



The Scottish Parliament
Pàrlamaid na h-Alba

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

AGENDA

21st Meeting, 2015 (Session 4)

Wednesday 23 September 2015

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Declaration of interests:** Jayne Baxter will be invited to declare any relevant interests.
2. **Decision on taking business in private:** The Committee will decide whether its consideration of its future work programme should be taken in private at its next meeting.
3. **Complaints process for joint health and social care:** The Committee will take evidence from—

Paul McFadden, Head of Complaints Standards, Scottish Public Services Ombudsman;

Alison Taylor, Team Leader Integration and Reshaping Care, and Professor Craig White, Divisional Clinical Lead, Planning and Quality Division, Scottish Government;

Soumen Sengupta, Head of Strategy, Planning and Health Improvement, West Dunbartonshire Health and Social Care Partnership.

4. **Fact-finding visit to Manchester:** The Committee will report back from its fact-finding visit to Manchester.
5. **EU issues:** The Committee will consider a paper from the clerk.

LGR/S4/15/21/A

David Cullum
Clerk to the Local Government and Regeneration Committee
Room T3.60
The Scottish Parliament
Edinburgh
Tel: 0131 348 5223
Email: david.cullum@scottish.parliament.uk

The papers for this meeting are as follows—

Agenda item 3

Paper by the clerk

LGR/S4/15/21/1

Agenda item 5

Paper by the clerk

LGR/S4/15/21/2

Local Government and Regeneration Committee

21st Meeting, 2015 (Session 4), Wednesday, 23 September 2015

Complaints process for joint health and social care

Background

1. At its meeting on 4 March 2015, the Committee agreed its approach to its examination of the implications for complaints procedure following the integration of health and social care.

2. The Committee took evidence from the Scottish Public Services Ombudsman (SPSO) and Scottish Government at its meeting on 10 June 2015. The Official Report from the meeting is available here:

<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10017>

3. Following their evidence, the clerk wrote to the SPSO and Scottish Government seeking further information. The letter from the clerk is provided at Annexe A.

4. The responses from the SPSO and Scottish Government are provided at Annexes B and C. Electronic copies of information leaflets provided by NHS Ayrshire and Arran are provided for members' information.

5. The Committee is invited to note the responses from the SPSO and Scottish Government during this evidence session.

**CORRESPONDENCE FROM THE CLERK TO THE SPSO AND SCOTTISH
GOVERNMENT OFFICIALS**

Dear All

First of all thank you for your input on 10 June, as you will have gathered the Committee found the session both interesting and helpful. I apologise for the delay in following up with the promised requests for further information, this now follows.

The Committee having discussed the session have asked for further detail, clarification and information. At times further information was offered and for ease that is covered below along with a number of other points of clarity which flow from the evidence session. The Committee have requested follow up sessions to ascertain progress and the first will take place on Wednesday 23 September. Representatives from the Scottish Government, Social Work and the National Health Service are each invited to attend to give further evidence at 10am before the Committee. A representative of the Scottish Public Services Ombudsman is also invited to attend although in their case attendance is discretionary and the Committee would be satisfied with a written update on progress from their perspective. In relation to the Care Inspectorate written information, if relevant, will for this meeting suffice.

The Committee recognise that Ayrshire are blazing the trail and a number of the questions that follow are aimed at understanding how the work they have and are undertaking will assist others who follow.

On 10 June the following items were offered to the Committee and I would now welcome your submission:

1. The steps required to put in place the complaints procedure as described in the question from Alex Rowley at column 24.
2. Details of the process that will follow the receipt of a complaint.
3. Confirmation of the type of legislation required to implement the SPSO role in the complaints procedure (column 30 and other places). See also Q5.

Other information which would be useful to the Committee:

4. Copies of the leaflets referred to by Iona Colvin at columns 8 and 20. Together with detail of when the leaflet is provided and other steps taken to publicise the rights. For example if the leaflet is given to people when a service is being provided or to be provided how will those who wish to complain about failure to provide any service receive the information?

Overall the report suggests continuing confusion or uncertainty in relation to a number of matters. The following questions endeavour to capture these, again to assist references to the OR are given.

5. Given the recommendation of the working group, what is the timing of the progression from the NHS system to the SPSO model system? Suggested as 12-18 months (col5), coming months (col 6) and end next calendar year (col12 and 13). Can you explain why this will take so long, if indeed it can be achieved through secondary legislation?

6. In the meantime when will the detailed guidance be issued and to what extent will it be mandatory on partnerships. How will compliance be achieved with the guidance? Will that guidance also provide the clarity for the partnerships as requested in column 23?

7. When will committee stage reviews be abolished? (col 5)

8. Confirmation that all partnerships are **not** being encouraged to develop their own solutions (see cols 12 and 13) and the extent to which guidance will rationalise the required approach?

9. Overall the committee heard about work on front end complaints, confused systems and the need to make this a first priority in Ayrshire (col 9, 10 & 22). How will these matters be addressed prior to future partnerships commencing operations?

10. Can you indicate what consideration has been given to ensuring the capability of partnerships to learn from complaints and the experiences of others across the country? To what extent will benchmarking be encouraged and facilitated?

11. An update on progress integrating out of hours services? (col 28).

It would be helpful to have a response on each of the above points **no later than Friday 21 August**. Confirmation of who will represent the invited bodies on 23 September should also be provided by that date.

I would be happy to discuss any aspect of the above if that would be helpful.

RESPONSE FROM THE SCOTTISH PUBLIC SERVICES OMBUDSMAN

Thank you for your email outlining the information requested by the Committee in relation to the integration of Health and Social care complaints. As many of the questions and requests for further information were directed towards the Scottish Government (SG) we have not answered any of the direct questions below separately but have fed into the SG on key points to inform their response. I can see from the SG letter to the Committee of 27 August 2015 that our input has been incorporated but we would be happy to provide any further clarification on specific points that the Committee may require from us.

Following the Committee session on 10 June, we have been involved in positive discussions led by the SG on various aspects of the work required to progress changes. As a result we have also been involved in work to help the Scottish Government take forward some of this work, particularly the legislative changes proposed around SPSO's role over social work complaints. We are pleased with progress being made and have responded to the Cabinet Secretary for Health and Wellbeing on the specific social work proposals and to indicate our commitment to help take these forward.

There are a number of areas where SPSO will be involved. The most substantive change, from the SPSO's perspective, will be a new role over social work complaints professional judgement, as previously recommended by the SG working group on social work complaints. As the SG have outlined in their response to the Committee, this proposed change will be taken forward through a Public Service Reform Order under the Public Services Reform Act 2010, to amend the Scottish Public Services Ombudsman Act 2002, subject to the agreement of the Scottish Parliamentary Corporate Body (SPCB). Having taken legal advice, we are supportive of this approach and will continue to provide full support to the process to try and achieve the legislative timetable outlined. We also remain in contact with the SPCB and SG on the appropriate resourcing of this function.

With regard to the date of implementation for social work, we are keen to ensure that this new role comes into force as soon as possible. To allow sufficient time and resource for planning transition to the new role, we have advised the SG that the earliest we would be able to take on the new social work function would be Autumn 2016. This is also largely to accommodate the fact that we are currently preparing for the taking on of a new review function for Scottish Welfare Fund decisions, a role which comes into force in April 2016. This timescale for transition is in line with previous successful transfers to the SPSO. Discussions with SG officials indicate that October 2016 may be a suitable date, if the legislative timetable will allow. We will continue to do all we can to support efforts to achieve this, in full cooperation with SG and SPCB officials.

