



**FINANCE COMMITTEE**

**AGENDA**

**7th Meeting, 2008 (Session 3)**

**Tuesday 11 March 2008**

The Committee will meet at 2.00 pm in Committee Room 1.

1. **Decisions on taking business in private:** The Committee will consider whether to take items 4 and 5 in private, and decide whether to consider its approach to a review of the parliamentary budget process in private at its next meeting.
2. **Judiciary and Courts (Scotland) Bill:** The Committee will consider written evidence received on the Financial Memorandum.
3. **Local Authority Single Status Agreement:** The Committee will consider correspondence received from UNISON on the Local Authority Single Status Agreement.
4. **Inquiry into the methods of funding capital investment projects:** The Committee will consider an evidence programme and potential witnesses for the inquiry.
5. **Public Sector Pay:** The Committee will consider its approach to consideration of public sector pay.

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The papers for this meeting are as follows—

**Agenda item 2**

Note by the clerk

[FI/S3/08/7/1](#)

**Agenda item 3**

Note by the clerk

[FI/S3/08/7/2](#)

**Agenda item 4**

PRIVATE PAPER

[FI/S3/08/7/3 \(P\)](#)

**Agenda item 5**

PRIVATE PAPER

[FI/S3/08/7/4 \(P\)](#)

**Forthcoming meetings—**

18 March 2008, Committee Room 2; and  
25 March 2008, Committee Room 6.

## Finance Committee

**7th Meeting, 2008 (Session 3), Tuesday 11 March 2008**

### Scrutiny of Financial Memorandum – Judiciary and Courts (Scotland) Bill

#### Written Evidence Received

#### Background

1. At its meeting on 5 February 2008, the Committee agreed to adopt level one scrutiny in relation to the Financial Memorandum (FM) of the Judiciary and Courts (Scotland) Bill (“the Bill”).
2. In doing so, the Committee agreed to seek written evidence from those organisations financially affected by the Bill, namely the Scottish Court Service (SCS), the Lord President, and the Judicial Appointments Board for Scotland, using the Committee’s standard questionnaire. All three organisations have now submitted written evidence. The submissions are attached as an annexe to this paper.

#### Costs

3. The table below (taken from the FM) sets out the estimated financial impact of the Bill. All figures are given in £000s.

Provision	2008-09 one-off Capital cost	2008-09 and 2009 -10 Recurrent Costs <sup>1</sup>	Net additional recurrent costs
<b>Judicial Appointments Board</b>		502 (440)	62
<b>Judicial Complaints Reviewer</b>		24	24
<b>Scottish Court Service</b>		55	55
<b>Lord President</b>			
Judicial cover		160	160
Support staff		250 (243)	7
Support services		25	25
Accommodation	200	24	24
<b>TOTAL</b>	<b>200</b>	<b>1040(683)</b>	<b>357</b>

<sup>1</sup> Costs already incurred in the Justice baseline as shown in brackets

## **Submissions**

4. The key points from the submissions are outlined below.

### *Lord President's Private Office*

5. The bulk of the additional recurring costs and the only capital cost outlined in the FM fall on the Lord President. In relation to consultation, the submission indicates that the Lord President had the opportunity to comment on a draft of the FM, and that his points have been taken on board. Overall, the Lord President appears to be content with the costs set out in the FM, although the point is made (as it is in the FM) that some costs are difficult to quantify at this stage.

### *Judicial Appointments Board for Scotland*

6. The FM estimates that an additional cost of £62,000 per annum will fall on the Board. The submission from the Board states that, although it was involved in the consultation, it has yet to have a detailed discussion with the Scottish Government on the financial implications of the Bill.

### *Scottish Court Service*

7. The submission indicates that the SCS worked closely with the Scottish Government in developing the FM and that the financial implications specified are as accurate as possible at this stage in the Bill's process. The submission goes on to state that any variation will be "within a relatively narrow margin (in the low tens or hundreds of thousands of pounds at most)".

