



The Constitution Unit



UNIVERSITY OF  
STIRLING



# Nations and Regions: The Dynamics of Devolution

Quarterly Monitoring Programme

Scotland

Quarterly Report  
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**The Leverhulme Trust**

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## **1. The Executive**

### **Barry Winetrobe**

#### **1.1 Ministerial reshuffle**

The Scottish ministerial team was reshuffled in early October, to less than overwhelming media approbation. The main changes (which all involved Labour members) saw Malcolm Chisholm move from the hotbed of Health to Communities, replacing Margaret Curran, who became Minister for Parliamentary Business. The former business manager, Patricia Ferguson, became Culture Minister, in place of the sacked Frank McAveety. Andy Kerr moved from Finance to Health, being replaced by Tom McCabe, who returns to the Cabinet. Rhona Brankin (another returnee) and Johann Lamont became junior ministers (with Mary Mulligan having resigned over the hospitals issue). The posts of Tourism, Culture and Sport and of Transport will now be full salaried Cabinet posts to reflect, according to Executive media briefings, “added responsibilities in the portfolios”, namely Transport adding responsibilities of Telecommunications and Post Offices while the Tourism, Culture and Sport Minister will assist the First Minister with External Relations.<sup>i</sup> The full government, with their responsibilities, is as follows (\* = Lib Dem):<sup>ii</sup>

#### *First Minister – Jack McConnell MSP*

Head of the devolved Scottish government; responsible for development, implementation and presentation of Executive policy; and for promoting and representing Scotland.

#### *Deputy First Minister – Jim Wallace MSP\**

With the First Minister, responsible for development, implementation and presentation of Executive policies; deputises for First Minister on promotion and representation of Scotland.

#### *Minister for Enterprise and Lifelong Learning – Jim Wallace MSP\**

##### *Deputy Minister – Allan Wilson MSP*

Responsible for economy, business and industry including Scottish Enterprise, Highlands and Islands Enterprise' trade and inward investment, further and higher education, science, corporate social responsibility, community business and co-operative development, European Structural Funds, energy, lifelong learning, training and skills

#### *Minister for Justice – Cathy Jamieson MSP*

##### *Deputy Minister – Hugh Henry MSP*

Criminal justice, youth justice, criminal justice social work, police, prisons and sentencing policy, courts and law reform, anti-social behaviour, sectarianism, human rights, fire services, community safety, drugs policy and related matters, vulnerable witnesses, victim support and civil law

#### *Minister for Health and Community Care – Andy Kerr MSP*

##### *Deputy Minister - Rhona Brankin MSP*

NHS, health service reform, health promotion, public health, allied healthcare services, acute and primary services, performance, quality and improvement

framework, community care, health improvement, mental health, substance misuse, pharmaceutical services, food safety and dentistry

*Minister for Education and Young People – Peter Peacock MSP*

*Deputy Minister – Euan Robson MSP\**

School education, Gaelic, HMIE and SQA, nurseries, childcare, children's services, social work and HMSWI

*Minister for Parliamentary Business – Margaret Curran MSP*

*Deputy Minister – Tavish Scott MSP\**

Parliamentary business and management of Executive legislative programme and Executive business in the Parliament; relations with UK government

*Minister for Finance and Public Service Reform – Tom McCabe MSP*

*Deputy Minister – Tavish Scott MSP\**

The Scottish Budget, civil service reform and modernising government, local government, external affairs, public service delivery, cities and community planning, GRO, ROS, relocation, e-government, SPPA, procurement, budgetary monitoring and liquor licensing.

*Minister for Environment and Rural Development – Ross Finnie MSP\**

*Deputy Minister – Lewis Macdonald MSP*

Sustainable development, land reform, agriculture, fisheries, food, waste, climate change, air quality, strategic environmental assessment, Scottish water and rural development, natural heritage, water, SEPA, GM, crofting, marine environment, freshwater fishing and forestry

*Minister for Communities – Malcolm Chisholm MSP*

*Deputy Minister – Johann Lamont MSP*

Housing, regeneration, the land use planning system, building standards, voluntary sector, anti - poverty measures, lead policy responsibility for older people, charity law, religious and faith organisations, equality issues

*Minister for Tourism, Culture and Sport – Patricia Ferguson MSP*

Tourism, culture and the arts, sport, major events strategy, built heritage, architecture, Historic Scotland and lottery funding; assisting the First Minister on external relations.

*Minister for Transport – Nicol Stephen MSP\**

Transport policy and delivery, public transport, road, rail services, air and ferry services and telecommunications.

*Lord Advocate – Colin Boyd MSP*

*Solicitor General – Elish Angiolini QC*

The Crown Office and Procurator Fiscal Service, prosecution of crime, investigation of sudden deaths, complaints against the police, support for victims and witnesses of crime, international cooperation including mutual legal assistance and extradition,

confiscation of proceeds of crime. Legal advice to Scottish Ministers, civil litigation, constitutional issues and appointment of Counsel.

## **1.2 Legislative programme**

The First Minister set out the Executive's forward legislative programme and policies in a plenary statement on 7 September (which was followed by a two-day debate). He announced 12 new Executive Bills, in addition to the five already in progress.

Opposition and press reaction was predictably critical, with claims that the package is worthy but unambitious, and fails to tackle the core economic and public services issues.<sup>iii</sup> The Bills are:<sup>iv</sup>

- Budget Bill
- Charities and Trustee Investment Bill
- Environmental Assessment Bill
- Family Law Bill
- Further and Higher Education Bill
- Gaelic Language Bill
- Health Services (Miscellaneous Provisions) Bill
- Housing Bill
- Licensing Bill
- Prevention of Female Genital Mutilation Bill
- Protection of Children and Prevention of Sexual offences Bill
- Transport Bill

The Bills already in progress were:

- Fire (Scotland) Bill
- Tenements (Scotland) Bill
- Water Services (Scotland) Bill
- Emergency Workers (Scotland) Bill
- School Education (Ministerial Powers and Independent Schools) Bill

## **1.3 Fraser Report fallout**

The Executive has claimed that lessons will be learned from the Fraser Report, and that the Civil Service Commissioners have been asked to conduct an inquiry into whether any particular officials should be disciplined for their involvement in the Holyrood Project. It remains to be seen what, if anything, emerges from this, or from the First Minister's immediate wider promises of improvements in the Administration and in accountability to the Parliament, though it must be noted that much of what was actually recommended in the Report related more to specific issues of construction contracts and administration rather than the general operation of devolved governance:<sup>v</sup>

I said when I announced this inquiry that the Holyrood building project, more than any other issue, overshadows the many real achievements of this young Parliament. I want to thank Lord Fraser for his full report and the recommendations contained in it. It is clear there were faults both pre and post devolution. I support the recommendations and will implement those that apply to the Scottish Executive as soon as possible. Our ambition is to have a civil service in Scotland that is the best in the UK and beyond. A civil service that has the best people, the best skills and the best practices. While we have made many improvements to the Scottish civil service since 1999, it is now the task of those charged with taking devolution forward to improve further and modernise faster. Lord Fraser's report strengthens my resolve to make that happen.

The Permanent Secretary's immediate response was in the following terms:

Lord Fraser has confirmed previous findings by the Auditor General that there were points in the process at which civil servants fell short of the standards which we expect of ourselves and which Ministers and the public are entitled to expect of us. Since the post-devolution Scottish Executive replaced the pre-devolution Scottish Office much has changed. We are a very different organisation now. Many of the people are different, we have different ways of working and, above all, a changing culture adapted to the needs of post-devolution Scotland. We have a duty to ensure that we are an outward-looking organisation which reflects the priorities and values of the people we serve and that every pound of public money is spent wisely. We have acted on the Auditor General's earlier findings and we shall learn any further lessons which we can take from the Fraser report. We shall press on with developing and changing, learning from past mistakes is an important part of that.

Nevertheless, the Report has again re-ignited the question of whether the Civil Service should be fully devolved, an issue which may be examined as part of the HC Public Administration Committee's new inquiry into the effectiveness of the Civil Service, which includes as one of its questions:<sup>vi</sup>

Despite five years of devolution, the Assembly Government in Wales and the Scottish Executive are both still served by members of the unified UK Civil Service. Is this appropriate?

In view of the post-Fraser discussions of the need to improve the parliamentary accountability of the Executive, it is also worth noting that the UK Government are well advanced in revising its guidance for officials when giving evidence to select committees ('Osmotherly Rules').<sup>vii</sup> No such specific action appears to have been made by the Executive, or even demanded by the Parliament, in relation to the devolved government's equivalent guidance.

#### **1.4 Public sector policy**

Ambitious plans to achieve greater public sector efficiencies, and what this may mean in terms of job and services cuts or 'privatisations' is exercising many, especially in Labour, and its feasibility is being questioned by commentators.<sup>viii</sup> It appears that a

series of substantial policy reviews will be established following the recent ministerial reshuffle. The published budget documentation gave rise to accusations that the Executive has quietly dropped or changed many of its previous targets.<sup>ix</sup> A further round of Modernising Government funding was announced in late October.<sup>x</sup>

### **1.5 Other civil service, quango and public sector issues**

Opposition and media scrutiny of the Executive's administrative expenditure included media and communications, and overseas ministerial travel.<sup>xi</sup> Parliamentary written answers continue to provide a rich source of data on the composition and operation of the devolved administration. For example, information on its disability and ethnic compositions was provided in WAs on 29 September and 4 October.<sup>xii</sup> One press report attacked the overall cost of the various Executive policy 'czars' (though its accuracy could be questioned, as it included some which are parliamentary appointments, such as the Information and Children Commissioners).<sup>xiii</sup> Written Answers of 12 August and 9 September provide statistics on prior political activity and an age breakdown of appointments to Scottish public bodies, and analysis of Executive data led to claims that around 70% of members of Scottish public bodies had links to Labour.<sup>xiv</sup> An interactive experiment for some public services was launched in September.<sup>xv</sup>

### **1.6 FoI**

The Executive published the code of practice on public authorities' discharge of their FoI functions, and the Information Commissioner concluded the first formal complaint under the current non-statutory open government code (relating to judicial performance statistics).<sup>xvi</sup> The Scottish Information Commissioner published research showing that most Scots did not know much about the new FoI legislation, due to come fully into force in January.<sup>xvii</sup> One result of an FoI request by the press was information on ministerial expenses, which provided much merriment over the claim for a kilt jacket by the then Culture Minister, Frank McAveety.<sup>xviii</sup> Many 'internal' Executive guidance documents have now been made available on its website, as part of its FoI-inspired publications scheme.<sup>xix</sup>

## **2. Parliament**

**Mark Shephard**

### **2.1 The Fraser Inquiry**

Interest and focus on the new Parliament building has replaced interest in the Fraser Inquiry which rather fizzled out after the final Report failed to single-out any culprits to blame for the escalating costs and timetable of the building. While the Parliament ultimately voted to accept the findings of the Fraser Inquiry and for the SPCB and Scottish Executive to 'consider the contents', challenges to this position were offered by the SNP, Conservatives and Margo MacDonald. For the SNP, Fergus Ewing moved a multi-faceted, critical amendment that included the complaint 'that there has been no ministerial accountability'<sup>xx</sup> focused in particular on Jack McConnell's lack of accountability as Finance Minister in 1999. It was defeated by 87 to 23 with 2 abstentions - one of whom was Donald Gorrie (Liberal Democrat MSP). For the Conservatives, David McLetchie moved an amendment that welcomed the report but that stated that it 'fails to place due emphasis on the principle of ministerial responsibility and accountability'.<sup>xxi</sup> It was defeated by 68 votes to 42 with 2 abstentions (again including Donald Gorrie). Margo MacDonald's (Independent MSP) amendment called for 'a special committee of the Parliament to consider the report and make recommendations as to the future conduct of the civil service, the Corporate Body, the Chief Executive of the Parliament and the Executive in discharging their duties'.<sup>xxii</sup> MSPs from the main four parties soundly defeated the amendment by 92 to 13 (including 4 backbench Liberal Democrat MSPs - Donald Gorrie, Mike Pringle, Mike Rumbles, and Margaret Smith) with 7 abstentions (the Green MSPs). Despite the lack of unity among the Liberal Democrats, potential for opposition impact was effectively derailed by lack of opposition party unity.