The SG's response to the Committee also outlined SPSO involvement in the following areas:

- Leading the development of a local social work complaints process to bring the local procedures into line with the model complaints handling procedure (CHP) operating across other areas of local government and the wider public sector;
- Leading the development of an NHS model CHP, plans for which are already progressing;
- Contributing to the SG's work to develop guidance for Integration Joint Boards and others to provide clarity on suitable complaints arrangements in advance of changes to the social work and NHS procedures and statutory arrangements.

We are committed to this work which we believe will be of benefit to health and social care users, and staff, in terms of simplifying arrangements. We will continue to engage with the SPCB and SG officials to ensure we are appropriately resourced for this work.

RESPONDSE FROM THE SCOTTISH PUBLIC SERVICES OMBUDSMAN

Thank you for your email of 7 July 2015 following the evidence session to the Local Government and Regeneration Committee on 10 June regarding complaints under integration of health and social care.

You requested further information on a number of matters relating to NHS and social work complaints, which this response provides under the following headings:

- 1) Complaints under integration of health and social care
- 2) NHS complaints
 - a) Current procedure
 - b) Planned changes
- 3) Social work complaints
 - a) Current procedure
 - b) Planned changes
 - i) Removal of the Complaints Review Committee
 - ii) Broadening the powers of the SPSO in relation to social work complaints
- 4) Guidance for Integration Joint Boards, Health Boards and Local Authorities

I also attach background information as follows:

Appendix A - Integration of health and social care

Appendix B - Out of hours review in Ayrshire and Arran

Appendix A provides for the general information of members of the Committee, and will I trust be helpful.

Appendix B responds to the specific request of the Committee for further information on this subject, and is provided by colleagues in Ayrshire and Arran, for which I am grateful.

1) Complaints under integration of health and social care

Our starting point for making changes to the NHS complaints system and the social work complaints system, and, indeed, for the provision of guidance as set out below, is to ensure that complaints, whether in relation to health or social work services, are handled effectively, in good time, and in a person centred way. Complaints must be listened to, with those areas of dissatisfaction that form the basis of the complaint, being reviewed. Any appropriate action should be taken in response, and learning should be shared and fed back to improve services and service delivery.

Under integration, each Health Board and Local Authority chooses one of two organisational models to adopt: "lead agency" or "body corporate"; (see Appendix A for further details). One Local Authority area – Highland – is using the lead agency model in partnership with NHS Highland. The other 31 Local Authority areas have agreed, with their Health Board partners, to adopt the body corporate model. Every Health Board and Local Authority must agree an Integration Scheme – a scheme of establishment – setting out the local arrangements for integration, regardless of which model of integration is used. Requirements for the content of the Integration Scheme are set out in

Regulations. Additionally, Scottish Government advisers; the Chief Social Work Adviser and the Strategic and Clinical Lead, reviewed each integration scheme against the Clinical and Care Governance framework for Integrated health and social care.¹

In Highland, the Health Board delivers adult health and social care, and is responsible for all complaints relating to those services. The Local Authority delivers children's community health services and children's social care services, and is responsible for all complaints relating to those services. Any complaints about service delivery in Highland are dealt with through the existing health and social work complaints procedures.

In all other areas, all of which are using the body corporate model, the Health Board and Local Authority create a partnership in the form of an Integration Joint Board, which plans and commissions services that are then delivered by the Health Board and Local Authority. This means that the Health Board and Local Authority remain responsible for the delivery of health and social care services, and, again, any complaints about service delivery will be dealt with through the existing health and social work complaints procedures.

We recognise the importance of ensuring that complaints are joined up from the perspective of the complainant. Health Boards and Local Authorities must agree and set out within their Integration Schemes their arrangements for managing complaints that relate to the delivery of services that are within the scope of integration. The Integration Scheme must also set out the process by which a service user, and anyone else complaining on behalf of a service user, may make a complaint. The arrangements set out in the Integration Scheme do not alter the underlying position, described above, that complaints are to be dealt with under existing health and social work complaints procedures. The Health Board and Local Authority must ensure that the arrangements that they have jointly agreed are:

- Clearly explained;
- Well-publicised;
- Accessible; and
- Allow for timely recourse.

They must also ensure that complainants are signposted to independent advocacy services.

2) NHS complaints

2a) Current procedure

The Patient Rights (Scotland) Act 2011 introduced a right to give feedback, make comments, raise concerns or make complaints about NHS services, and placed a duty on the NHS to encourage, monitor and learn from the feedback, comments, concerns and complaints they receive. Revised 'Can I

¹http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Implementation/working_Groups/CCGG/ClinCareGovFwork

'Help You?' guidance to support NHS bodies and health service providers was published by the Scottish Government in March 2012.

'Your Health, Your Rights, the Charter of Patient Rights and Responsibilities', sets out peoples' rights to give feedback, comments, concerns and complaints about NHS services, be told the outcome of any investigation, access independent advice and support to make a complaint, and take their complaint to the SPSO if they are not satisfied with the investigation.

A complaint can be made orally or in writing by patients, on behalf of patients, or by anyone who is or is likely to be affected by an action or omission of the NHS. Currently, complaints must be acknowledged in writing within three days and investigated within 20 working days or as soon as reasonably practicable. The Complaints Directions set out that the following information must be included in a written acknowledgement of a complaint:

- Contact details of the relevant NHS body or health service provider's feedback and complaints officer
- Details of the independent advice and support available, including through the Patient Advice and Support Service (PASS)
- Information on the role and contact details for the SPSO; and
- A statement confirming that the complaint will normally be investigated within 20 working days or as soon as reasonably practicable; where it is not possible to send a report within 20 working days, the complainant will be provided with an explanation as to why there is a delay, and, where possible, provided with a revised timetable.

Most written complaints will be addressed directly to the Feedback Officer or Manager but this will not always be the case. Feedback, comments, concerns and complaints can be given to any member of staff. The Complaints Directions therefore place the onus on relevant NHS bodies to ensure that all frontline staff, who could potentially be the first point of contact, are aware of the arrangements and that all staff who handle feedback, comments, concerns and complaints receive training and guidance in order to do so. The Scottish Government has provided funding each financial year since 2012/13, to enable NHS Education for Scotland and The Scottish Public Services Ombudsman (SPSO) to develop and deliver training for NHS staff and other NHS service providers, to support them to respond to feedback, comments, concerns and complaints in accordance with the requirements of the Patient Rights (Scotland) Act 2011.

Where a complaint is reasonably straightforward, it may be managed without the requirement for a detailed investigation. If the complaint has been successfully resolved to the satisfaction of the person making the complaint within three working days and the outcome has been communicated either face-to-face, or by telephone or email, there is no additional requirement to send further written confirmation or carry out an investigation. Complaints that fall within this category must be recorded as normal, to support organisational learning.

In terms of different routes people can use to provide feedback or make a complaint the Scottish Government has provided funding since 2013 to support the roll-out of Patient Opinion across Scotland, and to pilot Care Opinion. These provide a route through which people can share their experience of receiving healthcare services anonymously online, and enter into constructive dialogue with health and care providers about how services can be improved. If appropriate, NHS boards may invite people posting on Patient Opinion to contact them with further details, so that they can investigate a complaint.

‘Can I Help You?’ sets out that, where a complaint spans health and social care services, the relevant NHS body and the local authority social work department should agree who will take the lead. They should work together to ensure that all matters raised are investigated simultaneously to consistent timescales. The guidance recognises that different complaints handling processes currently exist for NHS and social care services, and states that the person making the complaints should be advised of this, particularly where this may impact on the timescales for responses. Learning and opportunities for improvement should also be shared between the two organisations.