## **Options for Committee consideration**

8. Under level one scrutiny, the Committee seeks written evidence from affected organisations, and then forwards any submissions received to the lead committee. The written submissions do not appear to raise any unexpected issues. The Committee is therefore invited to consider whether the scrutiny undertaken is sufficient.

9. If the Committee considers that the submissions indicate the need for further scrutiny, it is invited to agree to take oral evidence from Scottish Government officials. A report can then be prepared in time to feed in to the lead committee's Stage 1 report consideration.

Allan Campbell  
Assistant Clerk to the Committee

## SUBMISSIONS

### SUBMISSION FROM THE JUDICIAL APPOINTMENTS BOARD FOR SCOTLAND

#### Consultation

1. *Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?*

The Board took part in consultation on the Bill but did not see any financial assumptions as part of that consultation.

An opinion had however been expressed to Government officials on behalf of the Board about the financial costs likely to be associated with the Bill as it affected the operations of the Board. In a letter to the then Scottish Executive Justice Department on 14 February 2007, the Board's then Policy Director commented in the context of budget proposals for the current non-statutory Board:

"[Board members have ...] commented that the budget in 2006-2007 would not make an appropriate baseline for future activity, particularly if a new statutory Board is created. They have expressed concern that the financial implications of a new statutory Board should be fully thought through. I would be very happy to be consulted about the content of the relevant financial memorandum at the appropriate time [...]" Those concerns were repeated in a letter dated 14 August.

This detailed consultation to establish a budget based upon the operational needs of the new Statutory Board has not yet taken place. It is therefore our understanding that the figures contained in the Memorandum are indicative at this stage and will require to be further developed and refined in discussion with the Board to ensure that they take full account of the identifiable additional cost heads including:

- The current estimate of 1.5 additional/revised staff posts;
- The assessed accommodation needs/arrangements for the Statutory Board;
- Ongoing annual research costs relating to the diversity expectations of the Bill;
- Provision for Legal Advice services for the Board;
- Resourcing the Board's involvement and ongoing work in relation to the Lay Justice recruitment;
- Resourcing the development of appropriate and relevant recruitment procedures by the statutory Board; and
- The training and development of Board members including inter-Board consultation and communication.

These discussions should also enable the identification of any possible offsetting cost savings which can be achieved without impacting upon the independent status of the Board.

2. *Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?*

As noted above the Board has yet to be involved in detailed discussion on the financial assumptions made, in the Financial Memorandum.

3. *Did you have sufficient time to contribute to the consultation exercise?*

The Scottish Executive published a consultation exercise in February 2007 and we responded within the timescale given. The consultation did not include any details of financial projections.

### **Costs**

4. *If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum?*

The Board has yet to be involved in the necessary discussions with adequately detailed financial projections to allow it to accurately assess and define the relevant financial implications.

We would stress that the Board does seek to operate upon a cost effective basis, has confidence that this would be supported by inter-Board comparison, and would fully support the Government objective of scrutinising operating costs and maximising the benefits of shared services wherever this can be achieved commensurate with the special significance of our independent status. In the context of staff and office location it is vital that the Board's standing is protected by operating from premises independent of Government

5. *Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?*

The only costs will be to the statutory Board which fall to be met by the Scottish Ministers.

6. *Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?*

We would welcome a longer term financial planning horizon once the initial budget has been determined.

### **Wider Issues**

7. *If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

No comment

8. *Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?*

Resource issues would clearly have to be addressed at the time should there be any future developments or guidance resulting in additional finance needs.

Chris Orman  
Secretary to the Board

## SUBMISSION FROM THE LORD PRESIDENT'S PRIVATE OFFICE

### **Consultation**

The Lord President was afforded an opportunity to comment on a draft of the financial memorandum for the Bill. His points appear to have been taken on board.

