



The Scottish Parliament
Pàrlamaid na h-Alba

FINANCE COMMITTEE

AGENDA

29th Meeting, 2013 (Session 4)

Wednesday 20 November 2013

The Committee will meet at 9.30 am in Committee Room 3.

1. **Landfill Tax (Scotland) Bill:** The Committee will consider the Bill at Stage 2.
2. **Criminal Justice (Scotland) Bill:** The Committee will take evidence on the Financial Memorandum from—

Elspeth MacDonald, Deputy Director, Criminal Justice Division, Peter Hope-Jones, Policy Officer, Criminal Justice Bill Team, and Kerry Twyman, Finance Business Partner, Justice, Scottish Government.

3. **Procurement Reform (Scotland) Bill:** The Committee will take evidence on the Financial Memorandum from—

Paul McNulty, Deputy Director, Head of Procurement Policy and Development, Bill Watt, Bill Team Leader, and Neil Ramage, Senior Policy Officer, Scottish Government.

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The papers for this meeting are as follows—

Agenda item 1

[Landfill Tax \(Scotland\) Bill and all other documents](#)

Agenda item 2

Note by the Clerk

FI/S4/13/29/1

Agenda item 3

Note by the Clerk

FI/S4/13/29/2

Finance Committee

29th Meeting, 2013 (session 4), Wednesday 20 November 2013

Criminal Justice (Scotland) Bill – Financial Memorandum

Introduction

1. The [Criminal Justice \(Scotland\) Bill](#) (the Bill) was introduced by the Scottish Government (the Government) on 20 June 2013.
2. In July 2013, the Committee agreed to invite a range of organisations potentially affected by the Bill to submit written evidence.
3. A total of 16 pieces of written evidence along with a further two supplementary submissions were received. These were previously circulated to members by email and are available on the Committee's website at: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/65990.aspx>. Hard copies can be provided to members on request.
4. A copy of the Financial Memorandum (FM) accompanying the Bill is attached at Annexe A.

The Bill

5. The FM states that the Bill has been developed around three elements—
 - Implementation of the recommendations of Lord Carloway's review of the criminal justice system as a package of reforms;
 - Implementation of the recommendations of Sheriff Principal Bowen's Independent Review of Sheriff and Jury Procedure; and
 - A number of miscellaneous provisions.
6. The FM states that the Bill's financial implications will "primarily affect the Scottish Police Authority (SPA), the Crown Office and Procurator Fiscal Service (COPFS) the Scottish Legal Aid Board (SLAB) the Scottish Court Service (SCS) and the Scottish Prison Service (SPS). It goes on to state that "the measures which will have the greatest financial implications are connected with the Carloway provisions, particularly the removal of the requirement for corroboration and the provisions on access to legal advice...the Bowen and miscellaneous provisions on the whole have lower financial costs."
7. Tables summarising the "total financial costs by organisation" (Table 2) and the total opportunity costs by organisation" (Table 3) are provided after paragraph 11. Table 4 then breaks down the "total financial costs by Bill provision" and suggests that between 2015-16 and 2018-19 the Bill will result in total recurring costs of £6.587 million per annum, and in non-recurring costs of £2.703 million and £1.648 million in 2015-16 and 2016-17 respectively. Finally, Table 5 breaks down the "total opportunity costs by Bill provision" and suggests that such opportunity costs are expected to amount to between £26.685 million and £34.748 million in each of the years between 2015-16 and 2018-19.

Part A – Carloway Provisions

Costs on the Scottish Administration (paragraphs 43 - 226)

8. The FM states that “costs on the Scottish Administration will fall on the Scottish Government, SPA, COPFS, SCS, SPS and the Legal Aid Fund....Total non-recurring financial costs on the Scottish Administration will be around £4,352,000 over two years, and there will be total recurring financial savings of £6,530,000 per year.” (paragraph 43)

Removal of requirement for corroboration

9. The Bill removes the current requirement for corroboration in criminal cases. The FM states that Police Scotland and COPFS conducted “shadow reporting and shadow marking exercises” which suggested this would be likely to result in increases in the number of cases reported by the police to COPFS and in the number of cases prosecuted by COPFS.