2b) Planned changes

The Scottish Health Council’s ‘Listening and Learning’ report on how feedback, comments, concerns and complaints can be used to drive improvement across NHS services in Scotland recommended that the Scottish Public Services Ombudsman’s Complaints Standards Authority lead work for the Scottish Government on the development of a revised NHS complaints procedure, in line with work undertaken in the wider public sector to improve complaints handling. Following discussion with the SPSO and others, the Scottish Government confirmed their intention to pursue this arrangement, with early engagement work taking place with Health Boards earlier in 2015. A working group has now been convened to progress the development of an NHS model complaints handling procedure, which will meet for the first time on 14 September this year.

The revised procedure will bring the NHS complaints procedure more closely into line with that operating in Local Authorities, and with the Scottish Government’s proposed arrangements for social work complaints, through the SPSO’s model complaints handling procedure (CHP). The revised NHS procedure will be based on the CHP and will include a five working day frontline resolution stage, ahead of the 20 working day stage for investigations (instead of the three day window for early resolution, contained within the 20 days investigation period, which is described above). This will address the current differences in the management of complaints in health and social care services and bring a sharper focus to frontline ownership and early resolution of complaints.

It is envisaged that these changes will take 12-18 months to implement. This timescale will enable the Complaints Standard Authority (CSA) to work collaboratively with Health Boards and others, including the Scottish Health

Council and members of the public, to develop the revised procedure and supporting guidance, and subsequently to support and allow sufficient time for Health Boards to implement it. This is in line with the process followed by the CSA in other sectors. This process will identify whether any other amendments are required to the Regulations and Directions associated with the Patient Rights (Scotland) Act 2011 in order to reduce variation and improve outcomes for people making complaints about NHS services, in addition to the amendments that will be required to provide for the five day stage for early resolution. We anticipate that the necessary amendments can be made within this timescale by means of a negative instrument.

3) Social work complaints

3a) Current procedure

Currently, Local Authority social work complaints are subject to a four stage process:

1. Early resolution by local staff; (then, if the complaint is not resolved at this stage);
2. Senior management / complaints officer investigation;
3. Complaints Review Committee (an independently chaired group which may make recommendations to the Local Authority); and
4. SPSO investigation of mal-administration.

The Complaints Review Committee (CRC) stage can be lengthy and service users have criticised CRCs as being time-consuming and frustrating and not user-focused.

It is our intention to make revisions to the social work complaints system that will result in the removal of the Complaints Review Committee stage and broaden the powers of the SPSO to investigate social work decisions made by a Local Authority.

3b) Planned changes

i) Removal of the Complaints Review Committee

It is our intention to harmonise the procedures for social work complaints with those for health complaints. Subject to Parliament's agreement, the Complaints Review Committee stage for social work complaints will be removed by early April 2017. In doing so, we must ensure that there is no diminution of the rights of the individual to complain about the services they receive through social work. It is, therefore, not possible to remove the CRC stage until SPSO is able to take on additional functions.

The complaints procedure following the move to the revised system will follow the SPSO's model Complaints Handling Procedures:

1. Early resolution by local staff; (then, if the complaint is not resolved at this stage);

2. Investigation by trained staff, and where the complaint is also in respect of services provided by another body, such as a Health Board, joint investigation with a single response to the person making the complaint;
3. SPSO investigation and recommendations.

ii) Broadening the powers of the SPSO in relation to social work complaints

Currently the SPSO is not able to consider decisions made by Local Authorities in the exercise of their social work functions under the Social Work (Scotland) 1968 Act, except those where there is a complaint about the mal-administration of the decision.

Our intention is to bring forward a Public Service Reform Order under the Public Services Reform Act 2010, to amend the Scottish Public Services Ombudsman Act 2002 to allow the SPSO to consider complaints that are broader in scope than referring solely to the mal-administration of a Local Authority's decision. This change will help to harmonise the system of complaints across health and social care. The draft Order would give the SPSO the power to specify the procedures that Local Authorities should use for complaints in relation to social work through their model Complaints Handling Procedures.

The process for bringing forward a Public Services Reform Order is a superaffirmative procedure within the Parliament, which has a 60 day consultation period for the draft SSI, and a 40 day Committee stage. The full process for laying a superaffirmative order is likely to take 7 months from the date of laying to coming into force, taking into account Parliamentary recesses. We are aiming to lay a draft SSI for consultation in September 2015, subject to the agreement of the Scottish Parliament Corporate Body to the changes to the SPSO's legislation. If the agreement of the SPCB is not secured in time to allow this, it will be necessary to lay the draft SSI as early as possible in the new session of the Parliament in May 2016, coming into force in April 2017. These dates are subject to further discussion with the SPSO and SPCB, and subject to the agreement of the Parliament.

The SPSO have stated that they would not be able to take on the third stage of the social work complaints procedures until autumn 2016 at the earliest due to other amendments to their role. We are already in discussion with the Scottish Parliament Corporate Body and the SPSO regarding the timings for bringing forward this Order, but we would expect that the changes would take place by early April 2017.

This timetable will allow proper Parliamentary scrutiny of a Public Service Reform Order under the Public Services Reform Act 2010, and will allow the SPSO to plan and prepare for the changes that we intend to bring about.

4) Guidance for Integration Joint Boards, Health Boards and Local Authorities

Given the timescales involved in implementing the changes outlined above, it is our intention to develop interim guidance, with key partners such as Integration Joint Boards, Health Boards, Local Authorities, the Care Inspectorate, Social Work Scotland and the SPSO. The guidance will aim to ensure that complainants and staff are clear about the principles and procedures for making and handling a complaint in the context of integrated services. Furthermore, the guidance will ensure consistency in standards of complaints handling, setting out the minimum requirements that should be adopted in line with the SPSO model complaints handling procedure. The importance of learning from complaints will be central to the guidance, with a view to continuous improvement. Integration Joint Boards, Health Boards and local authorities are required to take account of guidance in relation to their functions as set out at s53 of the Public Bodies (Joint Working) (Scotland) Act 2014. We intend to publish this guidance before the end of this calendar year.

The Committee has requested a further evidence session on complaints on 23 September. I will attend that session, along with my colleague Professor Craig White (Divisional Clinical Lead, Planning & Quality Division, Scottish Government) and Mr Soumen Sengupta (Head of Strategy, Planning and Health Improvement, West Dunbartonshire Health and Social Care Partnership). West Dunbartonshire's long standing experience of integrating health and social care provision means that Mr Sengupta is well-placed to explain how health and social care complaints, often referring to complex matters, are handled there under integration.

Integration of Health and Social Care – Background information

The Committee will be aware that the Public Bodies (Joint Working) (Scotland) Act 2014 (the Act) put in place arrangements for integrating health and social care, in order to improve outcomes for patients, service users, carers and their families. The Act requires Health Boards and Local Authorities to work together effectively, in a partnership arrangement, to deliver quality, sustainable care services.

The broad aims of the Act are:

- To improve the quality and consistency of care for patients, carers, service users and their families;
- To provide seamless, joined up care that enables people to stay in their homes, or another homely setting, where it is safe for them to do so; and
- To ensure that resources are used effectively and efficiently to deliver services that meet the needs of the growing population of people with longer term and often complex needs, many of whom are older.

Health Boards and Local Authorities are required to establish arrangements to form a partnership. There are two models of integration available for Health Boards and local authorities to choose from, as follows:

- Delegation of functions and resources between Health Boards and local authorities – Lead Agency
- Delegation of functions and resources by Health Boards and local authorities to a body corporate – Integration Joint Board

Integration models chosen

31 of the 32 Local Authority areas are using the body corporate model, in partnership with the NHS. Highland Council and NHS Highland have implemented a lead agency arrangement.