### **2.2 New Building, New Beginning?**

If there has been a new beginning, it has been to draw a line in the sand over blame and to make the most of the new building that after much delay finally opened for business this quarter. Staff were the first to move to the new building in August, followed by MSPs who were in place a month ahead of the official opening by the Queen on 9<sup>th</sup> October 2004. The Opening Ceremony included a procession down the Royal Mile and culminated in speeches by the Queen and politicians in the new debating chamber. The Scottish Socialists fronted an alternative republican ceremony on Calton Hill (the main rival site for the location of the parliament). Public and politician assessment of the new building has been mixed. According to a BBC Radio Five Live survey of 64 out of 108 backbenchers, a majority felt that the building was progressive but only nine felt that the price tag of £431m was justified.<sup>xxiii</sup> Positive comments on the new building tend to highlight the chamber, committee rooms and some of the design features of the connecting spaces and offices. Aside from the price tag, negative comments tend to focus on the preponderance of concrete, shortage of filing spaces, and some of the more fussy design features such as some of the miniature office windows and bamboo cane-like screens that restrict natural light in some MSP offices. The building is arguably more visually impressive on the inside



than it appears from the outside. Presiding Officer George Reid stated that, 'We've got a work of art, the challenge now is to turn a work of art into a working parliament'.<sup>xxiv</sup>

In terms of visitors, in the month prior to the official opening the Parliament had attracted 33,000 visitors (some 3,000 more than for the last 12 months at Parliament's temporary home on the Mound).<sup>xxv</sup> Since the official opening, the Parliament has also started guided tours (that permit access to otherwise private areas) and has opened an Education Centre (which is booked until the end of June 2005).<sup>xxvi</sup>

### **2.3 The Rise of the Independents and Reassertion of Backbench Interests**

The now five 'lone MSPs' - Margo MacDonald (Independent), Dennis Canavan (Independent), Dr. Jean Turner (Independent), John Swinburne (Scottish Senior Citizen's Unity Party), and Campbell Martin (ex-SNP, now Independent) have decided to maximise their voices by joining forces to form a new parliamentary group - the Independents. Standing Orders permit groups of five or more members to be eligible for representation on the Parliamentary Bureau (the body that decides the business programme and the establishment, remit and composition of the committees). Consequently, membership of the Parliamentary Bureau has been extended to include Margo MacDonald who represents the Independent Group. While voting weight on the Bureau is in direct proportion to the number of members in the group, the Independent Group are hoping that their representation on the Bureau will provide a greater voice for backbench interests such as participating in debates.

Backbencher interests also received a boost in September when the Finance Committee reprimanded the Executive over its failure to respond to its report into the Executive's decision to move Scottish Natural Heritage from Edinburgh to Inverness. According to existing protocol, the Executive is supposed to respond to parliamentary reports within two months or to explain reasons for any delay including the provision of a timetable. Cross-party concern was expressed that Tavish Scott (Deputy Minister for Finance and Public Service Reform) had circumvented the rules. Responding on behalf of the Executive, Patricia Ferguson (Minister for Parliamentary Business) apologised and stated that new monitoring procedures were now in place to prevent subsequent breach of protocol.<sup>xxvii</sup>

Finally, the Executive also came under fire this quarter for failing to agree to an inquiry into child abuse in Scotland's care homes that was prompted by a public petition. Responding to Education Minister Peter Peacock's dismissal of the need for an inquiry, the Public Petitions Committee finally secured a meeting with the minister to account for the Executive's position. Although failing to produce a reversal of the Executive's position, the meeting did enable the minister to reassure the Committee that the Executive was taking policy strides in this area and that any delays in Executive response to the Committee would be checked in future.<sup>xxviii</sup>

## **2.4 Committee Reports and Inquiries (01 August 2004 – 31 October 2004)<sup>xxix</sup>**

*Executive Response to the Committee's Report on the Implementation of the Reform of the Common Agricultural Policy in Scotland*, 13 August 2004, Environment and Rural Development Committee

*Scottish Executive's Response to 6<sup>th</sup> Report 2004: Relocation of Public Sector Jobs*, 13 September 2004, Finance Committee

*Is the Scottish Executive Structured and Positioned to Deliver Sustainable Development?* 14 September 2004, Environment and Rural Development Committee

*Report on Tenements (Scotland) Bill as Amended at Stage 2*, 15 September 2004, Subordinate Legislation Committee

*Scottish Executive's Response to 5<sup>th</sup> Report 2004: Stage 1 of the 2005-06 Budget Process*, 23 September 2004, Finance Committee

*The Emergency Workers (Scotland) Bill*, 23 September 2004, Justice 1 Committee

*Report on the Financial Memorandum of the Fire (Scotland) Bill*, 28 September 2004, Finance Committee

*Report on the Financial Memorandum of the Water Services etc. (Scotland) Bill*, 29 September 2004, Finance Committee

*School Education (Ministerial Powers and Independent Schools) (Scotland) Bill as Amended at Stage 2*, 4 October 2004, Subordinate Legislation Committee

*Paper on Evidence Received on the Rail Industry in Scotland*, 5 October 2004, Local Government Committee

*Better Equipped to Care? Follow-up Report on Managing Medical Equipment*, 15 October 2004, Audit Committee

## **2.5 Parliamentary Bills (01 August 2004 – 31 October 2004)<sup>xxx</sup>**

Executive Bills in Progress (latest stage reached):

- Emergency Workers (Scotland) Bill (Stage 2)
- Fire (Scotland) Bill (Stage 1)
- Further and Higher Education (Scotland) Bill (Stage 1)
- Gaelic Language (Scotland) Bill (Stage 1)
- Prohibition of Female Genital Mutilation (Scotland) Bill (Introduced: 29 October 2004)
- Protection of Children and Prevention of Sexual Offences (Scotland) Bill (Introduced: 29 October 2004)
- School Education (Ministerial Powers and Independent Schools) (Scotland) Bill: Passed on 6 October 2004, awaiting Royal Assent
- Tenements (Scotland) Bill: Passed on 16 September 2004, awaiting Royal Assent
- Transport (Scotland) Bill (Stage 1)
- Water Services etc. (Scotland) Bill (Stage 1)

Members' Bills in Progress (latest stage reached):

- Breastfeeding etc. (Scotland) Bill (Stage 2)
- Fire Sprinklers in Residential Premises (Scotland) Bill (Withdrawn on 29 September 2004)
- Prohibition of Smoking in Regulated Areas (Scotland) Bill (Stage 1)
- Prostitution Tolerance Zones (Scotland) Bill (Stage 1)

Private Bills in Progress:

- Baird Trust Reorganisation Bill (Introduced: 27 October 2004)
- Edinburgh Tram (Line One) Bill (Preliminary Stage)
- Edinburgh Tram (Line Two) Bill (Preliminary Stage)
- Waverley Railway (Scotland) Bill (Preliminary Stage)

Private Bills Passed:

- Stirling-Alloa-Kincardine Railway and Linked Improvements Bill: Passed on 1 July 2004, Royal Assent on 10 August 2004

### **Proposals for Members' Bills (01 August 2004 – 31 October 2004)**

This is the first quarter since the beginning of Session 2 in which no Members' Bills have been proposed. Given that the Procedures Committee has recommended tightening requirements for Members' Bills (see last report) one might have expected there to be a flurry of proposals prior to the parliamentary debate of the Procedures Committee Report on 11<sup>th</sup> November 2004. As of 31<sup>st</sup> October, this has not proved the case. Among the current list of Members' Bills that have gained enough supporters to merit consideration by Parliament, no further bills have been introduced this quarter.

Meanwhile, one of the four Members' Bills under consideration (Fire Sprinklers in Residential Premises (Scotland) Bill) was withdrawn this quarter (see above).

## **2.6 Cross-party groups**

The number of cross-party groups approved by the Standards Committee increased from 49 to 50 this quarter. The new cross-party group is on Lupus (an auto-immune disease) and aims to both raise awareness and bring doctors, patients, charities and MSPs together at parliamentary level. A further four cross-party groups are awaiting approval (Loss of Consultant Led Services; Forest Industry Development; Food; and Diabetes).

### **3. The Media**

**Philip Schlesinger**

#### **3.1 Culture vulture circles Queen Margaret Drive**

If ever we needed reminding of the BBC's key importance to Scottish culture, this was recently highlighted by Scotland's Cultural Commission, set up to develop a long-term cultural strategy for the country. It is no accident that BBC came within its sights, as the Commission is led by James Boyle, one-time Controller of BBC Radio 4 and before that Head of BBC Radio Scotland. The Commission's interim report, laid before the Scottish parliament on 4 November, stated: 'It was felt that BBC Scotland, and in particular Radio Scotland, should be better able to capture the narrative of Scottish life in drama, story, comedy and documentary for the home audience, and in the process provide more opportunities for artists, writers and professionals in Scotland'.<sup>xxxii</sup> The BBC has yet to make a submission to the Cultural Commission whose report touches on one of the anomalies of the devolution settlement, namely that broadcasting policy remains London's 'reserved' power, whereas cultural policy is devolved to Holyrood.<sup>xxxiii</sup> James Boyle has thrown up a far-reaching challenge.

#### **3.2 Will Riddoch go indie?**

Lesley Riddoch's two-hour lunchtime radio show on BBC Scotland is a key spot for forming public opinion. The programme's eponymous presenter is known for her no-nonsense, acerbic style. She now wants to take advantage of the BBC's legal obligation to outsource 25 per cent of its output by making the show through her own production company. She is not a BBC employee but has freelance status. The show's staff are less than thrilled and have argued that this will cost the BBC £500,000 a year and risk some of the 15 jobs in the production team. The matter – arousing passions among broadcasters and the public alike – has yet to be resolved.<sup>xxxiii</sup> The BBC denies that the half million figure is realistic. And Riddoch likewise denies that jobs will be lost. She has ambitions to write newspaper columns on matters that current BBC rules debar her from taking on because of impartiality requirements. BBC Management is apparently considering whether or not to slice the two-hour slot in half, keeping one hour in-house. Riddoch's bid for outsourcing her programme comes in the context of wider reported fears that other star presenters will follow suit. These moves point to the liberalising context initiated by the Communications Act 2003.<sup>xxxiv</sup>

#### **3.3 Who's next, gov?**

Scotland awaits the appointment of its next BBC national governor, as Sir Robert Smith, the incumbent steps down after a five-year stint in December 2004. The appointment will be crucial in representing the national interest at a time of considerable change in how the governors operate.<sup>xxxv</sup> Following the Hutton report's criticisms of BBC governance, the corporation's chairman, Michael Grade, moved to separate the governors from BBC top management.<sup>xxxvi</sup> Whoever replaces Sir Robert will find a different context, in which governors are serviced by a governance unit and physically located well away from the BBC executive. It remains to be seen whether the new arrangements will prove robust enough to satisfy the sceptical culture secretary, Tessa Jowell.

