CIPFA

In SCOTLAND

Commission on Scottish Devolution

A Submission by The Chartered Institute of Public Finance & Accountancy (CIPFA)

AT THE HEART OF PUBLIC SERVICES

CIPFA, is the leading professional accountancy body for the public services. It is responsible for the education and training of professional accountants and for their regulation through the setting and monitoring of professional standards. CIPFA is the leading independent commentator on managing and accounting for public money. The contribution from CIPFA has been prepared by the full-time officials of CIPFA and it has received the formal approval of the CIPFA Public Finance & Management Board on behalf of the Institute.

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1. INTRODUCTION

CIPFA is pleased to have been invited to submit evidence to the Commission on Scottish Devolution. The suggested key topics set out in Sir Kenneth Calman's letter dated 18 June 2008 form the broad basis for CIPFA's comment.

1.1 We have used The Good Governance Standard for Public Services[1] as a framework for our comments. The standard is a guide to assist all those concerned with the governance of public services to understand and apply the common 6 principles of good governance. We have used a number of the principles to discuss the effectiveness of government and scrutiny and have also identified where improvements could be made. The six core principles are:

Principle 1: Focusing Upon Purpose And Outcomes For Citizens And Service Users;

Principle 2: Performing Effectively In Clearly Defined Functions And Roles;

Principle 3: Promoting Values And Demonstrating Values Of Good Governance Through Behaviour;

Principle 4: Taking Informed Transparent Decisions And Managing Risk;

Principle 5: Developing Capacity And Capability To Be Effective; And

Principle 6: Engaging Stakeholders And Making Accountability Real.

1.2 Additionally, in preparing this submission we have drawn from a key recent report which we consider to be influential. It is 'Choices for a Purpose- Review of The Scottish Executive Budgets'[2]. This report was the output from the Budget Review Group, chaired by William Howatt and is referred to as the Howatt Report.

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[1] The Good Governance Standard published jointly by CIPFA and OPM

[2] The report was intended as a support to the Spending Review 2007 but was not published until summer 2007

2. QUESTION 1: EFFECTIVE GOVERNMENT AND EFFECTIVE PARLIAMENTARY SCRUTINY & OVERSIGHT

Effective Government

2.1 Effective government is a clear product of good governance, in the sense that good governance leads to good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes. We have used Principles 1 and 5 from the Good Governance Standard to specifically review the effectiveness of government. Principle 1 focuses upon purpose and outcomes for citizens and service users and ensures that high quality services are delivered to users and that taxpayers receive value for money.

Principle 1: Focusing upon Purpose and Outcomes for Citizens and Service Users

2.2 The Howatt Review was unable to find strong evidence linking budgets and programmes to well defined outcomes and in turn to SMART targets. The review did find voluminous evidence of monitoring and measuring inputs, outputs and activities. Howatt concluded however that not all of this activity was making a direct contribution to the project it purported to measure. Howatt's findings suggest an absence of focus on outcomes for citizens and users.

2.3 The Howatt review did believe that significant improvements are possible if any future Government had greater clarity on its desired outcomes and priorities. A greater focus upon outcomes can now be detected within both central government and local government with the introduction of Scotland Performs and the single outcome agreement initiative. This is clearly a developing agenda which over time is expected to embrace all parts of the public sector. There is however still work to do.

2.4 The current government's purpose and stated outcomes for citizens must now be linked to government programmes which in turn must be linked to budgets. This will not only improve the effectiveness of government but will also improve parliamentary scrutiny. The parliament will see more clearly the choices being made with respect to the allocation of resources to specific outcomes.

Principle 5: Developing Capacity and Capability to be Effective

2.5 We now consider principle 5, developing capacity and capability to be effective. The application of this principle requires appointed and elected governors to have the necessary skills and for appropriate performance evaluation to be applied.

2.6 In his report Howatt stated that “Any organisation is only as good as its people”. Crucially, from a financial perspective, Howatt identified that budget managers did not have all the necessary financial skills and acumen. Importantly, there was evidence of differing levels of knowledge and expertise identified. Howatt’s recommendation was concise: that the Scottish Government should ensure that staff have the appropriate skills.