10. The FM states that “an increase in prosecutions would have potential cost implications for SPA, COPFS, SLAB and SCS in terms of increased workload”. As additional prosecutions are likely to lead to additional convictions and therefore to additional custodial and community sentences, the FM states that this would also impact on the SPS and on local authorities.

11. On the basis of the “shadow exercises”, the FM predicts that the increase in police reports to COPFS would be likely to be in the range of 1.5 – 2.2% with a “most likely estimate of 1.5%.” (paragraph 32)

12. The FM also predicts that the resultant change in the number of summary prosecutions would be in the range of a 1% decrease to a 4% increase, “with a best estimate of a 1% increase”. Solemn prosecutions are predicted to increase by between 2% and 10%, “with a best estimate of a 6% increase.” (paragraph 32)

13. Taken cumulatively, the FM’s “best estimate” is that there would be a 2.5% increase in summary prosecutions and a 7.6% increase in solemn ones. (paragraph 33)

14. The Faculty of Advocates (“The Faculty”) stated that the FM did “not provide sufficient information on these exercises to allow for meaningful comment” and that “even if the results of the shadow exercises...are to be regarded as reliable, there are reasons...to believe that the analysis in the FM understates the resources implications.” The Faculty also suggested that it was unrealistic to treat additional costs as “opportunity costs”.

15. The Faculty stated that the predicted increase in the numbers of prosecutions was “surprisingly small”. It also suggested that—

“the cohort of “additional” cases is likely to contain a significantly higher proportion of sexual offences than the current caseload, and, in particular, to include a higher proportion of cases in which the case will essentially turn on an assessment of the complainer’s evidence against an assessment of the accused’s evidence. Such cases are significantly more likely to go to trial rather

than to be resolved by a plea, yet it would appear (para. 180) that no allowance for this has been made in the assessment of the additional costs.”

16. The Faculty went on to state that, as noted in the FM, “the average plea costs 1.5% of the average case going to trial” and pointed out that an increase in prosecutions for rape would impact on the High Court disproportionately.

17. The Faculty’s submission further noted that increases in the numbers of prosecutions (over and above those predicted in the FM) would have a resultant impact on those organisations listed above. It stated that “the Legal Aid Board does not appear to have included any estimate for costs attributable to additional appeals generated by the change in the law. This contrasts with COPFS, which has made an allowance for this in the first three years of the new regime.”

18. With regard to convictions, the Faculty stated that—

“The FM proceeds on the assumption that the proportion of “additional” prosecutions which result in a conviction will reflect current experience and that the pattern of disposals will be the same. The former assumption is open to question. Under the new regime, cases in which there is no corroboration will no longer be withdrawn from juries. Likewise, juries will no longer be directed that they can only convict if they find the essential facts proved by corroborated evidence. In these circumstances, the incidence of convictions may change – and may change across the board. If that is correct, an assessment which simply applies the existing proportion of cases in which a conviction is secured to the “additional” cases prosecuted would underestimate the costs to SPS and local authorities. The extent of the underestimate is unknown but it may be significant.”

19. In their joint submission, Police Scotland and the SPA provided greater details on the basis for their shadow marking exercises. Having concluded these exercises, their submission stated that two points had become apparent in relation to the volume of reports to COPFS—

- “There is no great volume of unreported matters, where a named suspect is known to the police, which would be likely to ‘swamp’ the justice system should the rules on evidence be amended as indicated; and
- In almost all matters where there is any degree of supporting evidence, the police will tend to report under the current regime, particularly in serious allegations.”

20. In written evidence, COPFS stated that it was “content that the estimated costs and savings set out in the Financial Memorandum (as they apply to COPFS) are reasonable and are as accurate as possible in respect of the time periods considered.” It subsequently provided greater detail of the basis for its shadow marking exercise in supplementary written evidence.

21. The SPA/Police Scotland submission also stated that—

“The impact of the Bill will compel the Police Service to change and introduce new working practices that will impact on Forensic Services. This will affect the

number of cases forensic services are required to examine which would be over and above our current demand as well as the impact on us having to examine more cases in a shorter timeframe.”