### **3.4 Gaeldom still waits for action**

The long-running saga of how Gaelic broadcasting will evolve continues. The Council of Europe has criticised the UK government for failing to implement the provisions of the European Charter on Regional and Minority Languages. This commits the government to fund a Gaelic TV service, which – as we leave the world of analogue broadcasting in 2012 – is bound to be digital.<sup>xxxvii</sup> While this issue might have been thought to fall under the aegis of the Scottish Executive, broadcasting is a reserved power and Westminster's remit. This division of competences was underlined by Lynda Clark, the Scottish Advocate General. The Gaelic broadcasting issue is being pursued by Alan Reid, Lib Dem MP for Argyll and Bute.<sup>xxxviii</sup> When will Westminster find the money? And what will be the wider repercussions of setting up a Gaelic channel in Scotland?

### **3.5 Regulation, regulation**

The communications regulator, Ofcom, published its phase 2 review of public service broadcasting (PSB) on 30 September 2004. The report, 'Meeting the digital challenge' is of key importance in setting out a vision of the transition in television broadcasting to digital switch-over in 2012, the government's current preferred date.<sup>xxxix</sup> One of its most arresting propositions is to set up a new Public Service Publisher – a PSP, for short – to compete with the BBC. The corporation will more and more become the repository of public service obligations. Commercial television – and ITV is particularly affected – will have diminishing pressure to provide a wide range of public service programming. As the present author has argued elsewhere, this scenario is going to pose a far-reaching institutional challenge to the existing order, and it has yet to be fully thought through.<sup>xi</sup>

Since then, consultation fever in Scotland has hardly abated, though the circles it has involved consist of the usual, well-informed, suspects. Glasgow-based Ofcom Scotland has held a series of meetings with a range of 'stakeholders'. On the report's launch day, some 40 delegates (including producers, broadcasters, and civil servants from the Scottish Executive and Scotland office) attended a briefing at the Glasgow Hilton. This was followed by a series of round-tables in October with broadcasters, policy interests, 'citizen-consumers' and academics. Ofcom's Scottish advisory committee was also consulted and met again on 1 November to air its views.<sup>xii</sup> On the same day, Ofcom's board came to Scotland and its chairman, Lord Currie, and chief executive, Stephen Carter, met movers and shakers for drinks. The entire process was topped off by a so-called 'Phase 2 Summit Event', once again held at the Glasgow Hilton on 17 November 2004. Speakers included Maggie Cunningham, BBC Radio Scotland chief, looking at the future of BBC Scotland. Bobby Hain and Derrick Thomson of SMG addressed the future of commercial broadcasting. For his part, Colin Cameron of Lion TV looked at the controversial proposition to create a PSP and long-time local TV aficionado Dave Rushton considered the potential for that sector.

### **3.6 Where next for regional ITV production?**

One of the controversies aroused by the latest phase of the PSB review has been about proposed cuts in regional programming. In the new digital television order envisaged by Ofcom, it will not be profitable for ITV1 to screen its present average weekly level of three hours of programmes (excluding the news and some current affairs). In

Scotland, the average time is nearer to four hours.<sup>xlii</sup> The overwhelming likelihood that such programming will be halved in the near future has produced protests from the NUJ and Bectu, the broadcasting union, as well as from independent producers. Political concern from the SNP and the Green Party has focused both on the industrial impact of likely job losses and the loss of Scottish cultural content. John McVay, chief executive of PACT, the independent producers' body, has said 'The real concern is that we will see a talent drain to London.'<sup>xliii</sup>

Vicki Nash, Ofcom's director for Scotland, has argued that the evidence shows that Scottish programmes remain important to viewers but 'the question is how to preserve this in the face of commercial pressures on broadcasters.' She went on to say that phase 3 of Ofcom's PSB review would 'explore the scope for new funding of content for Scotland, both through traditional TV broadcasting and possibly also through a range of emerging delivery platforms such as broadband and wireless technologies'.<sup>xliv</sup> This issue is likely to remain contentious as producers, broadcasters and consumer interests continue to analyse the ramifications.<sup>xlv</sup>

### **3.7 Changing borders?**

As the brave new digital future rolls out, it is the Border TV region that is now predicted to be the test-bed for the switchover from analogue. It is believed that the move will take place as early as 2007, well ahead of the rest of the country. One of the key issues that digital switch-over – DSO to the cognoscenti – presents is whether it will leave reluctant adopters behind, whether on the grounds of the unaffordable costs of new equipment or technophobia. The question of potential social (and cultural) exclusion therefore looms large. The Border TV experiment will therefore warrant close scrutiny for a policy that – if mishandled – has the potential to become a political, and regulatory, hot potato.<sup>xlvi</sup>

### **3.8 Whither SMG (again)?**

The consolidation of ITV south of the border continues to send reverberations through Scottish commercial television. The declining role of regional television has added to the sense that the old ITV model, a veteran of 60 years, is soon to vanish once and for all. Scotland is one of its last redoubts, and as ITV has moved from federation to single company the rationale for SMG's Scottish TV and Grampian TV holdings has become weaker both in terms of organisation and media economics. Speculation about its future has once again mounted in City circles.<sup>xlvii</sup> Richard Huntingford, chief executive of Chrysalis, a key radio player with designs on SMG's Virgin Radio holdings, speculated on 15 November 2004 that ITV would be gunning for the SMG television franchises, exposing the company's radio and advertising assets to other buyers.<sup>xlviii</sup> Consolidation is in the air across broadcasting. Currently, however, SMG is reported to have improved its profitability both in the radio and television sectors.<sup>xlix</sup>

In the face of all this talk, SMG has continued to deny all talk of a take-over by ITV.<sup>1</sup> The company has signalled that it intends to remain a production house – though that might not in the end, mean a broadcaster - by shifting its new headquarters. SMG will leave Cowcaddens, heading southwards across the Clyde in 2006 to the media village whose core will be BBC Scotland's own new HQ on Pacific Quay.<sup>li</sup>

### **3.9 Radio waves**

If ITV's possible consolidation into Scottish territory is matched by radio take-overs, the country's national media map will shortly look very different indeed. SRH (Scottish Radio Holdings), which owns the key Clyde and Forth stations, and still dominates the Scottish commercial airwaves, announced its profits on 18 November 2004. The group continued to play down speculation of a take-over bid by Emap, the multi-media corporation. Meantime, the fight is still on for the award of the commercial radio licence in Edinburgh. A bevy of major players assisted by some well-kent local names are jostling for position, with twelve bids received by Ofcom. These include GWR, Celador, Emap, SMG, SRH and the Guardian Media Group. The licence is likely to be awarded by Ofcom at the end of December 2004. It will be the first time the regulator has gone through this process (previously undertaken by the now-defunct Radio Authority) and radio interests will read its decision carefully for their wider implications.<sup>lii</sup> Richard Findlay, ex-chief executive of SRH, and a keen observer of the Scottish radio scene, has observed: 'It's a serious issue in Scottish terms if our plc's and quoted media companies are disappearing. It is both a political and business issue because of the decision-making processes that then move out of Scotland.' He went on to stress the importance of keeping decision-making devolved and ensuring that local interests are served by what stations offer.<sup>liii</sup>



## 4. Public Attitudes

John Curtice

### 4.1 Local Government by-elections

19/8/04 Clackmannan, Menstrie	% vote	Change in % vote since 2003
Conservative	15.1	I
Labour	19.2	+6.4
Liberal Democrat	4.3	I
SNP	56.2	+28.1
SSP	5.2	I
Independent	-	W

Turnout 42.5 (-21.2)

19/8/04 Clackmannan, Tillicoultry West	% vote	Change in % vote since 2003
Conservative	8.3	I
Labour	24.8	-8.9
Liberal Democrat	12.1	I
SNP	36.8	-12.6
Independent	18.0	+1.1

Turnout 39.9 (-20.0)

26/8/04 South Lanarks., Bothwell South	% vote	Change in % vote since 2003
Conservative	48.4	+13.2
Labour	30.7	-17.9
Liberal Democrat	11.7	I
SNP	5.5	-10.8
SSP	1.6	I
Scottish Senior Citizens	2.1	I

Turnout 38.8 (-9.0)

14/10/04 West Dunbarton, Bowling, Milton, Old Kilpatrick	% vote	Change in % vote since 2003
Conservative	8.0	I
Labour	24.1	-17.4
Liberal Democrat	-	-
SNP	29.8	-28.7
SSP	3.6	I
Independent	34.5	I

Turnout 44.9 (-9.5)

28/10/04 Edinburgh, Colinton	% vote	Change in % vote since 2003
Conservative	45.9	-16.8
Labour	7.3	-8.3
Liberal Democrat	42.2	+30.4
SNP	3.6	-6.3
SSP	1.0	I

Turnout 61.1 (-4.7)

I Fought by-election, did not fight May 2003 election.

W Fought May 2003 election, did not fight by-election.

Source: <http://www.gwydir.demon.co.uk/byelections/>

Reading the runes from the usual steady trickle of by-elections during the quarter is complicated both by a tendency for parties that did not fight a seat in 2003 to do so in the by-election and for independent candidates to play a significant role. Even so, we might note that in four out of five contests there was a 'swing' from Labour to the SNP, suggesting that the gap between the two parties may be a little closer now than it was 18 months ago. On the other hand, the results provide little consistent evidence as to the current standing of the Conservatives and the Liberal Democrats. The rather remarkable near success of the latter in capturing the previously safe Conservative seat of Colinton in Edinburgh is probably an indication of a substantial personal vote for the previous councillor, Brian Meek, who had a high profile as a journalist and commentator and was on the liberal wing of his party.

## 4.2 The Parties

### *Political Party Most Trusted to stand up for Scottish interests in the Westminster Parliament*

		Westminster Vote Intention			
	All	Con	Lab	LDem	SNP
SNP	28	19	14	17	84
Lab	22	3	60	3	1
Lib Dem	10	7	2	56	3
Con	7	45	1	2	2
SSP	6	6	5	7	1
Undecided/Refused	26	19	17	14	8

Source: TNS System Three for SNP. F/work 21-27/10/04

A poll commissioned by the SNP from System Three in October (and reported in The Sunday Herald on 7 November) found that more people feel that the SNP is best at standing up for Scotland's interests at Westminster than any other party. The Conservatives on the other hand score least well on this attribute. However, the claim in The Sunday Herald's report that the findings meant that 'Scottish Labour faces huge losses at the next general election' is wide of the mark. The pattern is long standing one. For example, the 2003 Scottish Social Attitudes survey conducted soon after the disappointing nationalists performance in that year's election found that 22% believed that the SNP looked after the interests of the Scottish people 'very closely', while only 13% who said the same of the Labour party and 4% the Conservatives. While "Scotland's Party" is probably one of the best slogans the SNP has crafted in recent years, on its own this claim is not sufficient to bring about electoral success. Indeed, other unpublished data from the same poll suggests that Labour retains a commanding lead of around 40% to 20% so far as Westminster vote intentions are concerned (a lead just four points less than in 2001), with both the Conservatives (18%) and the Liberal Democrats (16%) breathing down the SNP's neck.

## **5. Scotland/UK Relations**

**Alex Wright**

### **5.1 MPs and hospital cutbacks**

Robin Cook, the former Foreign Secretary, was one of a number of MPs who became embroiled in the furore over the relocation of hospital services in Scotland – even though this is an area of policy which has been devolved to the Executive. Cook, the MP for Livingston criticised plans to relocate the provision of emergency surgery from St. John's Hospital to Edinburgh Royal Infirmary. According to *Scotland on Sunday*, he had “frank” talks with Malcolm Chisholm, who was the Scottish Minister for Health until the recent reshuffle. One of Cook's key concerns was the absence of ministerial direction and that the relocation strategies had been left in the hands of health boards. Mr Cook was by no means a lone voice as far as Westminster MPs were concerned.

While Labour MPs no doubt shared their constituents worries over threatened health cut-backs, more worrying still was the fear that this might affect their chances of re-election, if Tony Blair decides to go to the polls in six months time. Therefore even though health is a devolved matter, Labour MPs decided that Mr Chisholm's policy could not go unchecked.

