model of brevity. I remind committee members that Linda Fabiani and Jeremy Purvis are leading on the bill, although that does not prevent other members from asking questions.

**Linda Fabiani (Central Scotland) (SNP):** I notice that the costings in the financial memorandum are based on submissions from two consultants, but because you felt that they overestimated some of the costs, you used lower estimates. How did you arrive at those estimates? Was it through interdepartmental discussion, scrutiny and challenge? Why are you confident that you have submitted a better figure than the consultants?

**Linda Rosborough:** I will start off and David Palmer will follow on.

The key area where that happened was in local planning, which is associated with the most substantial costs. Local planning is a new challenge to everyone—it has not been done before. In fact, given the marine planning pilots that we have initiated, Scotland is probably taking the lead. We therefore have some experience of trying to implement a marine plan, albeit not a statutory one, which has led us to recognise what we do and do not know and how long it takes to deliver such things. Whereas, for example, the consultants recommended that we spend £1 million on data collection for each plan at the outset, we took the view that, given the constraints regarding trained personnel and scientists in the area, we would not be in a position to invest that amount in a short space of time. The consultants were correct in identifying a huge knowledge gap and the fact that we need to invest in data collection, but it is more practicable for us to do that over two phases of each plan, starting off with a quarter of the data collection in phase one and then, on reviewing the plan, adding in the extra data collection.

**David Palmer (Marine Scotland):** In general, where the consultants gave us a range of costs, we opted for the lowest figure. That is, broadly, where we got our numbers from. There is no sense in which we are moving away from what the consultants said to us.

As Linda Rosborough has highlighted, table 3 in the financial memorandum shows a lot of the big costs. You will see that the spread for plan preparation ranges from about £700,000 to about £1.4 million. We chose the figure of £700,000 on the basis of the other cost estimates from the consultants.

The consultants made assumptions about the cost of £300,000 for a public inquiry, the cost of

£200,000 for a strategic environmental assessment and the data issue that Linda Rosborough just talked about. However, it is not clear to us that every area will need a public inquiry; indeed, it is not clear to us that every public inquiry will cost anywhere in the region of £300,000. Such inquiries are expensive, but they will not be necessary everywhere. Similarly, it is not clear to us that every SEA will cost £200,000—although, undoubtedly, every local plan will need an SEA.

As a result, on the basis that all the other figures in table 3 are high, we opted for the lowest estimate for the cost of the plan preparation. Throughout the memorandum, we used the fact that the consultants' estimates for the rest of the individual elements were high to justify our opting for the lowest estimate in the range that they gave.

**Linda Fabiani:** Did you take others' views on that into account—for example, the views of local authorities?

**David Palmer:** As Linda Rosborough said, we have some background in this area, given that plans have already been prepared for the Scottish sustainable marine environment initiative projects in the Clyde, Mull and Shetland. Those have given us a reasonable grasp of the cost of plan preparation—albeit that the requirement is currently not statutory, which makes it slightly different. That evidence drove us to the lower end of the range. The figures that Argyll and Bute Council submitted for spending on the SSMEI projects in Mull and the Clyde are in the range of £180,000 to £360,000.

**Linda Rosborough:** We consulted local authorities on the draft regulatory impact assessment, although a few of them have said that they were not consulted. We are a bit puzzled about that, as we did consult local authorities.

**Linda Fabiani:** I want to ask about the third tier of planning, beyond Scotland. You have not costed anything for that. Is that because you think that it will not cost anything or because it is difficult to quantify?

**Linda Rosborough:** It is because it is a product of the UK Marine and Coastal Access Bill, which provides for the UK marine policy statement at the level above Scotland. That was considered in the UK's equivalent document, which went before the UK Parliament rather than the Scottish Parliament. In the legislative consent memorandum on that bill, we covered the extension of certain of its provisions so that they are within the remit of the Scottish Parliament. We covered costings, in broad terms, and estimated an overall cost to the Scottish Government of about £1 million a year from executively devolving provisions to the Scottish ministers.

**Linda Fabiani:** Let me make sure that I have got this correct. The costs are not in this financial memorandum because they are not within the remit of the Scottish Government, but, according to the legislative consent memorandum, there will be a cost to the Scottish Government from implementing the UK legislation. Is that correct?