22. It provided a table estimating that a 2% increase in its forensic services workload would result in increased costs to Police Scotland of £529,000 per annum whilst a 4% increase would result in increased costs of £1,056,000. This potential increase in expenditure does not appear to have been reflected in the FM although Government officials have indicated that they intend to write to the Committee in advance of the meeting with regard to this point.

23. Both the Association of Scottish Police Superintendents (ASPS) and the SPA/Police Scotland submissions made the point that the police will need to invest in new ways of working as a result of the Bill. ASPS stated that whilst it appreciated that police ICT costs to support the changes were incorporated in the wider police ICT investment programme, “some reference should be made (in the FM) to the ICT cost that is attributable to this Bill, in order that this is captured and understood for the future, without wishing to raise a risk of ‘double counting’.”

24. ASPS also stated that “much of the costs are classed as opportunity costs and I would advise close scrutiny of these in the wider context of police reform.” It further stated—

“It is my understanding that the Police Service of Scotland must subsequently achieve year on year real financial savings due to the annually reducing budget and that therefore the opportunity to use resources “freed up” by efficiency savings is questionable. It is a more likely scenario that resources “freed up” have to be offered Early Retirement (ER), Voluntary Retirement (VR) or redeployed to fill gaps arising from ER and VR wherever possible.”

25. Continuing on the theme of opportunity costs, the Faculty stated—

“In characterizing the additional costs to the Court Service as “opportunity costs” the FM relies on savings in court time which it is anticipated will be achieved by the Bowen proposals. Since those proposals relate to solemn cases prosecuted in the sheriff court, it is difficult to see how they could be relevant to the High Court. While a trial is running the court staff and other court facilities cannot be otherwise used and it is, for that reason, open to question whether the additional costs to the Court Service should be characterized as “opportunity costs”, which can be absorbed through efficiency savings.”

Costs on local authorities (paragraphs 227 - 237)

26. The FM states that “the provisions relating to child suspects will potentially bring new costs to local authorities,” (paragraph 227) whilst “removal of the requirement for corroboration in criminal cases is likely to result in an increase in the number of prosecutions, which will impact on local authorities on the basis that additional prosecutions are likely to lead to additional community sentences.” (paragraph 231)

27. The FM estimates that these provisions will result in total recurring opportunity costs of £1.244 million for local authorities and provides a more detailed description of the basis for this estimate in paragraphs 227 to 237.

28. A number of local authorities commented on this estimate. West Dunbartonshire Council, for example, stated that this figure appeared to be “the result of a series of informed guesses” and that the assumption that it would result in opportunity costs—

“appears to have been arrived at on the basis of no evidence whatsoever; including, very importantly, the capacity of local authorities to make decisions regarding the allocation of staff time to accommodate new work arising as a result of the consequences of legislation and over which we have little or no control. This would bear an interpretation of additional costs, joining a lengthening list of unfunded additional demands on the local authority.”

29. West Dunbartonshire Council went on to state that the additional financial burdens arising from the Bill “should be funded in full by the Scottish Government through an additional funding allocation.”

30. The FM’s “best estimate” is that the Bill would result in 480 additional community sentences per year at a total cost of £1,160,000. However, it states that, as costs associated with these would primarily relate to staff time, “this does not translate directly into additional financial cost, but will need to be considered by local authorities as an additional demand in managing staff workloads. This £1,160,000 has therefore been classed as an opportunity cost.”

31. Falkirk Council also suggested that the removal of the requirement for corroboration would be likely to result in an increased number of community sentences and that this would have implications for “already overstretched criminal justice social workers.” It stated that it believed the Government’s estimates “to be flawed in relation to an expectation that this extra work can be subsumed within existing resources” and that the Bill would result in increased staffing costs for local authorities.

32. West Dunbartonshire Council stated that “the potential increase for Community Payback Orders is also likely to increase demand on criminal justice staff – with no financial contribution provided.”

33. Fife Council stated “we recognise that opportunity costs could become actual costs and would need to revisit these issues should demand increase to such an extent that would detract from the aim of the Bill to modernise and enhance efficiency.”

34. Renfrewshire Council also stated that it would find it “very difficult to absorb this additional workload without additional resources”, pointing out that it was already absorbing significant increases in supervision and unpaid work orders subsequent to the introduction of Community Payback Orders without any additional funding.