### **5.2 Fiscal Federalism**

Wendy Alexander, the former Scottish Executive minister has called for the creation of a Royal Commission to examine whether there is a justification for fiscal federalism. At the moment the Parliament can vary the rate of income tax by plus or minus three percent. This has not been used to-date. Responding to Alexander's opinion, a spokesman for the First Minister observed:

This is a debate that needs to be heard, but the First Minister's position is that now is not the time to go into consideration of changing the powers of the Scottish Parliament.<sup>liv</sup>

The debate over the tax varying powers is by no means new (see previous Monitor Reports). During the last year the issue of fiscal autonomy was debated in the Parliament. Understandably it was supported by the SNP and even the Conservatives were to some degree in favour of more autonomy on the grounds that it would make the Parliament and Executive act more responsibly regarding Scottish expenditure. For their part, the Scottish Liberal Democrats have also called for fiscal autonomy. Until today, Labour had been reluctant to be drawn into the debate on the grounds that now was not the time for further constitutional change. It is therefore of some interest that a senior figure in the echelons of Scottish Labour should express an interest in exploring the case for the Parliament to have greater financial power. It is also worth noting that the First Minister's spokesman did not discount the need for a debate on the issue at some point in the future.

### **5.3 A Scottish Civil Service**

The public administrations committee at the House of Commons has launched an inquiry into the effectiveness of the civil service, part of which will relate to whether a single civil service should be retained in the aftermath of devolution. Tony Wright the Committee's chair said: ‘The Committee wants to look at whether a unified civil service is able to be maintained when you have serious devolution.’<sup>lv</sup> The issue of a

single civil service has become something of a bone of contention since 1999, in part because of the concern that Scottish officials can at time be overshadowed by their colleagues in London.

## **6. Scotland/International Relations**

### **Alex Wright**

#### **6.1 The First Minister's visit to China**

Jack McConnell undertook a 5-day trip to China during the Parliament's two-week autumn recess. In some respects his visit to China ploughed much the same furrow as his other overseas trips – namely that the reasons for so doing were inherently functional. This time around the emphasis would be on forging links between the Scottish Qualifications Authority and China's 1000 universities. In part this related to the Executive's Fresh Talent Initiative, which is designed to encourage young people from overseas to study in Scotland and then remain in the country for some months or possibly even longer. It was also designed to promote Scottish higher education in China. Consequently, Professor Joan Stringer, the principal of Napier University, signed an agreement with Zhengzhou Public University, with the First Minister and the Vice-Governor of Henan province in attendance. McConnell announced that there would be a Scottish international fellowship programme for 22 students per year, nine of which would originate from China. McConnell also met Zhang Xingsheng, a Vice-Minister for education, where the emphasis was on constructing new partnerships which could result in more Chinese students studying in Scotland.<sup>lvi</sup>

The First Minister subsequently signed an agreement in Beijing between China and Scotland which would enable staff from the Royal Botanic Gardens in Edinburgh to collaborate with local Chinese to protect local plants which were at risk due to the mounting use of herbal remedies.<sup>lvii</sup>

Mr McConnell later announced that the Scottish Executive would be seconding a member of its staff to Beijing<sup>lviii</sup>. Potentially this could have been controversial – as Henry McLeish discovered during his single year in office. He had suggested that a number of Scottish Executive officials should be sent to UK embassies to promote Scotland's interests in the world. That led to headlines referring to the formation of a Scottish diplomatic corps, which did not go down well in London. When McConnell succeeded McLeish, he was quick to distance himself from the latter's proposal. Aside from the relatively small numbers situated at Scotland House in Brussels, one Scottish official has been seconded to the USA, where the annual Tartan Day celebration seeks to emulate its Irish counterpart. Postings such as these can prove costly to maintain, but such is the draw of China's economic growth, and its implications for Scotland, that, from the Executive's perspective it was felt that it would have been remiss not to have had someone 'on the ground'. Upon his departure, McConnell said that he intended to return to China within the next 18 months.

#### **6.2 First Minister and Regleg**

The First Minister assumed the Presidency of RegLeg at its 4<sup>th</sup> conference at Salzburg on 11-12 November 2003. For the most part his involvement in RegLeg<sup>lix</sup> appears to have been really quite modest, although at the time of writing his term of office has yet to end. During the last few months MSPs on the Parliament's European and External Relations Committee have invited Mr McConnell to appear before them so that he could enlighten MSPs on exactly what he had achieved as President. He had been unwilling to do so which led to the threat that he might be 'requested' to give evidence to the Committee (see previous Monitor Reports). That has not happened as

Andy Kerr, then minister with an involvement in external relations, appeared in place of McConnell (see section below on the committee).

The kernel of the MSP's concerns was that little was known about RegLeg or what exactly McConnell had been doing during the previous year on its behalf. Until recently little if any information was available on its website ([www.regleg.org](http://www.regleg.org)). It would appear however this has since (i.e. during this October) been remedied with the inclusion of several references to the First Minister and his activities.

### **6.3 The Deputy First Minister's Trans-Atlantic Trip**

Jim Wallace, Deputy First Minister set off on a trans-Atlantic trade mission. His intention is to build on existing relationships (US companies such as NCR have long been established in Scotland) and forge new links with multi-nationals such as Microsoft who have yet to invest in Scotland. Although he faced criticism from sections of Scottish commerce that he was encouraging a return to branch plants in Scotland (which has enjoyed mixed results in the last decade –e.g. the collapse in the semi-conductor market had repercussions for Scottish jobs), he argued that a number of major overseas companies had remained in Scotland decades after they first came here.

### **6.4 Treaty on the EU's Constitution**

Richard Lochhead SNP, the Shadow Fisheries minister submitted the following Parliamentary Question

To ask the Scottish Executive, whether during its recent negotiations with the European Union has, either directly or through Her Majesty's Government secured any new measures that will enhance the influence of sub-state governments with primary legislative powers that do not apply to regions or local authorities that do not have such powers. (S2W-10725)

Mr Andy Kerr, then responsible for European Affairs and External Relations, replied: The EU Constitutional Treaty Protocol on the Application of Subsidiarity and Proportionality specifically provides for the involvement of regional parliaments with legislative powers in the operation of the subsidiarity mechanism. This involvement does not extend to non-legislative regions or local authorities.

In co-operation with the UK Government and through the First Minister's presidency of the group of EU regions with legislative powers, the Scottish Executive has successfully argued for the retention in the Treaty of important references that enhance the role of the regions with legislative powers and reinforce the principle of subsidiarity in European decision-making.

In particular the Treaty provides in the Protocol on Subsidiarity, in the case of framework laws, for any legislative proposal from the European Commission to contain a statement of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation.<sup>lx</sup>

Whether the new protocol on Subsidiarity and Proportionality will really make a meaningful difference remains a moot point. To-date, Subsidiarity has enjoyed a somewhat lacklustre record in terms of its capacity to ensure that where appropriate decision-making is confined to the lowest levels of authority in the EU. In the run-up to the Convention on the future of the EU, Jack McConnell called for a Subsidiarity

Council but that came to nought (see previous Monitor Reports). By producing a protocol the authors of the draft Treaty have at least conceded that the principle needed to be embedded more deeply with the EU's policy processes. Consequently it is likely that the Commission will enhance its consultation with those who stand to be affected by its proposals including, where relevant, territorial administrations.

#### **6.4 The Scottish Parliament's European and External Relations Committee**

The European and External Relations Committee launched a wide ranging inquiry into how Scotland was promoted world-wide in September 2003. Fourteen months later the inquiry continues.

The inquiry has the following themes:

Definition and implementation of a coherent, co-ordinated and resourced strategy for external relations.

Success of efforts to develop government-to-government links with the European Union and internationally.

Analysis of the efforts to co-ordinate the Scottish Executive's role in the EU decision-making process (including inter- and intra-UK processes) and in the implementation of obligations.

Success of efforts to promote Scotland abroad, including through tourism, economic development, trade, education links, culture and heritage and the attraction of a new populace to Scotland. This will include an analysis of successes of other nations/regions in these areas.

Success of Tartan Day and its future development, in particular the plans of the Scottish Executive for future involvement in resource allocation. This will include an analysis of the wider Scottish-North American links.

Given the scope of this investigation (in recent weeks evidence was taken from cultural organisations), it will be something of a challenge for MSPs on the committee to arrive at definitive conclusions. The question is also raised as to whether so much time and effort should be expended on this inquiry, given the committee's wide ranging remit.

#### **6.5 Committee has a new convener**

Richard Lochhead has become the Shadow Fisheries Minister for the SNP and he will no longer be the convener of the European and External Relations Committee. He will be succeeded by John Swinney, the former leader of the SNP, who will face the task of overseeing the production of the report on the promotion of Scotland Worldwide.

#### **6.6 Attendance of Scottish Ministers at the Council of Ministers since 1999**

The attached table provides information on all Scottish Executive Ministerial attendance at European Union Council of Ministers meetings - both formal and informal - from 1 July 1999 to the present, by calendar year.<sup>lxi</sup>



**Attendance in 2004**

Number	Date	Council Meeting	Minister
57	18/10/2004	Agriculture and Fisheries Council (Brussels)	Ross Finnie
56	21/06/2004	Agriculture and Fisheries Council (Brussels)	Ross Finnie
55	24/05/2004	Agriculture and Fisheries Council (Brussels)	Ross Finnie
54	26/04/2004	Agriculture and Fisheries Council (Luxembourg)	Allan Wilson
53	30/03/2004	Justice and Home Affairs Council (Brussels)	Cathy Jamieson
52	22/03/2004	Agriculture and Fisheries Council (Brussels)	Allan Wilson

**Attendance in 2003**

Number	Date	Council Meeting	Minister
51	16-19/12/2003	Agriculture and Fisheries Council (Brussels)	Ross Finnie
50	27/11/2003	Competitiveness Council (Brussels)	Jim Wallace
49	24-25/11/2003	Education, Youth and Culture Council (Brussels)	Peter Peacock
48	24/11/2003	Agriculture and Fisheries Council (Brussels)	Ross Finnie
47	17-18/11/2003	Agriculture and Fisheries Council (Brussels)	Ross Finnie
46	10/11/2003	Competitiveness Council (Brussels)	Andy Kerr
45	27/10/2003	Environment Council (Luxembourg)	Ross Finnie
44	20/10/2003	Informal Council on Regional Policy (Italy)	Jack McConnell
43	13/06/2003	Environment Council (Luxembourg)	Ross Finnie
42	25-26/06/2003 17-18/06/2003 11-12/06/2003	Agriculture and Fisheries Council (Luxembourg)	Ross Finnie
41	07-08/04/2003	Agriculture and Fisheries Council (Luxembourg)	Ross Finnie
40	17-18/03/2003	Agriculture and Fisheries Council (Brussels)	Ross Finnie
39	20/02/2003	Agriculture and Fisheries Council (Brussels)	Ross Finnie
38	27-28/01/2003	Agriculture and Fisheries Council (Brussels)	Ross Finnie

**Attendance in 2002**

Number	Date	Council	Minister
37	16-20/12/2002	Agriculture and Fisheries Council (Brussels)	Ross Finnie
36	27-29/11/2002	Agriculture and Fisheries Council (Brussels)	Ross Finnie
35	26/11/2002	Competitiveness Council (Brussels)	Iain Gray
34	11/11/2002	Education, Youth and Culture Council (Brussels)	Elaine Murray
33	17/10/2002	Environment Council (Luxembourg)	Ross Finnie
32	14-15/10/2002	Agriculture and Fisheries Council (Luxembourg)	Ross Finnie
31	23-24/09/2002	Agriculture and Fisheries Council (Brussels)	Ross Finnie
30	12-14/06/2002	Justice and Home Affairs Council (Luxembourg)	Jim Wallace
29	11-12/06/2002	Fisheries Council (Luxembourg)	Ross Finnie
28	22-24/04/2002	Agriculture Council (Luxembourg)	Ross Finnie