Minimum functions – Integration Joint Board responsibilities

Where Health Boards and local authorities agree to put in place a Body Corporate model, an Integration Joint Board (IJB) must be established.. The IJB is responsible for planning health and social care functions that have been delegated to them by the Health Board and Local Authority, for directing the Health Board and Local Authority to deliver services, and for oversight of service delivery resulting from those directions.

Each Health Board and Local Authority must integrate at least adult social care services, adult primary and community health services and a proportion of acute services. The functions that are integrated – either by being delegated via a lead agency arrangement, or to the IJB, are set out in the Integration Scheme, which is submitted, by the Health Board and Local Authority, to Scottish Ministers for approval. Any additional functions beyond the minimum scope that are also integrated – for instance, children's health

and social care services, will vary from one partnership to another, as partnerships will decide themselves on the scope of functions that will be delegated depending on local needs and priorities. It is at the discretion of Health Boards and Local Authorities to agree whether to integrate other services now or in the future, within the parameters permitted by the legislation.

An integrated budget will be established in each partnership to support delivery of integrated functions. The integrated budget, which is made up of funding from the Health Board and Local Authority for delivery of the integrated functions, is the resource the partnership will use to improve services across the whole pathway of care.

The Act places a duty on all partnerships to create a “strategic plan” for the integrated functions and budgets that they are responsible for. The strategic plan will set out how the partnership will plan and deliver services for their area over the medium term, using the integrated budgets and will be widely consulted upon with non-statutory partners and patient, carer and service user representatives.

Each partnership will establish locality planning arrangements at sub-partnership level. Localities will provide an organisational mechanism for local leadership of service planning, to be fed upwards into the Integration Authority's strategic plan; localities must have real influence on how resources are spent in their area. Locality arrangements will be empowered through effective use of data and by capitalising on and learning from the expertise that local professionals can contribute to improving services and outcomes for local people.

The Act does not require the transfer of staff under either model of integration. Service delivery will be the responsibility of the Health Board and Local Authority. The Health Board and Local Authority will be directed by the IJB to deliver the integrated functions in accordance with the strategic plan. The Health Board and Local Authority, therefore, will remain the responsible bodies for frontline delivery of health and social care services, under the IJB's directions.

Chief Officer

Where the body corporate model is used, the IJB must appoint a Chief Officer to oversee strategic planning, act as the accountable officer to the IJB, and provide a single point of management for the integrated budget and service delivery. The staff delivering integrated services will remain employed by the Health Board or Local Authority. The Chief Officer will manage staff via an integrated senior management team spanning both organisations.

Out of Hours review in Ayrshire and Arran

Access to high quality health and social care services to local communities outwith normal office hours is a key priority across Ayrshire and Arran and was considered by partners in the development of new Integrated services. The delivery arrangement that has been developed is with Health and Social Work out of hours services led by East Ayrshire Health and Social Care Partnership for all of Ayrshire and Arran Integration partnerships. A commitment to undertake a review to evaluate opportunities for synergies across services that could further develop integrated out of hours services was outlined in the East Ayrshire Health and Social Care Partnership Strategic Plan.

To progress this commitment, East Ayrshire Health and Social Care Partnership will be undertaking a service review of Health and Social Work out of hours services with the aim of considering integration. The review will seek to gain benefits for the population of Ayrshire through a more seamless service which maximises the use of the available expertise and resources out of hours.

Included in the scope of this review are:

- Ayrshire Doctors on Call
- Ayrshire Social Work Out of Hours Service
- Ayrshire Community Nursing Out of Hours Service.

Mental health services will be fully engaged in the review process in order to consider the benefits of closer working.

The review process will involve the services affected as well as stakeholders and partnership. The review is being undertaken within the context of the National Review of Primary Care Out of Hours Services and early indications from this national review are that it will be supportive of integrated local out of hours services. Members of the national review team led by Sir Lewis Ritchie have visited the services for a day to look at current arrangements and discuss our ambition for progress. Extensive public and other engagement is taking place through the national review and this will further inform the service review undertaken by Ayrshire.

Locally, an initial scoping meeting of the services involved took place on 13 August 2015 and it is envisaged that this will identify workstreams to progress. The review is expected to identify proposals in a timescale to move to implementation in 2016/17. The review is being supported by Organisational Development (East Ayrshire) and Service Improvement (NHS Ayrshire and Arran).

Enclosed are a range of information leaflets used across Ayrshire and Arran which are available and publicised throughout health and social care facilities.

Local Government and Regeneration Committee

21st Meeting, 2015 (Session 4), Wednesday, 23 September 2015

EU Priorities – Update

Background

1. The Committee considered its EU priorities for 2015 on 4 February this year. It agreed to keep these priorities under review in the light of developments to the EU Commission's Work Programme throughout the year.
2. SPICe has prepared a paper, attached at Annexe A, which sets out the updated European position on the various programmes, agreements and legislation.
 - 2014-2020 European Structural Funds Programmes in Scotland;
 - Public Procurement Rules
 - Inter-institutional agreement on better law making;
 - Mandatory Transparency Register
 - Late Payments Directive review;
 - Multi-Annual Financial Framework (MFF)
 - Transatlantic Trade and Investment Partnership (TTIP).
 - The Digital Single Market
 - Youth Employment Scotland Fund
3. COSLA agreed its EU Priorities at its Convention's meeting on 13 March 2015. The agreed list, which provides more detail on COSLA's position, is attached at Annexe B.
4. In relation to Public Procurement Rules, the Scottish Government held a consultation *Public Procurement: A Consultation on Changes to the Public Procurement Rules in Scotland*¹ which sought views on changes arising from three new EU Directives concerned with Public Procurement, Concessions and Utilities contracts. These Directives must be implemented into Scottish Regulations by 18 April 2016. The consultation also considered elements of the Procurement Reform (Scotland) Act 2014.

¹Public Procurement: A Consultation on Changes to the Public Procurement Rules in Scotland
<http://www.gov.scot/Resource/0046/00469645.pdf>

Decision

5. The Committee is invited to—

- **write to the European and External Relations Committee asking to be kept informed about the implications of the suspension of the 2007-2013 European Social Fund programmes and the implications this has for the 2014-2020 European Structural and Investment Funds Programmes;**
- **advise what further actions it wishes to take on other European matters.**

Claire Menzies
Senior Assistant Clerk
17 September 2015



Local Government and Regeneration Committee – European Priorities update

2014-2020 European Structural Fund Programmes in Scotland

Members may be aware that payments under the 2007- 2013 programming period for the European Social Fund (ESF) programmes in Scotland have been suspended by the European Commission. The reasons given by the Commission related to problems with eligibility and auditing of expenditure.

In a letter to the European and External Relations Committee about the suspensions, Keith Brown, the Cabinet Secretary for Infrastructure, Investment and the Cities also addressed developments for the 2014-2020 programmes. He wrote:

“Work is also far advanced on the implementation of the 2014-2020 programmes and as you know the new structure takes into account the lessons learned from the current position regarding interruptions and suspensions under the 2007-2013 activity. The 2014-2020 programmes seek to remove the audit burden associated with the funds from small organisations to those with the administrative capacity.