35. A number of local authorities also drew attention to the potential for an increased number of social work reports arising from the removal of the requirement for corroboration. Dundee City Council, for example, stated—

“We do not believe that all the potential additional costs have been accurately reflected in the FM. No consideration has been given to the potential increased volume of Social Work reports as a result of an increase in the number of prosecutions and associated requests for Social Work court reports. The FM assumes that the costs of supporting additional community sentences will not translate directly into additional financial cost but will be an additional demand in managing workloads.”

36. Similarly, Fife Council stated—

“We note the potential increase in workload from increased Community Sentencing and would anticipate additional costs could be attached to Local Authorities in the preparation of Criminal Justice and other associated reports as well as placing an increased demand on services providing community based statutory supervision.”

37. West Dunbartonshire Council stated that it was not clear whether the costs of such additional reports had been included in the estimate of opportunity costs arising from the Bill’s provisions as “there is no mention of this in the FM.”

Vulnerable adult and child suspects

38. Where the police assess an individual as being “vulnerable”, the Bill would require them to secure the attendance of an Appropriate Adult as soon as reasonably practicable after detention and prior to questioning. The FM states that these provisions “will not entail additional costs as Appropriate Adult Services are provided at present on a non-statutory basis.” (paragraph 236)

39. However, a number of local authorities questioned this assumption. Aberdeenshire Council, for example, stated that at present, social workers undertake the role on a voluntary basis and that training costs for volunteers total £5,000 per annum. In the event that the provision of appropriate adults became a statutory duty for local authorities, it suggested that the requirement to ensure they are available 24 hours a day would mean that social work backfill and additional funding for training would be necessary. It stated that—

“The likely cost of backfill would be 1 x peripatetic social worker post and likely cost of increased coordination would be 1/2 post coordinator to Coordination referrals, appropriate adult training and awareness. So overall cost approx £65k per year.”

40. Currently children aged 16 or under who are detained have the right to access to an adult named by them in advance of and during an interview. The Bill extends this right to those aged 18 or under. The FM predicts that “in the great majority of cases such support is likely to be sought from people known to the suspect” (such as friends or family members) but that there will be cases where support is sought from a social worker instead.

41. The FM suggests that the most likely proportion of cases where the services of a social worker would be requested would be 10% of cases (around 800 cases per year). It estimates that this would result in additional annual costs per year for local authorities of £84,000 but that this would be an opportunity cost as it would form part of a social worker's general workload.

42. Falkirk Council, however, stated that "it is difficult to understand what formula the Scottish Government has used to base their calculation on that 10% of young people will need this." It stated that it knows "anecdotally" "that many young people (particularly those who have been previously looked after) seek this support from social workers" and that the potential impact on its resources was therefore "very difficult to quantify or predict" at this stage.

Legal Advice

43. The FM explains that the Bill extends the right to legal advice to suspects detained by the police, regardless of whether questioning takes place. It states that "this will likely lead to an increase in requests for legal advice, and this will have cost implications for SLAB." (paragraph 24)

44. The Law Society stated in written evidence that in its view, "the costs to the legal aid fund associated with the Bill have been reasonably captured within the FM. However, in relation to the provisions on the right to legal advice to suspects and the duty of prosecution and defence to communicate, some of the longer term impact needs to be considered carefully."

45. The Law Society questioned the FM's "best estimate" that SLAB would incur additional costs of £890,000 per annum in relation to the Solicitor Contact Line, stating that the Line (paragraph 209) "seems disproportionately expensive when set against the total cost of advice provided." It suggested that the contact line cost approximately £89.04 per advised person per annum whereas private solicitors cost the fund approximately £15.61 per advised person per annum. In its own submission, however, SLAB suggested that the Law Society's conclusion was "at best incorrect and misleading" stating that "the average cost of advice given by the Board contact line solicitors is actually substantially lower than the incorrect figure calculated by the Law Society."

46. SLAB went on to suggest that an average payment relating to Grants of Advice and Assistance of £134 was more realistic than the Law Society's calculation of an average cost of £15.61. As such, it stated that it was "confident that the costs associated with running the Solicitor Contact Line provide value for money to the taxpayer."