**Attendance in 2001**

Number	Date	Council	Minister
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<b>ber</b>			
27	17-18/12/2001	Fisheries Council (Brussels)	Ross Finnie
26	20/11/2001	Agriculture Council (Brussels)	Ross Finnie
25	16/11/2001	Justice and Home Affairs Council (Brussels)	Jim Wallace
24	13/07/2001	Informal meeting of Ministers of Regional Policy (Belgium)	Angus MacKay
23	28/06/2001	Transport Council (Luxembourg)	Sarah Boyack
22	18/06/2001	Fisheries Council (Luxembourg)	Rhona Brankin
21	05/06/2001	Health Council (Luxembourg)	Susan Deacon (Led UK delegation)
20	25/04/2001	Fisheries Council (Luxembourg)	Rhona Brankin
19	24/04/2001	Agriculture Council (Luxembourg)	Ross Finnie
18	08/03/2001	Environment Council (Brussels)	Sam Galbraith
17	26/02/2001	Agriculture Council (Brussels)	Ross Finnie
16	12/02/2001	Education and Youth Council (Brussels)	Nicol Stephen (LedUKdelegation)

#### Attendance in 2000

<b>Num ber</b>	<b>Date</b>	<b>Council</b>	<b>Minister</b>
15	14-15/12/2000	Fisheries Council (Brussels)	Rhona Brankin
14	30/11/2000	Justice and Home Affairs Council (Brussels)	Jim Wallace
13	20/11/2000	Agriculture Council (Brussels)	Ross Finnie
12	17/11/2000	Fisheries Council (Brussels)	Rhona Brankin
11	22/06/2000	Environment Council (Luxembourg)	Sarah Boyack
10	16/06/2000	Fisheries Council (Luxembourg)	JohnHomeRobertson
09	08/06/2000	Education Council (Luxembourg)	Nicol Stephen (LedUKdelegation)
08	20/03/2000	Agriculture Council (Brussels)	Ross Finnie
07	17-18/03/2000	Informal meeting of Ministers of Lifelong Learning (Portugal)	Nicol Stephen

#### Attendance in 1999

<b>Num ber</b>	<b>Date</b>	<b>Council</b>	<b>Minister</b>
06	16/12/1999	Fisheries Council (Brussels)	JohnHomeRobertson
05	14/12/1999	Agriculture Council (Brussels)	Ross Finnie
04	13/12/1999	Environment Council (Brussels)	Sarah Boyack
03	22/11/1999	Fisheries Council (Brussels)	JohnHomeRobertson
02	26/10/1999	Fisheries Council (Luxembourg)	JohnHomeRobertson
01	24-25/09/1999	Informal meeting of Ministers of Education (Finland)	Sam Galbraith

## **7. Local Government**

**Neil McGarvey**

### **7.1 STV and councillor 'redundancy'**

It emerged this quarter that local councillors are possibly going to be offered £30,000 'redundancy' payments if they stand down as councillors at the 2007 local elections. The introduction of STV will almost certainly mean a sharp cut in the number of Labour councillors, who represent 509 of the 1222 Scottish wards. The proposal is part of a package recommended to the executive, which would more than double a councillor's basic salary, to £20,000. Councillors would also have pensions for the first time. The deal would bring their working conditions into line with MPs and MSPs, but at less than half their salaries. The recommendations have come from a remuneration panel, chaired by Lord Sewel, the former Labour minister in the Scottish Office and former President of CoSLA. The issue has now been passed to the new independent statutory committee, which will start work early in the New Year. The proposals were welcomed by COSLA, but described by the SNP as a bribe to maintain the unity of the Liberal Democrat-Labour executive. They also contradict Jack McConnell's August 2002 stated position, which was that no special payments to councillors who lost office as a result of local government electoral reform should be made.

### **7.2 Scotland Annual report**

The Audit Scotland and Accounts Commission joint Annual Report contained within it a critical account of persistent problems as regards waste in local government. Councils had failed to collect £130 million in council tax and £28.5 million in rent arrears. The analysis provoked a reaction from COSLA who suggested the report was inappropriate and unhelpful.

### **7.3 Council Tax**

The Executive published its three-year spending review statement, which includes within it a 1% increase in real terms for councils. Whilst welcoming 'the general process and the transparency within which this spending round was conducted' COSLA was less than satisfied with the outcome. Pointing to additional burdens in terms of teacher's and police salaries, personal care for the elderly, road and waste disposal improvements the likely outcome is further above inflation increases in council tax. The 9.7% three year increase in the spending review for council's lags far behind the 23.6% rise in non-council funding by 2008.<sup>lxii</sup> Figures released this quarter show the average council tax increase in 2005-06 will be around 4.6%, while half of the 32 councils expect rises of 5% or more. The changes will see the average bill for a band D home go up from £1055 to £1101 from next April.

This quarter COSLA welcomed Executive proposals to allow councils local discretion to determine discount levels for council tax on empty and second homes. The Executive's announcement gives discretionary powers to Local Authorities to reduce the current 50 per cent discount on council tax for second homes and long-term empty properties. It is seen as having the potential to allow councils to create more affordable housing locally.

#### **7.4 Cabinet Re-shuffle<sup>lxiii</sup>**

The minor cabinet re-shuffle has some implications for local government. Tom McCabe (ex-South Lanarkshire Council leader) the new finance minister appeared to back-track on the Scottish Executive efficiency drive announced previously by Andy Kerr who has moved to the Health and Community Care portfolio. The publication of the executive's efficiency plan which aims to save £650m a year across government, health boards and councils by 2008 has been delayed by the reshuffle. The other notable shift was Malcolm Chisholm's movement from Health to Communities. His portfolio includes responsibilities for housing, regeneration, the land use planning and anti-poverty measures.<sup>lxiv</sup>

#### **7.5 New Scottish Education Bill**

COSLA was critical of the Bill during its passage in parliament stating that there was no need for such legislation, which gives Ministers the power to force education authorities to act on the suggestions of inspectors, because there are no failing schools in Scotland. It referred to the potential for the powers to be used for 'political abuse and showboating' by the Executive. The new Act moves Scotland closer to the position south of the border where central intervention in failing local education authorities and schools whilst not common has taken place. The new Act would appear to be adding teeth to existing education inspectorate authorities in Scotland.<sup>lxv</sup>

Other developments:

Scotland's Council leaders have agreed to support the principle of a ban on smoking in enclosed public spaces.

COSLA this quarter reported that Councils had housed 14% more homeless people than during the same period last year, and that it hoped Scotland's councils would continue to build upon this success.

COSLA backed the new Parliament's legislative programme as 'as one worthy of the new start that the new parliament building offers'

## **8. Finance**

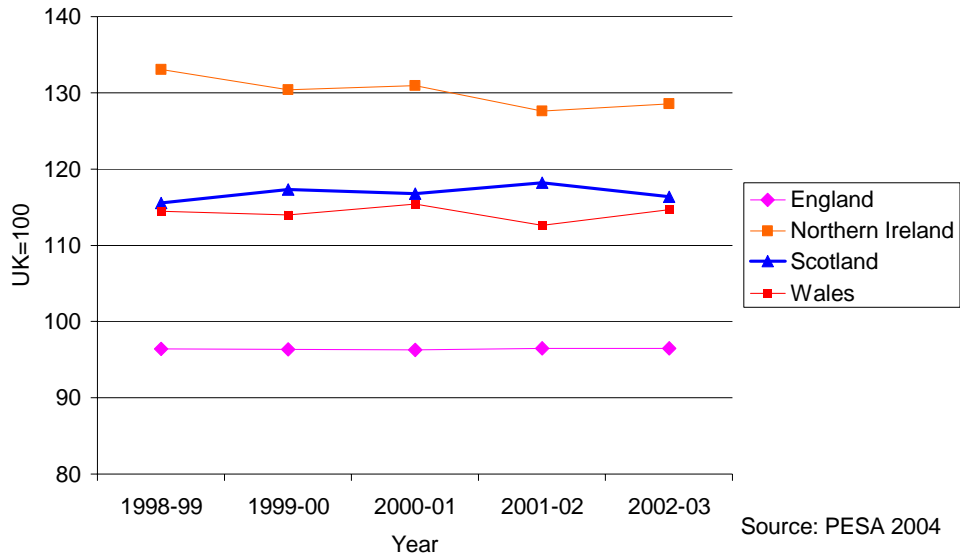
### **David Bell**

This paper examines three recent pieces of evidence on public spending trends in Scotland. The first is the Public Expenditure Statistical Analysis (PESA) data, which enables us to compare levels of spending in Scotland, England, Wales and Northern Ireland. It provides information on spending *outturns* rather than *planned* expenditure and covers the period 1996-97 to 2002-03. The period therefore begins prior to the introduction of devolution. This is followed by an analysis of data recently published by the Scottish Executive of trends in spending at Level 2 over the period 1996-97 to 2005-06. For the first time these permit reasonably consistent comparisons of Executive spending through time at a fairly detailed level. The third and final piece of evidence is the spending projections announced by the Executive in October 2004 entitled “Building a Better Scotland Spending Proposals 2005-2008: Enterprise, Opportunity, Fairness”. These follow directly from the July 2004 UK Spending Review.

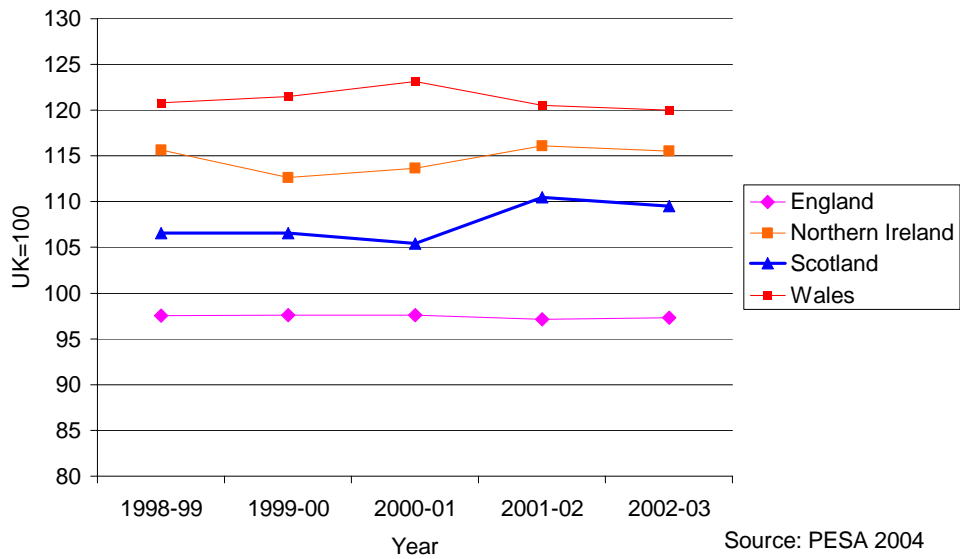
### **9.1 PUBLIC EXPENDITURE STATISTICAL ANALYSES**

Comparative data for total public spending per head for the period from 1998-99 to 2002-03 are shown in Figure 1. It therefore covers spending during the early period of devolution. The figure shows comparative spend per head in the territories relative to a UK level normalised at 100. What is immediately noticeable is that, though there has been some year to year variation, relative spending per head in England, Scotland and Wales has remained fairly constant, while that in Northern Ireland has declined slowly. Total spending per head includes spending on areas such as social protection as well as those which the Scottish Executive funds. Hence one cannot deduce from these data alone what impact the “Barnett Squeeze” may have had on the resources available to the Parliament. Figure 2 shows the relative spend on social protection between 1998-99 and 2002-03. It shows a slight increase in relative spending per head on social security in Scotland over the period. This may be offsetting a slight downward trend in Executive spend relative to comparable English programmes so that the net effect on overall spending per head balances out.