2.7 CIPFA would agree with the Howatt Report. The Commission may wish to focus upon the extent to which the findings have been acted upon.

2.8 If the Commission was considering the effectiveness of a local authority, the Commission would benefit from the information contained within a Best Value and Community Planning Audit Report. There is no such equivalent of course for government in Scotland although all accountable officers have a duty of best value. This contrasts with the position of Westminster government, where government departments are the subject of Capability Reviews. The reviews provide an assessment of capability for departments, identify key areas for improvement and set out key actions thereby helping to devlop the capacity and capability to be effective.

Effective Parliamentary Scrutiny & Oversight

2.9 The Centre for Public Scrutiny[3] recognises the following stages within the scrutiny cycle:

- Policy development;
- Pre-scrutiny of a proposed policy decision;
- A process to challenge and require a rethink of a decision in exceptional circumstances, for example, if it is believed that standing orders have not been complied with;
- Ongoing monitoring and challenge of performance, implementation and financial management; and
- review of the effectiveness of the policy and implementation leading to further policy development.

Comparing the existing approach to parliamentary scrutiny with the Centre's scrutiny cycle, it is possible to identify areas of weakness and where improvements could be made.

Pre-scrutiny of a proposed policy decision

2.10 Private finance initiative (PFI) funded schemes have become a feature of public sector investment in Scotland since the mid 1990's. Since inception of PFI, debate has continued on the extent to which these initiatives provide value for money. A report by the Hansard Society[4] recommended that PFI contracts should be subject to full select committee scrutiny and that commercial confidentiality should not be used to block full Parliamentary scrutiny.

2.11 The ongoing debate associated with PFI, points to the broader question of how Parliamentary scrutiny can keep pace with changes to the way Government operates. The proposed Scottish Futures Trust in which it is proposed to abolish PFI and replace with investment controlled by a quasi private sector body is a case in point. The extent to which Parliament can in practice scrutinise a private body and ensure transparency will need to be carefully considered.

2.12 A further key area for scrutiny is efficiency reporting. Consideration needs to be given to the role of the Parliament and the committees in scrutinizing progress against the efficiency targets set for public bodies. Pre-scrutiny of the targets themselves should also be an area for consideration.

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[3] The Centre for Public Scrutiny www.cfps.org.uk

[4] The Fiscal Maze Parliament, Government and Public Money, The Hansard Society 2006

Review Of The Effectiveness Of The Policy And Implementation Leading To Further Policy Development.

2.13 Westminster select committees now have an explicit core task "to examine the implementation of legislation and major policy initiatives". For example, the Transport, Local Government and Regions Committee reviewed how the Local Government Act 2000 is working. The Hansard Society argues that post legislative review would increase the likelihood that defective legislation would be identified and rectified and that such scrutiny might lead to improvements to legislation in the first place, reducing the need for post-implementation amendment. A recent example may be the debate on Free Personal Care legislation

Significant gap in parliamentary scrutiny

2.14 The Accounts Commission role is to examine how Scotland's 32 councils and 34 joint boards manage their finances. However, because the Accounts Commission does not report directly to the Scottish Parliament, significant amounts of public finance are not subject to Parliamentary scrutiny. The Education Committee in its Final draft report on 04/05 budget process highlighted[5] " many of the existing targets relate more directly to the £3.3 billion spent on services for education and young people delivered by local authorities rather than the £407m under the departments direct control. However, no detail is given on the £3.3bn spent within the AER". The Committee recognized the importance of protecting local autonomy but felt that this need not prevent a full and transparent picture of the resourcing, delivery and outcome of all services. With the recent introduction of single outcome agreements and the associated joint accountability by local and central government for the achievement of these outcomes, this may open the way for Parliament to play a more defined role.

2.15 In considering this issue, CIPFA stresses the importance of the accountability of local government to local communities. Any revised reporting arrangements should aim to enhance local accountability. It is critically important to avoid the pitfall of a stronger system of parliamentary scrutiny which usurps or overshadows local accountability.