47. In response to this evidence, the Law Society submitted supplementary written evidence clarifying the basis of its calculations. This stated that it considered SLAB's average cost of £134 per case to be "a valid, though limited, perspective" as it related to cases paid constituting less than a third of the number of grants made and indeed around a sixth of the number of instances of advice provided by named solicitors.

48. It also recognised that, as stated by SLAB, the relaying of requests for advice to private practitioners constituted a significant part of the cost of the contact line.

49. With regard to Grants of Advice and Assistance, the Law Society stated that “the existing funding arrangements for solicitors carrying out police station work are inadequate and need to be reviewed” and that “funding mechanisms for this work are not structured appropriately and the rates are unduly limited.”

50. Noting that SLAB had confirmed that the Government intended to review the payment mechanism as part of its work on the Bill, the Law Society stated that it would encourage this review to take place as soon as possible and that it would be keen to engage with it.

51. The Law Society also noted that the Bill would provide for police questioning after charge and that there would be a right of access to a solicitor for such questioning. It pointed out that at present, all additional work relating to this would go unpaid and that, in its view, it was not appropriate for the Government to expect such work to go unremunerated.

52. The Law Society further suggested that the FM’s suggestion that there would be an “estimated increase in costs for Advice and Assistance by private and PDSO solicitors of between £810,000 and £1,080,000 with a mid-range estimate at £945,000” was “not transparent enough.”

Part B – Bowen Provisions

53. Following Sheriff Bowen’s Independent Review of Sheriff and Jury Procedure, the Bill makes provision for a number of changes to the operation of sheriff and jury business, including increasing the period on which a person may be held on remand from 110 to 140 days.

Costs on the Scottish Administration (paragraphs 245 – 266)

54. The FM provides a description of the estimated cost implications of the Bowen provisions on a number of organisations as follows—

- SPA (paragraphs 246 – 248) - £391,000 per annum in savings.
- COPFS (paragraphs 249 – 255) - £370,000 per annum in additional costs.
- SCS (paragraphs 256 – 259) - £1.245 million per annum in savings.
- SPS (paragraphs 260 – 262) - £1.5 million per annum in additional costs.
- SLAB (paragraphs 263 – 266) - £493,000 per annum in additional costs.

Costs on local authorities (paragraphs 267 – 268)

55. The FM states that the “proposal to increase the time-limit for the period for which an accused person may be remanded before his or her trial commences from 110 to 140 days will increase the number of persons held on remand.” (paragraph 267) The FM then estimates that this increase “could result in the occupation of a place in secure accommodation being occupied 25% of the time” which, it states, would result in increased (shared) costs to local authorities of £56,000 per annum. (paragraph 268)

56. A number of local authorities questioned this estimate in written evidence. Renfrewshire Council, for example, stated that the weekly cost of a placement was currently £5,412, meaning that the additional annual cost of a 30 day increase to it

alone would amount to £69,583. It further stated that the FM's assertion that the additional cost would be shared amongst local authorities was flawed as—

“local authorities adhere to a financial framework where service requirements are purchased by spot placements on a needs required basis and not block placements and individual local authorities bear the costs. Therefore authorities will not have spare capacity to accommodate and will not be able to spread the costs among authorities.”

57. West Dunbartonshire Council also queried the FM's estimate stating—

“How this translates into the stated additional need for a single additional secure accommodation place is not clear at all, and especially as the FM then states at Para 268 that this place is anticipated to be required only 25% of the time. This logic seems to contradict Para 230 which talks about 40 extra remand places at any time. The logic seems to suggest that at any point in time that 39.75 of these places will be within the SPS provision (or elsewhere).”

58. Whilst Falkirk Council stated—

“We believe the impact of this cannot be estimated but has the potential for very large costs for local authorities. There is the possibility that the courts may view secure care as the first option for 16/17 year olds, rather than a remand to a Young Offenders Institution. If this position was taken, costs could be magnified given there are currently 60 16/17 year olds in Polmont Young Offenders Institution on remand or sentenced.”