**Figure 1: Total Public Expenditure (UK = 100)**



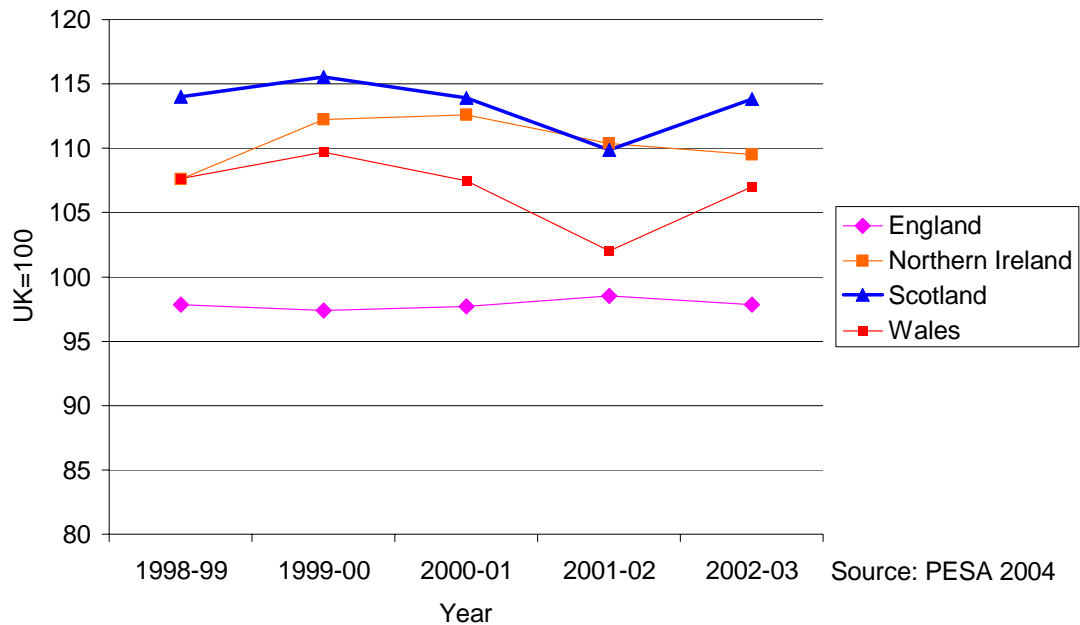
**Fig 2: Expenditure on Social Protection (UK = 100)**



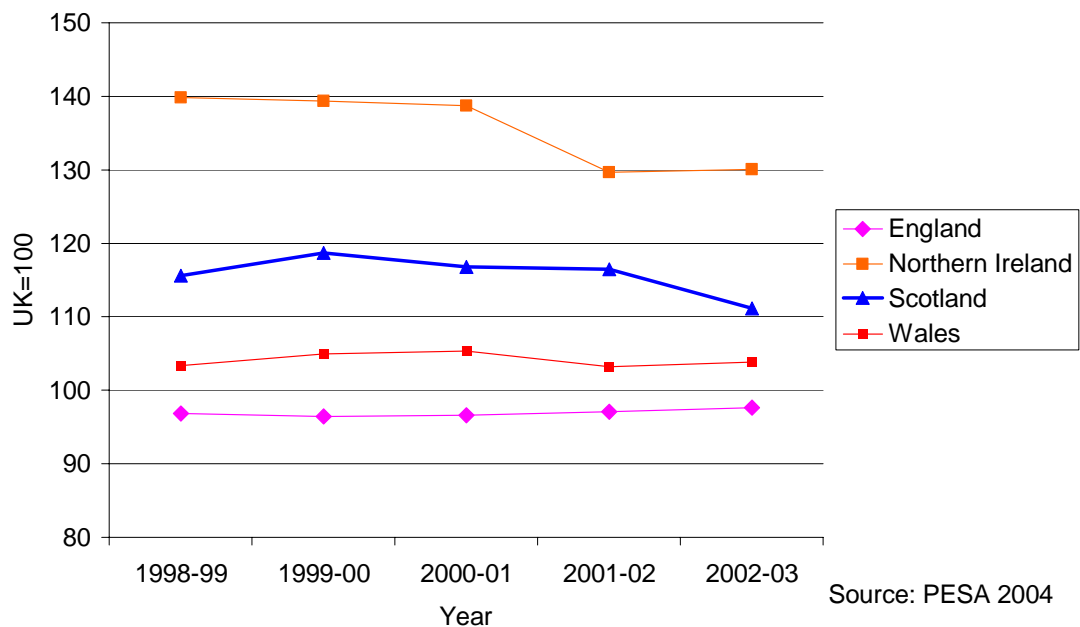
Nevertheless, it is still clear that social protection spending is lower in Scotland than in either Wales or Northern Ireland. If social protection is a broad indicator of “need”, then these data suggest that a switch from the Barnett formula to a needs-based allocation of expenditure would have a more adverse effect in Scotland than in either Wales or Northern Ireland. Nevertheless, any changes resulting from the Barnett Squeeze have probably been of second-order importance. Thus the period since devolution has not resulted in much significant change in the relative resources available to the devolved territories. Clearly the exercise of fiscal powers, had they been available, would have led to more dispersion in spending per head. However, the relative magnitudes of the overall spend in Scotland and the potential tax take from fiscal instruments suggests that these instruments would have to be used quite forcefully in order to leverage significant changes in spending per head in Scotland

relative to other parts of the United Kingdom. Has there been significant change in relative spending per head in those areas where the devolved administrations have considerable freedom to act? Figures 3 and 4 show trends in spending per head on health and education between 1998-99 and 2002-03.

**Fig 3: Expenditure on Health (UK = 100)**



**Fig 4: Expenditure on Education (UK = 100)**



These figures show that Scotland continues to spend more per head on health than any of the other territories, while its spending on education has fallen back compared to England and Wales. Thus neither Northern Ireland nor Scotland matched the increases in spending on education that took place in England and Wales in the early part of this

decade. This may be reversed by recently announced plans to increase spending on higher and further education, but the imposition of tuition fees along with the more developed private school sector in England will make it increasingly difficult to make meaningful comparisons between Scotland and England based on public spending alone. While these comparisons between the territories are of some interest, they tend to result in discussions of what are marginal differences in the amounts of resources devoted to the provision of particular goods and services by the public sector. Comparisons between Scotland and similar countries, say in the rest of Europe, might lead to more interesting debates about the way that public services are organised in Scotland.

## 9.2 EXPENDITURE TRENDS IN SCOTLAND

The Scottish Executive have recently provided data on Level 2 expenditure for the period 1996-97 to 2005-06. For the period 1996-97 to 2002-03, the data show the spending *outturn*, while for the last two years, they show *planned* expenditure. There are also dangers in comparing outturns with plans due to the possibility of overspend, or more commonly underspend. While the data are broadly consistent through time, there are inevitably difficulties in achieving complete consistency as the nature of spending programmes changes. Thus trends in some spending categories will be subject to a margin of error.

In recent Scottish budget statements, individual programme spend has been associated with the delivery of particular targets. These are intended to provide:

- (a) A clear statement of what the Executive is trying to achieve
- (b) A focus on delivering results (outputs) rather than on spending (inputs)
- (c) A basis for what is and what is not working
- (d) Improved accountability

What the statements do not provide in general are precise estimates of the expenditure thought necessary to achieve targeted outcomes. Nor do they indicate which targets are being given the highest priority and those which are accorded lesser importance. Expenditure trend data help to indicate which programmes have grown most quickly and therefore to suggest where are the Executive's highest priorities. There is an important caveat, however. The expenditure data are quoted in nominal terms – they do not take account of inflation. And inflation rates may differ substantially in different parts of the public sector. Thus increased resource in one programme may have a much greater impact on output than spending on other programmes. Further, there is a distinction between *outputs* and *outcomes*. The Executive may have a target of reducing crime: this is the *outcome* it desires. Its means of doing so may be to increase the number of police on the beat, this is an increase in public sector *output*. But the desired outcome may be affected by other factors over which the Executive has no control, such as the impact of a reduced number of teenage males in the population, which is usually accompanied by a reduction in crime.

Table 1 shows the Executive data for 1998-99, 2005-06 and growth rates between 1996-97 and 2005-06 and between 1998-99 and 2005-06. These growth rates permit a comparison of growth rates over the post devolution period with one which includes the two years prior to devolution. The data are ordered by growth rate since devolution. Level 1 programmes are shown in bold. As described in Section 2, the expenditure categories included in the PESA analysis are extremely broad. Perhaps



one should not expect devolution to have a marked impact on the distribution of spending at this level in its relatively short existence. On the other hand, at Level 2, large shifts can take place and offset each other so that the net effect at Level 1 is relatively small. It is only relatively small programmes which are capable of rapid growth. Attempts to rapidly increase the scale of large spending programmes (e.g. investment in affordable housing, roads or water treatment) often run into supply constraints either of labour, capital or both. Thus, for example, expenditure on health improvement in Scotland will grow by nearly 70 per cent each year between 1998-99 and 2005-06, whereas total expenditure on health (more properly health *care*) will grow by only 6.1 per cent. Again, it is important to caution that these are nominal rates of growth, and given that it is believed that inflation in health care costs has been more rapid than in other parts of the public sector, the real increase in output may be considerably smaller.

Some programmes have diminished in importance and will continue to do so. These include those associated with the European Union – CAP support and European Structural Funds. Regional Selective Assistance, once a seemingly central component of the inward investment strategy has all but disappeared. Both HIE and Scottish Enterprise funding have diminished quite sharply. These contribute to a picture of falling direct support to Scottish industry and agriculture since 1998-99. Some of this is externally driven, but other components of the decline are clearly part of the Executive's strategy. Expenditure on anti-poverty and equal opportunity policies have grown rapidly as has expenditure on some administrative and executive functions, including the cost of the Parliament and the committees, but these have started from a low base.

**TABLE 1:** Level 2 Expenditure 1998-99 and 2005-06, Nominal Growth Rates 1996-97 to 2006-06 and 1998-99 to 2005-06

	<b>Outturn £m 1998-99</b>	<b>Plans £m 2005- 06</b>	<b>Annual Growth 1996-97 to 2005- 06</b>	<b>Annual Growth 1998-99 to 2005- 06</b>
Health Improvement	2	80	50.7%	69.4%
Committees, Commissions and Other Expenditure	1	34	48.0%	65.5%
Tackling Poverty and Helping Vulnerable People	5	130	59.0%	59.3%
Specific Grants	20	267	34.1%	44.8%
Promoting Equal Opportunities and Active Citizenship	3	25	22.6%	35.4%
<b>TOTAL SCOTTISH PARLIAMENT</b>	<b>7</b>	<b>56</b>		34.6%
Environmental Protection	22	167	23.5%	33.6%
Other Transport	68	390	18.1%	28.3%
Research and Sustainable Action	1	5	19.6%	25.8%
Social Work Service Training	4	19	38.7%	24.9%
Courts Group	4	13	14.0%	18.3%
Other Enterprise & Lifelong Learning	46	134	11.3%	16.5%
Police Central Government	34	94	11.6%	15.6%
National Archives of Scotland	3	7	1.7%	12.9%
<b>TOTAL NAS</b>	<b>3</b>	<b>7</b>	1.7%	12.9%
Grant to Highlands & Islands Airports	9	20	0.6%	12.1%
<b>TOTAL EDUCATION</b>	<b>388</b>	<b>847</b>	14.5%	11.8%
Community Care	16	33	7.0%	10.9%
Criminal Justice Social Work Services & Victim Issues	43	86	9.2%	10.4%
Schools	95	188	20.5%	10.2%
Grant for Rail Services in Scotland	103	195	5.3%	9.5%
Miscellaneous	12	22	13.6%	9.0%
Delivering Good Quality, Sustainable, Affordable Housing	213	353	6.2%	7.5%
Natural Heritage	39	62	4.1%	6.8%
<b>TOTAL HEALTH</b>	<b>5,283</b>	<b>7,990</b>	5.1%	6.1%
Rural Development	100	151	9.1%	6.1%
Crown Office & Procurator Fiscal	56	84	4.8%	6.0%
<b>TOTAL COPF</b>	<b>56</b>	<b>84</b>	4.8%	6.0%
Fire Central Government	4	6	2.0%	6.0%
National Health Service	5,224	7,824	5.0%	5.9%
Scottish Further Education Funding Council	320	475	3.9%	5.8%
Motorways & Trunk Roads	172	244	0.4%	5.1%
Tourism, Sport and Culture	161	227	3.5%	5.0%
Children and Young People	108	147	19.3%	4.5%
<b>TOTAL</b>	<b>16,926</b>	<b>23,015</b>	3.1%	4.5%