**Linda Rosborough:** Yes, and the broad figure that was in the legislative consent memorandum that was considered earlier this year was £1 million.

**Linda Fabiani:** Therefore the overall cost will be what is in our financial memorandum, plus the on-cost related to other things that we have agreed to.

**Linda Rosborough:** The financial memorandum concerns the costs of implementing the proposals in the bill. Obviously, the UK Government has provided for the cost of implementing the Westminster bill. It is for the UK Government to determine the costs arising from its bill and it is for our Parliament to consider those costs in the context of the legislative consent memorandum.

**Linda Fabiani:** Yes, but, at the end of the day, the money will come out of the Scottish Government's budget.

**Linda Rosborough:** Indeed, yes.

**Linda Fabiani:** The other thing that I want to ask you about probably also involves a technicality. I notice that table F in the financial memorandum is a summary of the previous tables, but it does not include tables 4 and 5, which respectively relate to the cost of developing a nature conservation strategy, based on the Irish model, and the site protection measures. Why were those tables not included in the overall costs?

**David Palmer:** Tables 4 and 5 feed into table C, which is included in the summary table.

**Linda Fabiani:** That is fine.

I am interested in the marine historic environment—I think that Dr Barclay will be able to answer my question. How much information do we have about, for example, wrecks on the seabed that are within our jurisdiction? How have the costings been arrived at? What interactions will there be between different departments in that regard?

**Dr Gordon Barclay (Historic Scotland):** The provisions in the bill are quite groundbreaking in the sense that they will bring about a far greater degree of integration between nature conservation and historic environment conservation than exists anywhere else in the United Kingdom.

As you might be aware, the quality of data on the seabed, and on wrecks in particular, is poor. There are significant numbers of known wrecks, but we have little information about their precise location. The figures for data collection are provided in the memorandum as part of an attempt to improve the situation and bring the data up to a basic level of adequacy for the purposes of marine planning.

The figures mostly involve making data that have been collected for other purposes fit for use by the historic environment sector. We have agreed with colleagues in Marine Scotland that data will be collected for many purposes, so the needs of various sectors will be addressed whenever data are collected. However, we need staff who can turn those data into material that can be used effectively in the marine planning and designation systems. The memorandum allows for the provision of staff and some limited targeted collection of data specifically for the historic environment, so that the data set can be brought up to basic adequacy.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I would like to return to a question that Linda Fabiani asked, as I do not think that I picked up the answer correctly. Why was table 4, which deals with the indicative cost of developing the nature conservation strategy for a typical regional sea—based on information relating to the Irish Sea—not represented in table F, which is the summary table?

**David Palmer:** The costs in tables 4 and 5 feed into the costs in table C. For instance, in table 4, the £485,000 cost of developing a nature conservation strategy is split into £200,000 and £285,000 in the figures for 2009-10 and 2010-11 in table C. Table C then feeds into table F, which is the summary table. In a similar way, figures in table 5 feed in through the running costs and identification costs in table C.

14:15

**Jeremy Purvis:** Mrs Rosborough, you said you were puzzled by some councils' views on the consultation. Highland Council said that there was no consultation on the financial implications. Were councils provided with, for example, a draft of what the Government was proposing for the financial memorandum?

**Linda Rosborough:** Councils were provided with a draft of the regulatory impact assessment, which is what the financial memorandum was based on. Wendy Geary will explain the details of the consultation arrangements.

**Wendy Geary (Marine Scotland):** The partial RIA was issued to the Convention of Scottish Local Authorities and to local authorities on 17

December 2008, with any comments to be returned by the end of January. The partial RIA included costs and benefits, and views were sought on those. We received 17 responses on the partial regulatory impact assessment, for example from Aberdeenshire Council, City of Edinburgh Council, Orkney Islands Council and Western Isles Council.

**Jeremy Purvis:** Highland Council said that no consultation took place on the financial implications, but you are saying that that is not the case.

**Wendy Geary:** The council was issued with the partial RIA.

**Jeremy Purvis:** The committee will consider this issue, but I am not sure whether consultation on a regulatory impact assessment is the same as consultation on the financial memorandum.

**Wendy Geary:** The financial memorandum was based on the regulatory impact assessment.

**Jeremy Purvis:** I am not sure that councils were aware of what was expected of them. You will have seen that Highland Council said that, although there was sufficient time to contribute to the consultation process, the consultation did not set out what was expected of partners. Is that not the case either?