59. Dundee City Council estimated its potential increase in expenditure relating to young people in secure care on remand to be around £45,000. It further pointed out that it would also incur additional costs relating to secure transport costs to courts, children's hearings or medical appointments at an average cost of £610 per journey.

Costs on other bodies, individuals or businesses (paragraphs 269 – 272)

60. The FM states that “the requirement to attend Compulsory Business Meeting (CBMs) in advance of first diets will create a cost for legal representatives.” (paragraph 269) It goes on to state, however, that these costs “are therefore balanced by savings,” resulting from greater efficiency in the courts.

61. The Law Society noted the introduction of CBMs between the prosecution and defence in advance of the first diet which the FM states will generate savings by reducing the number of cases going to trial through increased numbers of early pleas.

62. It noted that summary justice reforms had introduced an early resolution fee for summary matters which had “generated significant savings in criminal legal assistance” as well as reducing court delays.

63. It stated that “an early resolution fee would support the cost effectiveness and efficiency of the wider criminal justice system” and that it believed this to be “necessary in order to give practical effect to this policy intention of the Bill.”

Other comments

64. Falkirk Council stated that it had concerns about the margins for uncertainty “being considerable” and that it would be preferable if the Government gave an undertaking to review costs in the future “in the light of experience so that any marked increase could be funded” by it.

Conclusion

65. The Committee is invited to consider the above issues in its scrutiny of the FM.

Alan Hunter
Assistant Clerk to the Committee

ANNEXE A

Criminal Justice (Scotland) Bill: Scrutiny of Financial Memorandum

The document can be accessed via the link below—

[Criminal Justice \(Scotland\) Bill](#)

Finance Committee

29th Meeting, 2013 (Session 4), Wednesday 20 November 2013

Procurement Reform (Scotland) Bill

Introduction

1. The [Procurement Reform \(Scotland\) Bill](#) (the Bill) was introduced in the Scottish Parliament by the Scottish Government (the Government) on 3 October 2013.
2. The purpose of this paper is to inform the Committee's scrutiny of the Financial Memorandum (FM) accompanying the Bill. A copy of the FM is attached at Annexe A (page 13 of the [Explanatory Notes](#)).
3. According to the FM, "the Bill will establish a national legislative framework for sustainable public procurement that supports Scotland's economic growth through improved procurement practice." The Bill's provisions are intended to encourage local action and to maximise public procurement's contributions to wider socio-economic and environmental policy objectives.
4. The Committee issued a call for written evidence on the FM on 16 October 2013. 11 responses have been received from organisations representing procurement interests within local authorities, the NHS, the further and higher education sector and the social housing sector. The submissions received can be viewed on the Committee's webpage.¹

The Bill

Costs on the Scottish administration (paragraphs 10 to 19)

1. The FM states that from the Government's perspective, "there is a limited number of additional costs to be associated with the Bill", as "for the most part", it "seeks to embed the use of systems and policies that have already been put in place", to ensure contract opportunities are easily accessible, particularly for SMEs and the third sector. For the same reason, the FM states that the "Government does not expect the Bill to lead to significant additional long-term costs."
2. The FM goes on to explain that the costs that are expected to be incurred will principally relate to the public contracts website and to the development of secondary legislation and related guidance.
3. A table is provided at paragraph 11 of the FM which summarises the expected costs to the Government between 2014-15 and 2016-17, broken down by system costs, staff costs and non-staff costs. The table states that costs to the Government will total £3.274 million over these three years, with the highest annual costs (£1.147 million) falling in 2015-16. The FM provides a description of the basis for these estimated costs in paragraphs 11 to 19.

¹ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/68911.aspx>

4. The FM expects the Government to incur ongoing system-related costs of £560k per annum to support the Bill's provisions. However, it states that such costs are currently met by the Government and will continue to be so, so are already provided for within existing budgets.

5. The FM anticipates the Government incurring staffing costs of £547k per annum for the preparation of secondary legislation and guidance material and a further £547k per annum in staffing costs for the support of business systems.

6. In relation to the staffing costs for secondary legislation and guidance, the FM states that "it is currently not clear whether these costs will continue beyond 2016/17" and no costs are provided.

7. Additional staffing costs, associated with developing and delivering guidance are also anticipated although estimates of these costs are not provided.