There is a focus on a smaller number of key themes and administration will be through the Scottish Government's Lead Partners - policy directorates, agencies and local authorities so match funding can be provided and there is capacity to cope with the substantial administrative work associated with EC regulations. Those organisations also have the capacity to run procurement and challenge fund processes into which the smaller organisations that would previously have bid directly for structural funds can now bid without having to carry the audit burden and risk directly.”²

The Cabinet Secretary's letter also states that the first set of funding allocations under the 2014-2020 programmes have now been approved to a number of Lead Partners but we understand that no money has yet been spent under the 2014-2020 structural fund programmes in Scotland.

The European and External Relations Committee has since written to the Cabinet Secretary to get clarity on why the 2007-2013 European Social Fund programmes have been suspended and ask what implications these suspensions have for the

2007-2013 European Regional Development Fund Programmes and the 2014-2020 European Structural and Investment Funds³.

Public Procurement Rules

Scottish Ministers have confirmed that there will be a co-ordinated approach to the implementation of the Procurement Reform (Scotland) Act 2014 and the EU Procurement Directives which were finally agreed in February 2014⁴.

According to the Scottish Government the new legislation – which will be in the form of Scottish Statutory Instruments - is expected to be laid before the Scottish Parliament by the end of 2015. To comply with European law, the EU Directives must be transposed into national law and come into force by 18 April 2016 at the latest.

Inter-institutional agreement on better law making

In 2014, in the lead-up to his selection as the new European Commission President, Jean-Claude Juncker presented his ten political priorities to the European Parliament. One of these priorities was “a union of democratic change”⁵. Within this priority, the European Commission has sought to develop a new “Inter-institutional agreement on better law-making”.

The Commission’s prioritising of this issue and discussions with the European Parliament and the Council led to the publication of a Communication titled [Proposal for an Interinstitutional Agreement on Better Regulation](#) on 19 May 2015. This was part of a wide ranging Better Regulation package published by the European Commission. The new Interinstitutional Agreement would replace the 2003 Interinstitutional Agreement on better law-making and the 2005 Interinstitutional common approach to impact Assessment.

On 25 June 2015, the negotiations on the Commission’s proposals to revise the Interinstitutional Agreement on Better Regulation began between the European Parliament President Martin Schulz, European Commission President Jean-Claude Juncker, Latvia’s Prime Minister, Laimdota Straujuma, representing the current Council Presidency and Luxembourg’s Prime Minister Xavier Bettel for the incoming Council Presidency⁶.

Agreement on a final Interinstitutional Agreement following the Commission’s original proposal is yet to be achieved.

³

http://www.scottish.parliament.uk/S4_EuropeanandExternalRelationsCommittee/General%20Documents/2015_09_09_ConvenerCabSeclIC.pdf

⁴

<http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform/implementEUDirProcRef>

⁵

http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_14-62.pdf

⁶

<http://www.europarl.europa.eu/news/en/news-room/content/20150625IPR70832/html/Better-Regulation-kick-off-meeting-on-Interinstitutional-Agreement>

Mandatory Transparency Register

A new version of the EU Transparency Register was launched on 27 January 2015 following joint work by the European Commission and the European Parliament. The 'second generation' of the Register implements the provisions of the revised Inter-institutional Agreement signed between the European Parliament and the European Commission in April 2014. The Interinstitutional Agreement between the European Parliament and the European Commission set out the rules and principles on which the Transparency Register is based⁷.

According to the European Commission:

“The new system brings changes to the way human resources invested in lobbying are declared, requires additional information about involvement in EU committees, forums, intergroups or similar structures, and legislative files currently followed; it also extends the requirement to declare estimated costs related to lobbying to all registrants.”

In his Political Guidelines for the next Commission under priority 10) 'A Union of Democratic Change,' President Juncker committed to enhanced transparency when it comes to contact with interest representatives.

The Commission Work Programme 2015 proposed a mandatory Transparency Register based on an Interinstitutional Agreement covering the European Parliament, the European Commission and Council.

As a result of the Work Programme commitment, the Juncker Commission is expected to publish a proposal during 2015 for a mandatory register of lobbyists covering the Commission, the European Parliament and the Council. The preparation of this proposal is the responsibility of First Vice-President Timmermans. As yet, no proposal appears to have been published.

Late Payments Directive Review

The second Late Payments Directive [2011/7/EU](#) on combating late payment in commercial transactions; aims to make pursuing payment a simpler process across the European Union, reducing the culture of paying late and making paying on time the norm. Legislation transposing the Directive came into force in the UK on 16 March 2013 (see Statutory Instrument 2013 No. 395 The Late Payment of Commercial Debts Regulations 2013).

According to a European Parliament briefing published in June 2015:

“Although the 2011 directive is not due for a review as such, the Commission is required, by 16 March 2016, to submit a report to the European Parliament and the Council on the implementation of this Directive, accompanied by any

7

http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=INTER_INST_AGREEMENT

appropriate proposals. Accordingly, DG GROW⁸ has engaged consultants to gather information from Member States relating to implementation and to publish a study, and in parallel, launched a country survey online on 8th June 2015.”⁹

The study commissioned by the Commission was due to finish in July 2015. According to the Commission; “The results of this study will be compiled along with other findings in a report which will be submitted to the European Parliament by 16 March 2016”¹⁰.

In relation to late payments, the UK Government undertook two public consultations. In November 2014 it consulted on [reporting requirements on payments](#), and in February 2015 it consulted on the [definition of grossly unfair](#), and whether it should go further than the current European definition given the size of the creditor compared to the debtor.

The 2014-2020 Multi-annual Financial Framework

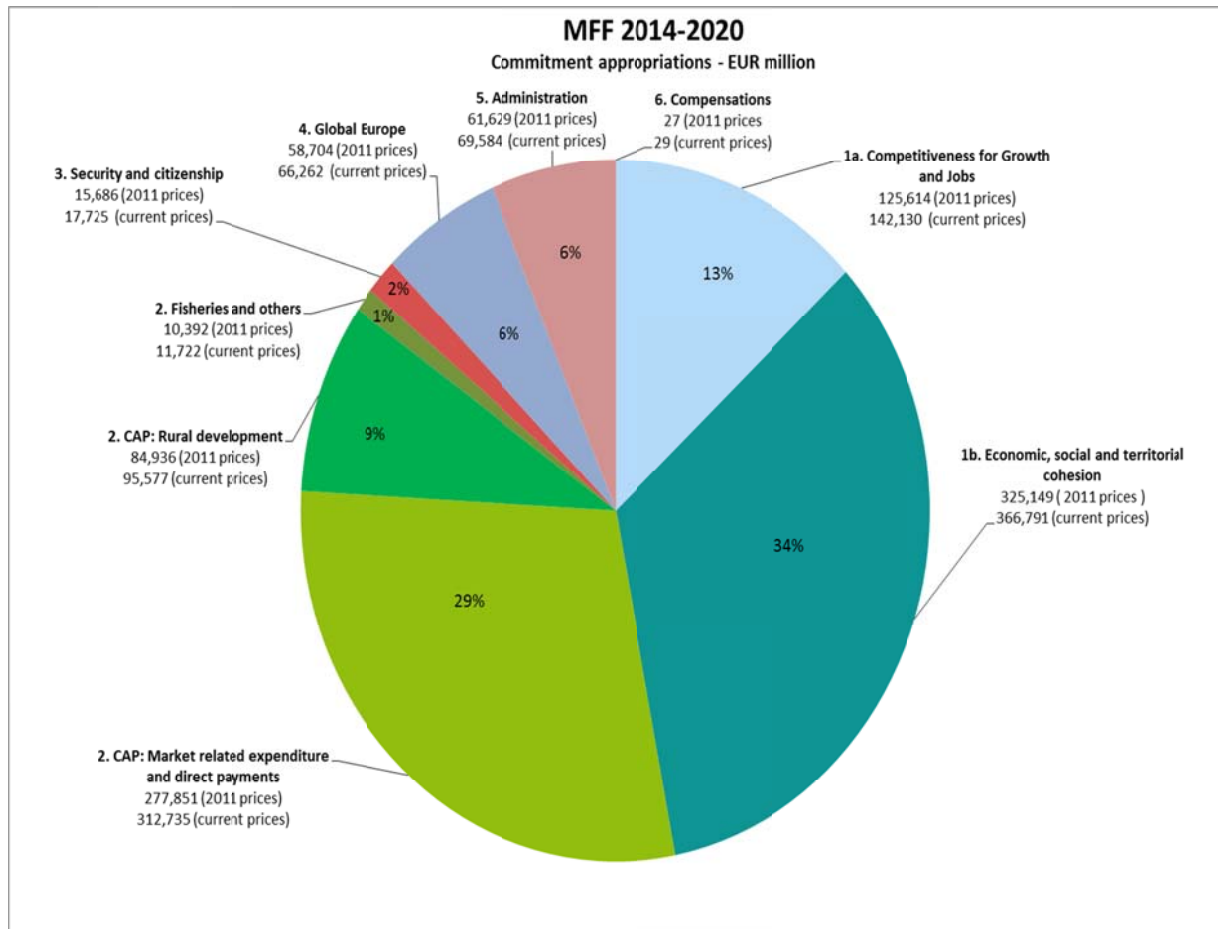
The European Union's Multiannual Financial Framework (MFF) lays down the maximum annual amounts ('ceilings') which the EU may spend in different political fields ('headings') over a period of no less than five years. The current MFF covers seven years: from 2014 to 2020 and sets a budget ceiling of €960 billion.