### **Costs**

The Lord President is not in a position to comment as to whether the savings which are said to arise as a result of the transfer of certain functions from the Courts Directorate to his own office are stated correctly. The information necessary to assess that matter is held only by the Scottish Government. So far as the costs arising for his office are concerned, he agrees with the assessment of the memorandum, at paragraph 208, that "precise figures are difficult to reach at this stage" in relation to the costs of judicial cover. He would also consider that to apply in relation to the added costs of providing the resources necessary for him to carry out his new functions as Head of the Scottish Judiciary.

In that context, it is to be assumed from the absence of any suggestion otherwise in the memorandum that the resources devoted to judicial training and welfare under the new arrangements are to be the same as those devoted to those matters under the existing arrangements. Paragraph 197 of the memorandum suggests that the placing of clear responsibility for those matters ought to make a positive contribution to a reduction in the level of complaints against the judiciary. It may well be that the placing of a clear responsibility in relation to such matters requires greater material provision to be made in relation to them than has hitherto the case, particularly if there is to be some expectation of the achievement of a measurable outcome such as a reduction in the level of complaints. It is of course the case that in some respects any necessary provision might be found without there being a need for the Scottish Court Service to seek greater resources from the Scottish Ministers, but the matter is possibly sufficiently uncertain that such a step cannot be ruled out.

Secondly, it may be that in respect of certain of the new functions conferred on the Lord President – such as those conferred by sections 26 and 27 (judicial complaints) and 47 to 54 (powers in relation to sheriff courts and sheriffs) – the Lord President will require additional legal support. It is understood that the estimate of staff costs at paragraph 210 of the memorandum is intended to include any such costs, but in the Lord President's view it remains to be seen whether that estimate is sufficient in this regard.

### **Wider issues**

The Lord President has nothing to add.

Michael Anderson  
Legal Secretary to the Lord President

### **SUBMISSION FROM THE SCOTTISH COURT SERVICE**

*Question one: Did you take part in the consultation exercise for the bill, if applicable, and if so did you comment on the financial assumptions made?*

The Scottish Court Service worked closely with the Scottish Government in developing the Financial Memorandum and agrees that the financial assumptions are reasonable, in so far as the costs can be predicted at this stage of implementation planning.

*Question two: Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?*

Yes, for the reasons above.

*Question three: Did you have sufficient time to contribute to the consultation exercise?*

Yes, as described above we have been fully involved in the development of the Financial Memorandum.

*Question four: If the bill has any financial implications for your organisation do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.*

We believe that the financial implications have been reflected as accurately as is possible at this stage. We are, however, engaged now in detailed implementation planning for the governance changes affecting the Scottish Court Service and for the Scottish Court Service's role in supporting the Lord President's expanded functions. As this implementation planning proceeds, e.g. as decisions are made about how best to organise the management structures of the Scottish Court Service to support the new corporate body and the Lord President, cost assumptions may change (either upwards or

downwards). We are content, however, that the figures in the Financial Memorandum represent the best estimate at the current stage of implementation planning, and that any variation will be within a relatively narrow margin (in the tens or low hundreds of thousands of pounds at most).

*Question five: Are you content that your organisation can meet the financial costs associated with the bill? If not, how do you think these costs should be met?*

The Financial Memorandum projects a reduction in Courts Directorate expenses of £243,000 per annum by the Scottish Government once the bill is implemented, and it will be important to use this to help defray the additional expenses to the Scottish Court Service (including the provision of temporary judicial cover for members of the judiciary who are engaged in administrative business on behalf of the Scottish Court Service or of the Lord President as a consequence of the bill). However, that leaves around £300,000 per annum of currently-projected costs on the Scottish Court Service which would not be funded by this projected transfer. The Scottish Court Service will be expected (in common with the rest of the Scottish Public Sector) to make year-on-year cash-releasing efficiency savings of 2%p.a. (about £1.3m additional efficiency each year) from initiatives such as process improvement, management of energy demand, and management of our estate. These savings will, in part, be directed at supporting the costs of the Scottish Court Service's enhanced role.

*Question six: Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?*

Yes, based on current assumptions, but as implementation planning progresses during the course of the bill these estimates will be refined.