8. The Government expects to incur a total of £500k in non-staff costs (such as training) over the three years from 2014-15 to 2016-17.

Costs on local authorities and other contracting authorities (paragraphs 20 to 23)

9. As the FM expects the Bill's provisions to be absorbed into their existing procurement practices, it anticipates no overall net impact on costs for local authorities and other contracting authorities.

10. For example, in relation to Part 2 of the Bill, the FM does not expect this to "impose material additional costs on local authorities and other public bodies". Whilst it notes that the duties will require contracting authorities "to revisit and perhaps revise" their procurement strategies, it anticipates costs relating to this to be "absorbed in to existing work practices."

11. Similarly, on Part 3, the FM does not expect the Bill to impose "additional material costs" on local authorities and other contracting authorities, although in certain circumstances it notes the possibility of "nominal costs" or the risk of "increased administrative effort". However, it anticipates that such cases will be "cost-neutral", will provide "improved value for money", or will "actually reduce costs" to such bodies.

12. Responses to the Committee's call for evidence comment on where costs for local authorities and contracting authorities may arise that have not been identified in the FM.

13. Similar comments were received from the Scottish Local Government Procurement Forum and some individual local authorities. These submissions identify further additional and unaccounted for costs in relation to—

- Strategic and operational administration costs
- Administration costs to embed new requirements and track resulting benefits
- Costs to third party suppliers with the addition of community benefits and sustainability requirements

- Unknown costs associated with any new guidance issued by the Scottish Government.

14. The Scottish Federation of Housing Associations expresses its view that housing associations should not be included in the bodies that are subject to the provisions of the Bill. In terms of costs, the SFHA highlights additional costs that may arise for housing associations as a result of the Bill. SFHA notes that its members have not undertaken Procurement Capability Assessments (PCAs) as part of the Procurement Reform Programme and that the recent Construction Procurement Review published by the Scottish Government acknowledges that PCAs are not useful for associations. Overall, the SFHA estimates that the cost of implementing the Bill could amount to £50,000 a year for each association, or a further £8.5million in further costs.

15. Advanced Procurement for Universities and Colleges expresses concerns about issues such as—

- Whether the requirement to use standard rather than specific PQQs will mean that a greater number of bids progress to the tender stage, incurring costs on a greater number of businesses for the preparation of tenders and administrative costs on staff at the institutions arising from the need to assess the tenders.
- That it is unclear how the use of Public Contracts Scotland will impact on joint tendering exercises on UK Higher Education sector-wide contracts.
- Additional resource required for purchases of £13-£15k a year which are agreed for four years being brought within the scope of the Bill by virtue of the total value of the contract exceeding the £50k threshold set out in the Bill.

16. The University of Edinburgh highlights the potential impacts on research-related procurement, noting that if this aspect of procurement is not excluded Scottish institutions will have to meet compliance obligations for contracts at the £50k threshold, a lower value threshold than will apply to institutions elsewhere in the UK.

Costs on other bodies, individuals and businesses (paragraph 24)

17. The FM anticipates no additional costs falling on other organisations as a result of the Bill's provisions. Instead it states that the proposals "should lead to reduced business costs by ensuring that participating in a public procurement exercise is simpler, more transparent and more accessible to suppliers irrespective of their size."

Part 4 – Remedies (paragraphs 82 to 87)

18. Where a public body has been found to be in breach of its duties, the Bill gives the courts powers to impose certain penalties. The FM states that such cases are rare and that they are unlikely to increase in frequency as a result of the Bill. No material additional costs are expected to arise for the Government, public bodies or any other bodies.

Cost Savings (paragraphs 90 to 95)

19. The final part of the FM deals with savings expected to arise as a result of the Bill. Whilst noting that “it is not possible to precisely estimate cost savings to be accrued in cash terms”, the FM points out that the Bill has been informed by “a significant amount of qualitative evidence” suggesting that efficiency benefits are likely.

20. A table summarising all expenditure expected to arise as a direct result of the Bill is provided after paragraph 89.

Conclusion

21. The Committee is invited to consider the above information in its scrutiny of the FM.

Catherine Fergusson
Senior Assistant Clerk to the Committee