General Register Office for Scotland	6	8	11.5%	4.2%
<b>TOTAL GRO(S)</b>	<b>6</b>	<b>8</b>	<b>11.5%</b>	<b>4.2%</b>
Scottish Courts Service	35	46	-2.2%	4.0%
<b>TOTAL DEVELOPMENT</b>	<b>607</b>	<b>796</b>	<b>2.9%</b>	<b>3.9%</b>
<b>TOTAL ETLLED</b>	<b>2,645</b>	<b>3,462</b>	<b>3.1%</b>	<b>3.9%</b>
Scottish Higher Education Funding Council	584	764	2.3%	3.9%
Local Government	5,360	6,977	2.1%	3.8%
<b>TOTAL JUSTICE</b>	<b>885</b>	<b>1,144</b>	<b>2.9%</b>	<b>3.7%</b>
Scottish Prison Service	196	253	2.4%	3.7%
Other Health Services	41	52	1.6%	3.5%
<b>TOTAL FCSD</b>	<b>5,959</b>	<b>7,319</b>	<b>1.2%</b>	<b>3.0%</b>
Justice Support to Local Authorities	376	459	3.1%	2.9%
Fisheries	36	43	-0.3%	2.6%
Administration	174	207	0.6%	2.5%
<b>TOTAL ADMINISTRATION</b>	<b>174</b>	<b>207</b>	<b>0.6%</b>	<b>2.5%</b>
<b>TOTAL ERAD</b>	<b>913</b>	<b>1,033</b>	<b>-1.0%</b>	<b>1.8%</b>
European Structural Funds - Support to Local Authorities	50	53		0.8%
Highlands and Islands Enterprise	70	73	0.8%	0.6%
Agricultural & Biological Science & Other	89	90	-1.2%	0.2%
Student Awards Agency for Scotland	554	509	0.4%	-1.2%
Scottish Enterprise	439	403	-2.6%	-1.2%
Legal Aid	150	134	-2.2%	-1.6%
Local Authority Capital	358	319	-5.2%	-1.6%
Water Services	216	192	-6.7%	-1.7%
Criminal Injuries Compensation	31	26	0.9%	-2.5%
Cap Market Support	410	323	-4.4%	-3.3%
Grant for Clyde & Hebrides Ferry Service	33	25	3.7%	-3.9%
Regenerating our Communities	386	258	-4.8%	-5.6%
European Structural Funds - Central Government	125	75		-7.0%
Regional Selective Assistance	77	45	-6.6%	-7.4%
Scottish Public Pension Agency	239	-11	-170.2%	-164.4%

The growth in education spending appears to exceed that on health over this period. However, this increase is clearly concentrated on pre-school, primary and secondary education. Spending of further and higher education has grown considerably more slowly than that on education as a whole. Although these data do not provide a picture of the real level of activity in the public sector, they are an essential first step to that objective. They point to the need for detailed analysis of levels of productivity in the Scottish public services and of the need to conduct comparative analysis with other jurisdictions so that the public can be assured that the Scottish public sector is providing value for money.

### 9.3 BUILDING A BETTER SCOTLAND SPENDING PROPOSALS 2005-2008

The recently published budget documents entitled “Building a Better Scotland Spending Proposals 2005-2008” give a clear picture of how spending will evolve over the next four years. The presentation of the budgetary information is much improved, with detailed analyses of spending plans down to Level 3 as well as information on operating and capital budgets, capital expenditure by the private sector and expenditure on PPP deals, and information on end-year flexibility. Data on real expenditure are also provided, but these must be subject to the important proviso, mentioned previously, that there are *different* rates of inflation in different parts of the public sector and the estimates of real spending do not necessarily pick this important detail up. Table 2 lists the projected change in real expenditure at Level 2 over the period 2004-05 to 2007-08 and the implied growth rate over the period.

**TABLE 2:** Level 2 Projected Spend 2004-05 to 2007-08, Real Growth Rates 1996-97

Programme	2004-05 (£000)	2007-08 (£000)	2004/05- 2007/08
Reducing Re-offending and Court Reform	-	11,100	N/A
Concessionary Fares	13,000	104,521	100.3%
Other Grants to Local Authorities	26,300	59,383	31.2%
Committees, Commissions and Other Expenditure	20,444	40,900	26.0%
Other arts and culture	23,240	39,867	19.7%
Air Services in Scotland	25,403	38,389	14.8%
Building stronger, safer communities through regeneration and tackling anti social behaviour	125,514	183,975	13.6%
Other public transport	247,284	355,742	12.9%
Specific Grants	191,130	273,398	12.7%
Closing the Opportunity Gap by providing routes out of poverty, ensuring equal opportunities and supporting active citizenship	48,639	69,341	12.5%
Environment Protection	158,362	222,982	12.1%
Research and Sustainable Action	4,247	5,760	10.7%
Scottish Prison Service	298,481	395,609	9.8%
Children, Young People and Social Care	161,249	207,537	8.8%
Central government Expenditure	82,145	102,759	7.7%
Schools	256,068	319,767	7.7%
Accountant in Bankruptcy	4,975	6,118	7.1%
Other enterprise and lifelong learning	119,484	146,586	7.1%
General Register Office for Scotland	8,205	10,021	6.9%
Ferry Services in Scotland	47,166	56,976	6.5%
Scottish Further Education Funding Council	474,270	572,747	6.5%
Scottish Higher Education Funding Council	787,399	950,859	6.5%
Motorways and trunk roads	253,557	304,866	6.3%
VisitScotland	33,765	40,481	6.2%
Motorways and Trunk Roads AME Cost of Capital	394,249	472,254	6.2%
Other Health Services	55,950	66,440	5.9%
Rail Services in Scotland	210,633	249,279	5.8%
Health Improvement	65,901	77,854	5.7%
National Health Service	7,903,887	9,336,290	5.7%

Fisheries	47,733	56,010	5.5%
Scottish Public Pensions Agency	995,776	1,138,941	4.6%
Forestry Commission Scotland	24,863	27,972	4.0%
Historic Scotland	39,644	44,144	3.6%
Scottish Arts Council	47,469	52,787	3.6%
Community Justice Services	86,306	95,323	3.4%
Natural Heritage	67,631	74,480	3.3%
Sportscotland	29,005	31,731	3.0%
Rural Development	136,296	148,150	2.8%
Police Grant	461,105	500,796	2.8%
<i>Police GAE</i>	938,950	1,016,474	2.7%
Police Central Government	99,631	106,381	2.2%
Forest Enterprise Scotland	51,241	54,703	2.2%
Courts Group	36,685	38,632	1.7%
Legal Aid	148,509	155,726	1.6%
Miscellaneous	22,805	23,752	1.4%
Highlands & Islands Enterprise	92,502	95,245	1.0%
<i>Fire GAE</i>	262,513	269,658	0.9%
National Institutions	59,752	61,164	0.8%
Local Government Revenue (AEF)	7,737,220	7,865,750	0.6%
National Archives of Scotland	8,258	8,275	0.1%
Local Government Capital	330,452	330,849	0.0%
Regional Selective Assistance	40,209	39,967	-0.2%
Scottish Courts	71,835	71,121	-0.3%
Bus Services in Scotland	60,057	59,013	-0.6%
Fire LA Capital	23,600	22,754	-1.2%
Administration	234,102	225,682	-1.2%
Scottish Enterprise	448,902	431,130	-1.3%
Water	200,800	189,433	-1.9%
Motorways and Trunk Roads' Depreciation	51,591	47,728	-2.6%
Civil Defence Grant	574	531	-2.6%
Mental Health Specific Grant	14,000	12,950	-2.6%
Police LA Capital	31,415	29,058	-2.6%
Criminal Injuries Compensation	28,481	26,344	-2.6%
District Courts	4,783	4,424	-2.6%
Fire Central Government	6,942	6,414	-2.6%
Community Care	21,942	20,248	-2.6%
Delivering good quality, warm, sustainable, and affordable housing for everyone	1,079,553	987,531	-2.9%
Student loans net new lending and student loans subsidy to banks (outside TME)	184,786	167,739	-3.2%
CAP Market Support	371,576	330,213	-3.9%
Student Award Agency For Scotland	370,336	323,385	-4.4%
Agricultural and Biological Science and Other Agricultural Services	136,188	117,513	-4.8%
Support to local authorities	64,404	52,912	-6.3%
Modernising/Efficient Government Fund	31,000	14,580	-22.2%

The budget still implies strong real growth in public sector spending in Scotland between now and 2007-08, with many programmes growing at well above 2.5 per

cent and therefore growing at a rate well above the underlying rate for the economy as a whole. This will result in a continued shift towards the Scottish economy being dominated by public sector activity and continued worries about the impact that increased demand will have on public sector pay. Again, most of the areas in which large real increases are expected are relatively small and such rapid change should be sustainable. There is however, a particular need to monitor that value for money is being obtained when new capacity is being put in place to deliver services. The budget document contains broadly defined objectives and more precise targets. The process of why particular targets are adopted and then amended or possibly dropped still seems somewhat opaque. With some programmes, it is relatively easy to understand how targets and resource inputs may be related. With others, the linkage is much less clear.

#### **9.4 CONCLUSION**

Historic data show little variation in Scotland's levels of public expenditure compared to that in the UK as a whole. This may partly because increased spending on social protection is offsetting the impact of the Barnett Squeeze on the Executive's budget. Trend data on Level 2 expenditures reveal rapid increases in spending in spending on areas such as anti-poverty strategies, equal opportunities, education and health and falls in EU-related spending and spending on direct assistance to industry. Information on spending plans and outturns is improving steadily. This clearly assists the management of scarce public resources. Relationships between targets and real levels of activity in the public sector are much less clear and further work will have to be done in order to understand how service delivery precisely relates to the provision of public support. The public sector in Scotland will continue to grow more rapidly than the economy as a whole until 2007-08. In the long-run, there must be a danger that the public sector will "crowd-out" private sector activity, which may be inimical to sustainable growth in the long-term. The relationship between targets, public sector inputs and outcomes needs to be better understood.