**Linda Rosborough:** I think that that takes us back to what I said in my opening remarks. Complexity arises because we are dealing with areas as different as the Solway and Shetland. In Shetland, the local authority has a long tradition of management of the seas, and there is an expectation that the local authority will continue in that. However, in other areas, such as the Forth or the Solway, there is not the same connectedness between the local authority and the marine environment. More than 20 local authorities have a piece of coast, but the extent to which they are currently involved in managing marine aspects varies hugely.

The consultation proposed that we would provide for flexibility and that secondary legislation would set in place the Scottish marine regions. The bill provides for two alternatives for marine regions: either public authorities will lead planning or unincorporated partnerships will provide a sort of group means of leading planning. The two alternatives have been provided to cater for the differences between areas.

Another complexity is that marine planning is needed where the conflicts between different sectors are greatest. The Minch and the Pentland Firth are not easily linked with one particular local authority, and different authorities have different influences. In such cases, the appropriate lead is not clear. As the proposals in the bill become

firmer, we will have to work with local agencies to determine the best relationship for each part of Scotland. That process is under way. Rightly, local authorities are considering what their role might be. They are part of the dialogue at the moment.

**Jeremy Purvis:** The previous two financial memorandums that the committee considered had to be updated after the bills were introduced. Can you give us any comfort that this memorandum will be the last to be presented, or will it have to be updated in any way?

**David Palmer:** I am struggling to think of an area that would have to be updated. The information is the best that we have available.

**Jeremy Purvis:** On marine planning, you might have seen Argyll and Bute Council's submission, which indicates that it will need four full-time professionals to administer a regional marine plan. However, the financial memorandum does not seem to agree, saying in paragraph 241 that the estimated costs are for two members of staff per region. Did you take on board Argyll and Bute's comments in that respect?

**David Palmer:** First, I should point out that the existing coastal partnerships tend to operate with two officers. Although it is not an exact fit with the creation of a statutory plan, those officers carry out certain functions, including consulting and involving stakeholders, that are essential to the planning process. That provides some background information about the appropriate number of staff for each region. I also believe that SSMEs are run with two officers—is that right, Phil?

**Phil Alcock (Marine Scotland):** Yes.

**David Palmer:** So there is evidence that suggests that the two-officer approach is probably appropriate.

On the advice of the consultants we have, as table 3 shows, allowed £100,000 for stakeholder involvement and another £100,000 for plan management. That is roughly equivalent to four staff, but we think that that probably overestimates what will be needed to deliver the bill's provisions.

The other wrinkle in all of this is the central—or, if you like, the national—planning team. If plans are to be reviewed every five years, that team, which ought to have a fairly high level of planning experience and an extensive background in planning policy, will have a significant amount of downtime, and the hope is that those people at the centre will assist the regions in developing their plans. For all those reasons, we feel it reasonable to assume that two officers per region will be needed.

**Linda Rosborough:** I think that what has happened is that we have unpacked the costs differently to Argyll and Bute Council, which is

looking only at the figure of four staff. We are providing for running costs of £100,000 per partnership and implementation costs of £100,000 per region once the plan is in place. We have also said that there will be a one-off plan preparation cost which, in the first phase, will be £1.4 million over two years. That all adds up to substantially more than the four staff that Argyll and Bute is saying that it needs; it is just that, as I say, we have unpacked it differently.

I also point out that, given the way in which the total cost of marine planning grows, it will be a huge challenge to get that amount of resource trained and delivering over that timescale. To take all that any further would be quite challenging in a small country; indeed, building up that function already presents a huge challenge.

**Jeremy Purvis:** The financial memorandum suggests that the bill might put restrictions on currently unregulated activities such as algal harvesting. What other unregulated industry activities might be restricted, at further cost?

**David Palmer:** Algal harvesting is the one example that we had. It is not necessarily a hot issue, but it had some profile when we were undertaking the study. Since that time, other examples have been mentioned, including cockle harvesting and jet-skis. Those are, in a sense, glints in people's eyes. There is no requirement for licensing or whatever of those activities.

**Linda Rosborough:** We have no plans for any of those activities. It is just that people stand up in public meetings and suggest that such activities could be regulated in future.