The spending allocated under each of the seven headings is provided in the chart below.

⁸ DG GROW is responsible for the Internal Market, Industry, Entrepreneurship and SME policy in the European Commission

⁹ [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/558760/EPRS_BRI\(2015\)558760_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/558760/EPRS_BRI(2015)558760_EN.pdf)

¹⁰ http://ec.europa.eu/smart-regulation/better_regulation/documents/swd_2015_110_en.pdf



Funding Programmes - In line with the financial framework running from 2014 to 2020, European funding programmes also run from 2014 to 2020. European funding programmes such as Structural Funds and the Common Agricultural Policy (both pillar 1 and pillar 2) see funds pre-allocated to Member States and as such there is no competitive bidding process required to ensure Scotland gets “its share” of funding. Most other funds – such as Horizon 2020 are competitive funds in which Scottish projects are required to bid against projects from across the European Union for funding. In the case of competitive funds, Scotland’s access to EU funding will be determined by the quality of Scottish projects bids for funding.

More details on the 2014-2020 Multiannual Financial Framework and the European Funding Programmes for 2014-2020 is available in SPICe Briefing [SB 14-61 The European Union Multiannual Financial Framework and European Funding Programmes 2014-2020](#)

Transatlantic Trade and Investment Partnership

Members will recall that for trade policy, the European Commission negotiates on behalf of the EU and its 28 Member States. As a result, the Commission, led by the EU Trade Commissioner Cecilia Malmström, is representing the EU at the negotiating table. The Commission is negotiating on the basis of guidelines agreed by the Council, where the governments of all EU Member States are represented.

Negotiations for a Transatlantic Trade and Investment Partnership began in July 2013. At that time, both sides hoped an agreement could be reached over the course of around two years. However, negotiations have dragged on and an agreement is yet to be reached. In response to a parliamentary question in June 2015, the UK Government confirmed that it is “pressing for an agreement under the current US Administration, which means we need to see tangible progress by end-2015”.¹¹

The European Union and United States negotiating teams have now met for ten rounds of negotiations. Since the Committee published its inquiry report the ninth and tenth round of negotiations have taken place.

As both trade and foreign direct investment policies are exclusive competences of the European Union, once the negotiators have come up with an agreement, it will be the Council, together with the European Parliament, which will examine and approve or reject the final agreement. For the European Parliament this is likely to involve a vote in the Committee for International Trade followed by a plenary vote. If the European Parliament votes to approve the agreement it would then be for the Council to agree the final text.

If a final TTIP agreement is a mixed agreement (i.e. it involves areas of both EU and Member State competence), it will also require ratification at Member State level. In a press release published in October 2014, the European Commission stated:

“Every trade agreement has its specific characteristics. In case of the EU-US trade talks, for instance there will most likely be a number of elements that will require ratification by national parliaments.”¹²

The Committee has previously expressed an interest in the potential impact of TTIP on Arm's Length External Organisations (ALEOs). The European Commission have told me that with negotiations on-going, it is difficult to be sure about the impact on ALEOs given that if they are covered in the scope of TTIP, it may depend how the ALEO's are controlled and what their activities are.

The Parliament's European and External Relations Committee considered a SPICE update paper on TTIP on 3 September 2015. The paper, which may be of interest to Committee Members, is available at:

http://www.scottish.parliament.uk/S4_EuropeanandExternalRelationsCommittee/Meeeting%20Papers/20150903_Public_papers_EERC.pdf

The Digital Single Market

According to the European Commission:

“Too many barriers still block the free flow of online services and entertainment across national borders. The Digital Agenda will update EU Single Market rules for the digital era. The aims are to boost the music download business,

¹¹ <http://gnadailyreport.blob.core.windows.net/gnadailyreportxml/Written-Questions-Answers-Statements-Daily-Report-Commons-2015-06-04.pdf>

¹² <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1185>

establish a single area for online payments, and further protect EU consumers in cyberspace.”¹³

Establishing a connected single digital market was a recognised political priority for the new European Commission President Jean-Claude Juncker. The Commission suggests:

“Its completion could generate up to EUR 250 billion of additional growth in Europe in the course of the mandate of the new Commission (2014-2019), thereby creating hundreds of thousands of new jobs, notably for young job-seekers, and a vibrant knowledge-based society.”

The Digital Single Market was identified as a Commission priority in the Work Programme for 2015. The Commission set out its view that:

“The borderless nature of digital technologies means it no longer makes sense for each EU country to have its own rules for telecommunications services, copyright, data protection, or the management of radio spectrum.”

In May 2015, the European Commission published a Communication titled “[A Digital Single Market Strategy for Europe](#)”. According to the Communication, The Digital Single Market Strategy will be built on three pillars and under each of these three pillars the Commission has made a number of commitments. These commitments are reproduced below for information¹⁴.

Pillar I: Better access for consumers and businesses to digital goods and services across Europe

1. rules to make cross-border e-commerce easier. This includes harmonised EU rules on contracts and consumer protection when you buy online: whether it is physical goods like shoes or furniture; or digital content like e-books or apps. Consumers are set to benefit from a wider range of rights and offers, while businesses will more easily sell to other EU countries. This will boost confidence to shop and sell across borders (see Factsheet for facts & figures).
2. to enforce consumer rules more rapidly and consistently, by reviewing the Regulation on Consumer Protection Cooperation.
3. more efficient and affordable parcel delivery. Currently 62% of companies trying to sell online say that too-high parcel delivery costs are a barrier (see the newly released Eurobarometer on e-commerce).
4. to end unjustified geo-blocking – a discriminatory practice used for commercial reasons, when online sellers either deny consumers access to a website based on their location, or re-route them to a local store with different prices. Such blocking means that, for example, car rental customers in one particular Member State may end up paying more for an identical car rental in the same destination.