*Question seven: If the bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

Not applicable.

*Question eight: Do you believe that there may be future costs associated with the bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?*

Any further potential future costs, in categories not specifically referred to in the Financial Memorandum, will be a matter for the Lord President and Scottish Court Service to decide on once the new body is constituted. New proposals for expenditure by the Scottish Court Service would have to be accommodated within the budget which Parliament has set for the Scottish Court Service in the Budget Bill and would have to be balanced by efficiency savings by the Service, and therefore do not represent a net additional cost to the Scottish budget. For instance, when the Lord President assumes his new

responsibility for the welfare of the judiciary, he and the Scottish Court Service could decide that all members of the judiciary should be included in a Scottish Court Service-funded or administered occupational health scheme (with commensurate savings elsewhere in the Service's budget). That, however, is a hypothetical decision of a body which has not yet been created by Parliament, and possibilities such as this are too speculative to be included in the Financial Memorandum.

Alastair Sim  
Director of Policy and Strategy

## **Finance Committee**

**7th Meeting, 2008 (Session 3), Tuesday 11 March 2008**

### **Local Authority Single Status Agreement – Correspondence from Unison Scotland**

#### **Background**

1. The Session 2 Finance Committee undertook an inquiry into the financial implications of the Local Authority Single Status Agreement and published its [Report](#) in March 2006. That Committee subsequently wrote to COSLA and to individual local authorities in October 2006 to ask at what stage of the negotiating process they were; whether they had utilised and rationalised any assets to free-up money to pay for Single Status; and whether they were intending to carry out a gender impact assessment. The majority of councils who responded said that COSLA would respond on their behalf. However, COSLA did not respond.

2. The current Finance Committee agreed to follow-up on this issue by writing to COSLA in September 2007 seeking a response based on the original questions posed by the Finance Committee. When COSLA gave evidence to the Committee on 4 December 2007 on the Draft budget the Committee noted that no response had been received from COSLA and the President, Councillor Pat Watters undertook to send information to the committee. In the absence of such further information, the Convener wrote again to COSLA in February 2008 and to date, no reply has been received.

#### **Correspondence**

3. The attached correspondence has been received from Unison Scotland which highlights concerns the union has about Single Status developments in Comhairle nan Eilean Siar, although it is not clear whether similar issues have arisen in other local authorities.

#### **Conclusion**

4. The Committee is invited to consider whether it wishes to take any further evidence on the implementation of the Single Status Agreement in light of this correspondence and in the absence of a response from COSLA.

Susan Duffy  
Clerk to the Committee

Mr Andrew Welsh MSP  
Convener  
Scottish Parliament Finance Committee  
Scottish Parliament  
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Dear Mr Welsh

I am writing to draw your attention to recent developments at the Comhairle nan Eilean Siar and their implementation of single status.

We have a variety of serious concerns about the proposed pay arrangements and we believe they will perpetuate past inequalities. We also have serious concerns about the process adopted by the council, the lack of key information for equality audit purposes and the coercion being applied to staff who are reluctant to accept the new pay arrangements.

We believe the council is acting in breach of the Equal Pay Act 1970, the Local Government Act 2003, the Ministerial Guidance on Best Value and the Public Sector Gender Equality Duty.

You will know that the Finance Committee investigated the significant cost of equal pay and single status in 2006 and made a series of recommendations for future action. I am writing because I believe it is perhaps time for the committee to consider re-visiting this issue to ensure that necessary and appropriate measures are being put in place in the Western Isles and elsewhere in order to protect local government finance and, of course, ensure equal pay for women and men.

I would be grateful for the opportunity to meet with you to give further detail of our concerns.

Yours sincerely

**PETER HUNTER**  
**Legal Officer**

cc John Swinney, MSP Cabinet Secretary for Finance &  
Sustainable Growth  
Des McNulty, MSP  
Ken Matthews, Regional Organiser  
Glyn Hawker, Scottish Organiser