**Jeremy Purvis:** I turn to marine protection and its monitoring costs. In table A.1 of the financial memorandum, I think that you indicate that a review of running costs of the national plan will take place every five years. I am interested in the line, "Total Cost of National Plan". Where is the indication for that spike up to £802,000 from the typical £312,000 for running costs? There may be a cross reference, but I have not located it.

**David Palmer:** I am sorry, to what are you referring?

**Jeremy Purvis:** I am referring to table A.1 on page 43 and the line, "Total Cost of National Plan", which gives a figure of £802,000 for 2016-17. I assume that that is the five-year review.

**David Palmer:** Yes—that is the £490,000.

**Jeremy Purvis:** Where is that with regard to the increased estimate for the five-year review? Is it elsewhere in the document? It may be, but I do not know where it is.

**David Palmer:** I am sorry, but what are you trying to relate it to?



**Jeremy Purvis:** I cannot find the cost of the review in 2016-17.

**David Palmer:** I am sorry. That is in paragraph 238.

**Jeremy Purvis:** But is that the review for local partners or the national plan?

**David Palmer:** That is simply for the national plan.

**Jeremy Purvis:** Right. And the five-year cost for the local plans?

**David Palmer:** That kicks in in 2017-18. That is the £1,630,000 figure.

**Jeremy Purvis:** Right. I still do not know where else in the document it is for the national plan.

**David Palmer:** The description is in paragraph 238 on page 40.

**Linda Rosborough:** The figure of £490,000 is made up of the non-staff costs of the initial plan, plus the costs of the strategic environmental assessment.

**Jeremy Purvis:** Okay. Thank you.

I turn to the issue of where the money will come from. We know that most councils are indicating that they have no resource at the moment for overall costs. One has said that it expected the matter to be funded by way of a resource transfer, as it will be a new burden on local authorities. Have councils heard that this will be done by way of resource transfer? Has the Scottish Government confirmed that it will meet all the costs?

**Linda Rosborough:** The first question is how far local authorities are the lead for these functions. As I mentioned before, in some parts of Scotland that may well be the case but, for other parts of the country, the bill proposes putting in place a partnership, with delegated functions. In that case, we expect that staff will either be seconded from Marine Scotland to carry out the functions for the partnership or employed by one of the parties to the partnership. That is equivalent to the sort of arrangements that we have in place for coastal partnerships.

We have had discussions with COSLA. In the most recent spending review, resources were increased to cover the forthcoming expansion of marine management activity, so the envelope within which we are working in terms of the baseline increase for marine management is broadly the same as is provided for in the financial memorandum.

Against that background, we have been able to say to COSLA that where a function has been identified that will be given to the local authority,

the resource that has been identified will be transferred to the authority. That is our expectation, but of course the caveat is that we will be in the next spending review period by the time we implement the measures, so we cannot be entirely clear about what the position will be.

14:30

**Jeremy Purvis:** Can you come back to us and tell us what the baseline is? I do not think that we have that information, and without it it is hard to say with confidence that costs will be met within the envelope that is currently agreed.

**Linda Rosborough:** We will give you that information.

**David Whitton (Strathkelvin and Bearsden) (Lab):** It says in our paper that according to the financial memorandum the costs that will arise as a direct result of the bill's provisions are expected to be "comparatively significant" and will rise to almost £7 million per annum from 2016-17 onwards. There are hefty price tags to be seen as we work our way through the bill. What is your estimate of the cost in 2010-11?

**Linda Rosborough:** The current estimate is £1.88 million, on the basis that the bill will only just have been enacted.

**David Whitton:** As you said, we are moving towards the next spending review period. It is expected that the seal management system will cost £400,000 in 2010-11 and will rise. Is that a low, middling or high estimate?

**Linda Rosborough:** The measures on seals that will be implemented throughout Scotland have been piloted in the Moray Firth, so we know relatively well how much it will cost us to introduce the system. There will be an expansion of the current approach into other sectors, such as fish farming, but we know broadly what territory we are in.

Table E shows that changes to seals legislation are expected to have modest long-term costs. That is because we expect to operate the system through groups of fish farmers or netmen, as we have done in the Moray Firth, which will enable administration costs to be kept low.

We identified a substantial cost in years 1 and 2, to cover the research that is needed to ensure that we have methods that work for the new sectors and throughout Scotland, and to cover implementation and monitoring costs, to ensure that the new system is embedded into people's routines. Once the system is embedded, enforcement will become much more straightforward, because we will be working with groups—that is our experience.