¹³ <http://ec.europa.eu/digital-agenda/our-goals/pillar-i-digital-single-market>

¹⁴ http://europa.eu/rapid/press-release_IP-15-4919_en.htm

5. to identify potential competition concerns affecting European e-commerce markets. The Commission therefore launched today an antitrust competition inquiry into the e-commerce sector in the European Union (press release).

6. a modern, more European copyright law: legislative proposals will follow before the end of 2015 to reduce the differences between national copyright regimes and allow for wider online access to works across the EU, including through further harmonisation measures. The aim is to improve people's access to cultural content online – thereby nurturing cultural diversity – while opening new opportunities for creators and the content industry. In particular, the Commission wants to ensure that users who buy films, music or articles at home can also enjoy them while travelling across Europe. The Commission will also look at the role of online intermediaries in relation to copyright-protected work. It will step up enforcement against commercial-scale infringements of intellectual property rights.

7. a review of the Satellite and Cable Directive to assess if its scope needs to be enlarged to broadcasters' online transmissions and to explore how to boost cross-border access to broadcasters' services in Europe.

8. to reduce the administrative burden businesses face from different VAT regimes: so that sellers of physical goods to other countries also benefit from single electronic registration and payment; and with a common VAT threshold to help smaller start-ups selling online.

Pillar II: Creating the right conditions and a level playing field for digital networks and innovative services to flourish

The Commission will:

9. present an ambitious overhaul of EU telecoms rules. This includes more effective spectrum coordination, and common EU-wide criteria for spectrum assignment at national level; creating incentives for investment in high-speed broadband; ensuring a level playing field for all market players, traditional and new; and creating an effective institutional framework.

10. review the audiovisual media framework to make it fit for the 21st century, focusing on the roles of the different market players in the promotion of European works (TV broadcasters, on-demand audiovisual service providers, etc.). It will as well look at how to adapt existing rules (the Audiovisual Media Services Directive) to new business models for content distribution.

11. comprehensively analyse the role of online platforms (search engines, social media, app stores, etc.) in the market. This will cover issues such as the non-transparency of search results and of pricing policies, how they use the information they acquire, relationships between platforms and suppliers and the promotion of their own services to the disadvantage of competitors – to the extent these are not already covered by competition law. It will also look into how to best tackle illegal content on the Internet.

12. reinforce trust and security in digital services, notably concerning the handling of personal data. Building on the new EU data protection rules, due to be adopted by the end of 2015, the Commission will review the e-Privacy Directive.

13. propose a partnership with the industry on cybersecurity in the area of technologies and solutions for online network security.

Pillar III: Maximising the growth potential of the digital economy

The Commission will:

14. propose a 'European free flow of data initiative' to promote the free movement of data in the European Union. Sometimes new services are hampered by restrictions on where data is located or on data access – restrictions which often do not have anything to do with protecting personal data. This new initiative will tackle those restrictions and so encourage innovation. The Commission will also launch a European Cloud initiative covering certification of cloud services, the switching of cloud service providers and a "research cloud".

15. define priorities for standards and interoperability in areas critical to the Digital Single Market, such as e-health, transport planning or energy (smart metering).

16. support an inclusive digital society where citizens have the right skills to seize the opportunities of the Internet and boost their chances of getting a job. A new e-government action plan will also connect business registers across Europe, ensure different national systems can work with each other, and ensure businesses and citizens only have to communicate their data once to public administrations, that means governments no longer making multiple requests for the same information when they can use the information they already have. This "only once" initiative will cut red tape and potentially save around €5 billion per year by 2017. The roll-out of e-procurement and interoperable e-signatures will be accelerated.

The European Commission's aim is to deliver progress across all these actions by the end of the 2016.

The Digital Single Market was also discussed at the June European Council (the meeting of Member State Heads of State and Government). According to the Council Conclusions the European Council agreed that¹⁵:

a) the Telecommunications Single Market Regulation, including roaming, and the Directive on Network and Information Security must be rapidly adopted; the Data Protection package must be adopted by the end of this year;

b) action must be taken on key components of the Commission communication, notably to:

- remove the remaining barriers to the free circulation of goods and services sold online and tackle unjustified discrimination on the grounds of geographic location;

¹⁵ <http://www.consilium.europa.eu/en/meetings/european-council/2015/06/euco-conclusions-pdf/>

- guarantee the portability and facilitate cross-border access to online material protected by copyright, while ensuring a high level of protection of intellectual property rights and taking into account cultural diversity, and help creative industries to thrive in a digital context;
- ensure effective investment instruments and improve the innovation climate, targeting in particular SMEs and start-ups;
- identify and deliver rapidly on the key ICT standardisation priorities;
- ensure the free flow of data;
- assess the role of on-line platforms and intermediaries;
- improve digital skills;
- encourage e-Government.

Iain McIver
SPICe Research

Youth Employment Scotland Fund

The Scottish Government (SG) launched the [Youth Employment Scotland Fund \(YESF\)](#) in June 2013. Originally aimed at unemployed 16-24 year olds, the age eligibility criteria was extended in August 2014 to include unemployed 25 to 29 year olds - <http://news.scotland.gov.uk/News/Support-expanded-for-young-jobless-f89.aspx> . The programme was eventually extended to June 2015 and [supported 10,000 jobs](#).

YESF was a recruitment incentive programme with a focus on small and medium-sized enterprises in the private sector employers and social enterprises. The programme, which was delivered by local authorities, provides financial support to employers for at least 26 weeks which covers a minimum of half the salary costs at the National Minimum Wage (NMW). Local authorities had flexibility to utilise YESF alongside other schemes to offer additional support to young people in their area.

The SG provided £25 million – this is based on SG funding of £15m matched by £10m European Social Fund (ESF) money – to create up to 10,000 job opportunities. For starts to 31 December 2014 the SG and ESF contribution met 50% of the wage costs for the first 6 months of employment, with the balance being paid by the employer. For starts from 1st January 2015 the SG agreed a co-investment model with local authorities where the combined public contribution from SG and local authorities meets 50% of the wage costs for the first 6 months of employment, with the balance being paid by the employer.

The SG has commissioned an evaluation of the programme and it is envisaged that the report will be available in autumn 2015.

The Scottish Employer Recruitment Incentive has replaced the Youth Employment Scotland Fund. SERI is administered on behalf of the Scottish Government by Skills Development Scotland and delivered by Local Authorities.

Greig Liddell

SPICe Research

Sources:

Personal correspondence with Scottish Government officials, and:
http://www.employabilityinscotland.com/media/472631/youth_employment_scotland_fund_-_updated_qa.pdf



COSLA EU Priorities 2015

Purpose

1. This report suggests a number of key EU policy work priorities for COSLA for this year and the following years, based on the new EU Commission work programme.

Recommendations

2. The Convention is invited to agree:
 - i. the EU policy work priorities listed in paragraphs 9 to 19 below;
 - ii. that Leaders or Executive Groups, as required, receive more detailed reports on these matters, when appropriate, to allow full lobbying positions to be developed; and
 - iii. that the President write to the Cabinet Secretary for Culture, Europe and External Affairs and the Convenor of the European and External Relations Committee, advising them of our priorities.