## **9. Devolution disputes & litigation**

**Barry Wintrobe**

### **9.1 Hunting Act court challenges**

The Scottish Countryside Alliance reluctantly decided in the early autumn that it would not seek to appeal the decision of the Court of Session at the end of May rejecting yet another challenge to the validity of the Protection of Wild Mammals (Scotland) Act 2002.<sup>lxvi</sup> It appears that they have finally accepted that no challenge to the Act on human rights grounds will succeed, and it has also been suggested that the pro-hunting groups are husbanding their financial resources for any challenges may result from the enactment of any anti-hunting legislation south of the border.<sup>lxvii</sup> However, as one challenge ends, another begins, or, to be more accurate, resumes. This is an appeal against a decision in the Outer House of the Court of Session last year by Lord Brodie,<sup>lxviii</sup> though it is equally unlikely to succeed.<sup>lxix</sup>

## 10. Political Parties

### James Mitchell

#### 10.1 SNP has a new leader

As expected, Alex Salmond was elected leader of the SNP again. The result was announced in early September by the SNP's national secretary after a poll of all party members using one-member-one-vote under the terms of the party's new constitution. The ballots were counted by the Electoral Reform Services Ltd. Just under 80 per cent of members returned their ballot papers by post. The results were:

##### SNP Leader

Roseanna Cunningham MSP	953 votes (14.6%)
Michael Russell	631 (9.6%)
Alex Salmond MP	4,952 (75.8%)

There had been much speculation on whether Salmond's running-mate Nicola Sturgeon would win the deputy's position but in the event she too won comfortably:

##### SNP Deputy Leader

Fergus Ewing MSP	1,605 votes (24.6%)
Christine Grahame MSP	1,410 (21.6%)
Nicola Sturgeon MSP	3,521 (53.9%)

There had been speculation that a low turnout would reduce Salmond's authority as indeed would have been the case had Sturgeon failed to be elected. In the event, Salmond's authority looks firm and his position as leader more emphatic than it was when he was first elected leader in 1990. This is due a number of factors: the legitimacy provided by the one-member-one-vote system; his existing track record as leader; new constitutional provisions which effectively centralise power; and the absence of any significant opposition figures, especially Jim Sillars.

The result means that Sturgeon now leads the SNP in the Scottish Parliament. At First Minister's Questions, she is reportedly better than her predecessor in challenging Jack McConnell in these weekly theatrical contests. A new shadow cabinet has been appointed. John Swinney has moved on to become convenor of the European Affairs Committee of the Scottish Parliament and Roseanna Cunningham, previously deputy leader, has become convenor of the Health Committee. Under the new SNP constitution, the leader appoints the Party Business Convenor subject to the approval of the SNP national council. This post was designed to lighten the leader's tasks by separating the leader's public activities from internal management, the latter being handed over to the Business Convenor. It was no surprise to find Bruce Crawford MSP was appointed to this post. Other changes included the appointment of Cllr David Alexander, leader of the SNP group on Falkirk Council, as local government spokesman.

SNP membership increased during the course of the leadership contest as the candidates attended over twenty hustings meetings across Scotland. Salmond welcomed the SNP's 10,000 member at the SNP's annual conference. The young, Asian woman, and daughter of an SNP executive member, offered a convenient photo-opportunity for Alex Salmond at the conference. Quarterly returns to the Electoral Commission show that the party's financial position has improved with increased donations though it still remains in debt. However, the much trumpeted 'Salmond bounce' may simply be a consequence of the excitement generated by the



leadership contest. The absence of reliable polls makes it unclear whether this excitement has gone beyond the nationalist core. The centralised membership system, another part of the constitutional changes instituted under Swinney, should ensure that members are retained more easily than was possible under the old ramshackle system which devolved responsibility to branches.

## **10.2 SSP troubles**

In a surprise move in late November, Tommy Sheridan resigned as leader of the Scottish Socialist Party. Sheridan had led the party from its days as Scottish Militant Labour through the Scottish Socialist Alliance and the launch of the SSP. After being joined by five other SSP MSPs, there was speculation that Sheridan would have difficulty maintaining unity in what was thought to be a fragile coalition of the hard left. Much media speculation focused on the existence within the SSP of the Socialist Workers Party, including an element that opposed the SSP policy of Scottish independence. Much of this media speculation has been misplaced. The Militant element remains dominant and though there have been consistent efforts on the part of one branch to reverse the policy on independence on the grounds of maintaining the 'unity of the British working class', this has been easily defeated on each occasion.

Sheridan's stated reason for standing down had been his prospective fatherhood and his desire to prepare to become a 'socialist Dad'. Within days of the announcement, however, the media reported that Sheridan had been forced out by the party executive with sections of the press dwelling on his private life. Sheridan denied the reports about his private life and initiated legal action against the *News of the World*. In the Scottish Parliament, the party decided that each of its MSPs would take a turn in asking questions of the First Minister when the party had the opportunity to do so until such time as the party elects a new leader. There was speculation that the party would adopt a collective leadership style but, in the event, it decided to continue with its current constitutional arrangement which allow for a new leader to be elected early next year. Only Colin Fox, MSP for the Lothians, has so far emerged as a leadership candidate.

## 11. Public Policies

### Barry Wintrobe

#### 11.1 Health

Health policy has moved firmly to the top of the devolved agenda (as demonstrated by its domination of First Minister's Question Time in the last couple of months<sup>lxxx</sup>), as the twin problems of waiting lists/times and hospital reorganisation/closures worry both Executive ministers and backbenchers, even those at Westminster. It led to a no-confidence motion against Malcolm Chisholm, which failed following an apparent U-turn over hospital reorganisations. After the ministerial reshuffle, the new minister, Andy Kerr, appears to be claiming to continue existing policy.<sup>lxxxi</sup> An audit report on the Scottish NHS raised further questions about the relative failure to translate greater spending into more effective health outcomes.<sup>lxxxii</sup> Following a trip by the First Minister to Dublin, and a huge response to the Executive's consultation exercise, a ban on smoking in enclosed public places looks to be firmly on the agenda. This could well prove to be a controversial and risky initiative which may be designed to show the current administration to be capable of ambitious policy-making, but it is upsetting the leisure industries, as well as UK Labour politicians (and the Speaker, a Glasgow MP).<sup>lxxxiii</sup> The rising costs of the free personal care policy continue to worry policy-makers, despite ministerial claims of its successes.<sup>lxxxiv</sup> The former minister, Sam Galbraith made a strong and very public attack on the policy in a newspaper article in August, denouncing it as a right-wing Liberal policy forced on Labour.<sup>lxxxv</sup>

#### 11.2 Education

Schools reform is proving a tricky issue, with an apparent lack of clarity over plans for what some are describing as 'selection' and 'specialist schools', following a party speech by Jack McConnell at the end of August.<sup>lxxxvi</sup> As the exam results season produced the usual calls for exams reform and queries about standards, the former head of BBC Scotland was appointed to chair the SQA.<sup>lxxxvii</sup> A Bill to merge the various funding councils was included in the new legislative programme, and was published on 1 October, as announced extra funding appeared, at least for the moment, to take the heat out of the university funding crisis.<sup>lxxxviii</sup> Plans for non-denominational shared school campuses may be challenged in court by the Catholic Church.<sup>lxxxix</sup> The School Education (Ministerial Powers and Independent Schools) (Scotland) Bill was passed on 6 October.<sup>lxxx</sup>

#### 11.3 Economy

With further signs of relatively poor economic performance, and close scrutiny in Westminster as well as Holyrood,<sup>lxxxxi</sup> Jim Wallace's stewardship of the Scottish economy is not being universally praised.<sup>lxxxii</sup> There has been a flood of economic documents from the Executive, including a revised Framework for Economic Development (FEDS); a progress report on the 'Smart, Successful Scotland' strategy, and, in mid-October, the 2004 set of *Scottish Economic Statistics*.<sup>lxxxiii</sup> The economic impact of population decline remains a serious concern, despite figures showing the projected fall will be delayed, as the economic and immigration aspects provide a sensitive political mix.<sup>lxxxiv</sup>

## 11.4 Transport

Transport policy is becoming a big devolved issue, with First Group confirmed as winners of the ScotRail franchise, and took over in mid-October as 'First ScotRail',<sup>lxxxv</sup> decisions approaching on the Edinburgh congestion charge scheme,<sup>lxxxvi</sup> and the latest transport statistics being published.<sup>lxxxvii</sup> Late October saw the introduction of the latest Transport Bill, which contains a range of measures including<sup>lxxxviii</sup>

- action to tackle poor road works, with a new Road Works Commissioner and stiffer penalties for delays and low quality resurfacing;
- powers to deliver a national free bus fare schemes for the elderly and the disabled and cheaper travel for young people
- creation of new regional transport partnerships covering all of Scotland, with Executive funding of an extra £34 million a year to deliver public transport and roads improvements

Unlike the regional transport partnerships, the proposed new national transport agency, directly accountable to Ministers as an 'executive agency, does not need legislation to be established, and Ministers announced that details about its role would be announced shortly. Some form of enhanced 'bullet train' rail service between Glasgow and Edinburgh seems to becoming a touchstone of the ambition of devolved public transport policy, though the economic and financial feasibility of proposed public transport schemes such as the rail links to Glasgow and Edinburgh Airports, and the rail line from Edinburgh into the Borders, are being questioned.<sup>lxxxix</sup>

## 11.5 Social & Legal Issues

As part of the current legislative programme, three bills are to be introduced on housing, charities and family law.<sup>xc</sup> The judiciary has been much in the news, with the resignation of one in July in protest at the use of temporary judges and the suspension of a sheriff in September because of alleged misconduct;<sup>xc<sup>i</sup></sup> proposals for more senior judges,<sup>xc<sup>ii</sup></sup> and 'league tables' on judicial performance, something which has provoked a backlash within the legal profession.<sup>xc<sup>iii</sup></sup> The Home Office has denied that children will no longer be detained at the Dungavel removal centre, even though none has apparently been so held since July, and the Commissioner for Children & Young People met the Immigration Minister about this in September.<sup>xc<sup>iv</sup></sup> Ministers are being pressed to announce its decision on the creation of a Scottish Human Rights Commission.<sup>xc<sup>v</sup></sup> There was a plenary debate on housing on 28 October,<sup>xc<sup>vi</sup></sup> and the Tenements (Scotland) Act 2004 received royal assent on 22 October.

## 11.6 Law & Order

The Antisocial Behaviour etc (Scotland) Act 2004 received royal assent in late July, and many of its provisions came into effect in October,<sup>xcv<sup>ii</sup></sup> but ministers may have to rethink plans for a single correctional agency to encompass the prisons service and local council services.<sup>xcv<sup>iii</sup></sup> The record prison population is a worry for the Executive, with innovative solutions being considered.<sup>xc<sup>ix</sup></sup> The annual reports of the Chief Inspectors of Constabulary and of Prisons provoked much reaction, and there are

threats of further human rights challenges by prisoners, which could prove costly for the public purse.<sup>c</sup> A review was announced on the controversial ‘early release’ schemes, following the disturbing James Campbell case,<sup>ci</sup> and drugs misuse was debated in the Chamber on 27 October.<sup>cii</sup> Two new bills were published at the end of October, Protection of Children and Prevention of Sexual Offences (Scotland) Bill and Prohibition of Female Genital Mutilation (Scotland) Bill. A review of the Crown Office and Procurator Fiscal Service was published in late October.<sup>ciii</sup>

## 11.7 Rural & Environment Issues

In mid-August, the Executive published a report on rural policy,<sup>civ</sup> and announced that it is reviewing policy on green belts.<sup>cv</sup> It is to bring forward a bill to require environmental impact assessments for all public sector policies and strategies.<sup>cvi</sup> The water industry continues to be under fire for its policies and finances.<sup>cvi</sup> The Environment and Rural Development Committee published commissioned research on sustainable development.<sup>cvi</sup> Being ‘green’ can be relatively easy as a policy aspiration, but more difficult to adhere to in practice. Alternative and sustainable energy is a common objective, but specific options such as windfarms are controversial.<sup>cix</sup> Concerns are being raised about recent land reform laws.<sup>cx</sup> As the annual EC fishing negotiation approaches, the political battle lines are already being drawn.<sup>cx</sup>

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<sup>i</sup> For further explanation of the ministerial responsibilities in the external relations field, see SE Media Briefing, 7 October: <http://www.scotland.gov.uk/News/This-Week/Media-Briefings/041007>

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