**David Whitton:** Do years 1 and 2 cover 2010-11?

**Linda Rosborough:** Yes.

**David Whitton:** There are to be 10 inshore marine protected areas, which will be introduced gradually from 2010-11. How many will be introduced in 2010-11?

**David Palmer:** I think that five marine protected areas will be introduced in 2010-11.

**David Whitton:** At a cost of £220,000 per area?

**David Palmer:** Yes.

**James Kelly (Glasgow Rutherglen) (Lab):** You said that the results of a partial regulatory impact assessment had been issued as part of the consultation. What is the difference between a partial regulatory impact assessment and a full one and why was a full assessment not carried out?

**Wendy Geary:** The partial RIA set out the costs and benefits that were known at the time. It then went out to consultation. The results of the consultation were fed to the consultants, who produced the final report. The consultants produced the final RIA for the bill.

**James Kelly:** So, it was termed a partial RIA because only a certain amount of information was available at that time.

**Wendy Geary:** Yes. Further information came from the respondents to the consultation.

**James Kelly:** Would it be correct to say that only limited financial information was available for the partial RIA and that it was built up as further information became available to the consultants?

**David Palmer:** By "partial" we mean just that it was the initial draft on which we consulted. I do not think that any significant new financial information was received through the consultation. I do not think that any of the numbers changed in any way as a result of the consultation.

**James Kelly:** So, the financial information that was issued to the councils as part of the consultation was not radically different from the final proposals. Three councils have commented on the lack of financial information in the consultation, but you are saying that those comments are not accurate.

**David Palmer:** I would not say that those comments are not accurate. That is obviously what those councils feel. We issued the partial RIA for consultation, four councils commented on it and there was no significant increase in the level of financial information in the RIA as a result of the consultation. It is for councils to reach their own views on what is adequate.

**James Kelly:** You are confident that the financial information in the partial RIA and then the full RIA was complete enough to allow participants in the consultation and further on in the process to reach a view.

**David Palmer:** I would not say that it was complete; the information is never complete. However, it was as complete as we could get it.

**James Kelly:** It was as complete as the information that you had available to you at that time.

**David Palmer:** Yes.

**Jeremy Purvis:** I was grateful for the clarification with regard to the proposed review of the national marine plan in 2016-17 and 2017-18. Can you explain a similar spike in the monitoring of marine protected areas in those two years, which is shown in table C? The figure will be zero until 2016-17 and then £750,000 in each of the two following years before falling to £150,000 in the next two years. Can you similarly provide a cross-reference for that?

**David Palmer:** I am happy to write with confirmation. MPAs will be monitored on a five-yearly cycle, and the monitoring cost of £150,000 per MPA is set out in table 5. After five years, the first five MPAs will be monitored—that is what the £750,000 is for. The next year, the next five MPAs will be monitored. The on-going £150,000 is then for the monitoring of one MPA a year after that.

**Jeremy Purvis:** So, there is no requirement for monitoring immediately after the MPAs have been established. Is that correct?

**David Palmer:** The integrity of a site will be monitored every five years. Every five years, some scientific research will be carried out to ensure that the site is still in the condition that it was in when it was established.

**Jeremy Purvis:** So, the figure of £750,000 in table C is based on the assumption that five sites will be established. However, that could vary depending on the implementation of the policy.

**David Palmer:** The assumption is that five sites will be created in—I think—2010-11. The cost of monitoring those sites five years later, at £150,000 each, will be £750,000.

**Jeremy Purvis:** Okay. Thank you.

**The Deputy Convener:** We have no further questions. I thank the witnesses very much for attending and look forward to receiving the additional written information that we have been promised by Linda Rosborough, which I am sure will be forthcoming.

## **Decision on Taking Business in Private**

14:40

**The Deputy Convener:** Item 2 is to decide whether to consider a draft report on the financial memorandum to the Marine (Scotland) Bill in private at a future meeting. Are members agreed?

**Members** *indicated agreement.*

**The Deputy Convener:** The observant among you will have noticed that I should have pointed out at the beginning of the meeting that Andrew Welsh sent his apologies because he is unwell. I am sure that we all wish him a speedy recovery.

14:40

*Meeting continued in private until 15:43.*



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