Background

3. Each year COSLA scrutinises the European Commission Legislative Work Programme. The 2015 priorities are the first of the new Commission led by Jean Claude Juncker and, as such, frame the work for the five-year term as well as specifically the next calendar year.
4. EU legislation is key to a range of policy areas, including the status of public services, the protection of the environment and climate change, and the support of local economic development. On this basis COSLA and member councils, work in close partnership with our local authority association counterparts from the rest of the UK and other Member States.
5. COSLA is a member of the Council of European Municipalities and Regions (CEMR), Europe's largest and oldest association of European municipalities. Cllr Mairi Evans is a member of its Executive Bureau, and a COSLA officer chairs or takes the lead in a number of working groups. COSLA nominates and supports the councillors who are Members of the EU Committee of the Regions (Cllrs Corrie McChord, Tony Buchanan, Barbara Grant and Gary Robinson). Also COSLA nominates and supports the local members of the Congress of Local and Regional Authorities of the Council of Europe (Cllrs McGuigan and Evans). Cllr McGuigan has recently led, with officer support from COSLA and the Improvement Service, a review of local governance changes across European countries. COSLA also engages with the European institutions and provide briefings to Scottish MEPs.

6. Finally, COSLA is having productive discussion with the Scottish Government and the Scottish Parliament so as to develop stronger ties when considering EU issues with a clear impact on councils. We have also made good progress in engaging with the UK Government, with COSLA key priorities now featuring within the UK Government's EU engagement priorities.

Priorities for 2015/16

7. Members will find below the draft 2015 priorities which are structured around the key principles defined by the COSLA Constitution: the empowerment of local democracy; integration rather than centralisation; outcomes rather than inputs; and the protection of local choice and accountability. These have been subject to detailed consultation with council officials. The annex provides slightly more detail on each of the Commission's priorities around which the core of the COSLA Brussels Office's work will be based. However, it will continue to work on specific matters of importance to Scottish Local Government raised through the likes of CoR and CEMR, and requested by COSLA member councils and Executive Groups etc.
8. Once agreed, the President will write to the Cabinet Secretary for Culture, Europe and External Affairs and the Convenor of the European and External Relations Committee, advising them of our priority work, and our willingness to work with them to further our positions on these matters.

The empowerment of local democracy:

9. Vice President Timmermans has been given the overall responsibility of enforcing the principle of **Subsidiarity**, including the ability to block draft legislation that is deemed to infringe unjustifiably on local and regional powers. This is a welcome development. Similarly the new proposals for **Better Regulation** and **Standards for Consultation** are to be welcomed. But for these to be effective they must have robust processes behind them to ensure that local impacts are properly scoped when drafting EU legislation. This should include a more structured way of consulting local authorities or their associations on draft legislation, and a limited use of Commission secondary legislation (Delegated Acts) to replace legislation approved by the European Parliament.
10. The **Inter-institutional agreement on a mandatory transparency register** has been objected to in strong terms by our sister Local Government associations. We and local authorities, will be treated in the same way as professional lobbyists from major businesses, including arms dealers. It denies our role as a legitimate and equal body representing elected members' opinion, something available to MSPs, and MPs. If councils do not register they are threatened from being barred from any meaningful contact with the EU institutions, despite the role of Local Government being recognised as the sphere of Government closest to the people. It is in COSLA interest to see this reversed or suspended as soon as possible and negotiations are ongoing. To do this we are seeking support from the Scottish Parliament and the UK Government, together with close cooperation with our counterparts from other Member States.

Integration rather than centralisation:

11. The Commission proposal to scrap the existing **municipal VAT recovery scheme** that the UK and six other Member States currently use is of great concern. This

would see VAT exemption being lost. Our initial assessment suggests that a change of this magnitude will have significant implications for the inter-governmental fiscal arrangements within Scotland and with the rest of the UK.

12. We are expecting, as part of the “deeper and fairer internal market” agenda, that the new Commission will revisit the idea of the EU legislating on **Urban Mobility**. COSLA opposed this on grounds of subsidiarity when this was last attempted. The Commission is basing its case for EU interventions on the harmonisation between some Member States who wish to create more uniform mobility standards (including congestion charging, low emission zones) across their borders. However, urban mobility is not an EU power, if it were to be then it would require a rewrite of the treaties and attempts to do this should be resisted. We will call on the support on the UK and Scottish Government to oppose this.

Outcomes rather than inputs:

13. Both the draft EU legislation on **Air Quality** and the **Circular Economy** are to be reviewed. We are concerned that the 7th Environmental Action Programme committed all Member States to highly ambitious targets. Many Member States were unable to reach the objectives in the current Directive and thus urged a reassessment of whether these were achievable. The review is welcome, but it needs to be carried out in a pragmatic and realistic way, and used to create legislation coherent with current UK and Scottish policy.
14. Similarly the plans for new legislation on **Energy Efficiency** and **Renewable Energy** need to be compatible with Scottish/UK policy, as was achieved in the previous negotiation rounds. Any attempts by the Commission to introduce specific targets for the public sector will be resisted, unless it is able to prove that such targets are drawn from a proper assessment of the ability of Local Government to meet them. COSLA will seek to engage in the reviews under the REFIT framework of the **Birds and Habitats** legislation and **Strategic Environmental Assessment**. There is a clear possibility that new provision will affect councils’ planning powers and perhaps overload the development planning and management systems, at a time when domestically planning authorities are threatened with penalties for ‘poor performance’.

The protection of local choice and accountability:

15. COSLA has long been calling for Protocol 26 on Services of General Interest (public services) of the Lisbon Treaty to be fully respected. It states that EU legislation must respect *the wide discretion of local authorities in providing, commissioning and organising services of general economic interest*. On that basis we would be keen that the effects of the forthcoming review of the **State Aid Guidelines for Services of General Economic Interest**, as well as the services of general interest provisions that may be included in the Transatlantic Trade and Investment Partnership (T-TIP) and the **Trade In Service Agreement (TISA)** currently in negotiation, don’t weaken the existing EU treaty provisions on public services.
16. We welcome the review of the **Working Time Directive**. COSLA has already agreed a detailed proposal to ensure that this review is proportionate and to ensure continuity of public services at local level. Our national and local employment

practices have evolved over a period of time and respond well to remoteness and services that are human capital intensive. COSLA leads the work within CEMR where our proposal has been used as one of the templates to prepare a common EU-wide position.

17. The Commission is to review the **Late Payment Directive**. Already most Scottish councils pay within 30 days. Given this, any new arrangements should leave current UK legislation on late payment unchanged. There is no need for new arrangements, remedies and sanctions. The current system works.
18. On the Post-2015 international agenda, COSLA has recently written to the House of Commons Environmental Audit Committee enquiry calling for the UK negotiation approach to the **Sustainable Development Goals (SDGs)** and the 2016 **HABITAT III** on Sustainable Urban Development to be developed in partnership with Local Government across the UK. It appears very likely that the majority of the work from the SDGs are already part of Scotland's developing National Performance Framework. However, we are concerned about the potential direction and bureaucratic reporting requirements, and the extent that both the SDGs and HABITAT III commitments will frame future EU, UK and Scottish legislation concerning councils' powers on sustainable development.
19. Last, and certainly not least, there are economic development matters such as the implementation and reform of the **EU Structural and Rural Development programmes**, the new **EU Youth Employment Initiatives** and the launch of the **Juncker Investment Plan** (which includes several Scottish bids) on whose implementation we will continue to work on. However, we are also already engaged in the preparatory work for the next round of EU funding as the first proposals will come as early as spring 2017.

Conclusion

20. The Convention is invited to approve the above priorities. Leaders, Executive Groups and Convention will be kept updated on progress and further political lines sought as appropriate to their roles. COSLA is also working on further engagement opportunities at EU level, also including by means of the Scottish Locally-Engaged European Representatives (SLEER) Group to which all councillors having an EU role or mandate is invited to join.

Communications Bulletin

Convention considered and agreed key EU policy work priorities for COSLA for this year and the following years, based on the new EU Commission work programme

Serafin Pazos-Vidal
Head of Brussels Office COSLA
serafin@cosla.gov.uk

March 2015