Improving Financial accountability and scrutiny

2.16 Parliamentary scrutiny of Government finance is a vital part of its role in holding the Government to account. Financial scrutiny is designed to make Government financial decisions transparent; to hold the government, individual departments and other public bodies to account, thereby contributing to an improvement in financial decisions & management and improved value for money (VFM) in public services and give parliament the opportunity to influence the Government's financial decisions.

2.17 The Commission may be aware of the ongoing work within HM Treasury to prepare and publish audited financial statements which cover the entire UK public sector, generally referred to as 'Whole of Government Accounts' (WGA). The intention is that these accounts will reflect the activities and financial position of the whole of UK government including devolved administrations. However, there is currently no intention to produce Whole of Scottish Government accounts. Consequently, the opportunity is being lost for the Scottish Parliament to assess the scale and value of Scotland's national assets and liabilities.

[5] Education committee 12 May 2004 Final draft report on 2004-05 budget process

2.18 Publication of Whole of Scottish Government Accounts would represent a significant step forward in financial accountability and scrutiny. Politicians and citizens could see within one document at a point in time:

- The value of Scotland's public sector assets; and

- The extent of public sector indebtedness faced by the devolved administration reflected in terms of both short and long term liabilities.

2.19 Scotland's balance sheet would also be supported by a performance statement for the financial year which reported how Scotland's resources were raised and spent, and how outturn and actual delivery compared with budget plans. A comparison not readily possible at the moment.

3. Q3: FEATURES OF THE 1998 SCOTLAND ACT AND CONSIDERATION FOR CHANGE

3.1 Some ten years on from the Scotland Act it is difficult to avoid the conclusion that in a devolved arrangement where local government has greater fiscal powers than national government, then that position is at least worthy of review.

3.2 The Private Finance Initiative (PFI) and its successor Public Private Partnerships (PPP) are UK-wide initiatives which continued within a devolved Scotland. The continuation of these initiatives has been challenged by the recent proposals for the introduction of a Scottish Futures Trust as a direct replacement for both PFI and PPP. The initial manifesto commitment included the proposal that alternative funding could be achieved by the issue by government of national bonds to raise finance. The proposed policy has been revised because no provision exists within the Scotland Act 1998 to enable the Scottish Government to borrow externally. The policy now takes account of the ability of local authorities to borrow under Schedule 3 of the Local Government (Scotland) Act 1975.

3.3 If the case was to be made for borrowing powers for the devolved Scottish Government, the Scottish Parliament would require a mechanism to examine that powers have been utilised in accordance with both legislation and with professional good practice. A model for consideration is CIPFA's Prudential Code for Capital Finance in Local Authorities. This professional code replaced a detailed legislative regime for local authority capital finance and enables control of capital investment to be managed locally rather than nationally. The Code requires that elected members approve the capital investment plans of the local authority put forward by the Director of Finance, on behalf of the council. The Director of Finance is required to demonstrate to elected members that the investment plans are affordable, prudent and sustainable over their life.

3.4 Affordability, prudence and sustainability are demonstrated by a series of indicators which measure borrowing against set local limits and the impact of capital expenditure on local taxation. It would be vital, if borrowing powers were extended to the Scottish Government, that an equally robust mechanism were in place to enable effective Parliamentary scrutiny.

3.5 One consequence of the introduction and application of the Prudential Code is that the balance sheet has become the focus for forward assessments of financial sustainability. This move to more commercial style financial statements has also resulted in the local authority balance sheet becoming an essential document for potential investors. This over time will drive an increasing focus towards balance sheet management. The introduction of a balance sheet for Scotland, as recommended at paragraph 2.15, would therefore be timely. The national balance sheet could become a key determinant for the management of longer term (as well as short term) liabilities.

3.6 A number of issues would need to be resolved, some of which are :

- If borrowing is undertaken by a future Scottish Government, what security could be offered to lenders. In local authorities, liabilities from external borrowing have 'first call' on revenues;

- Scottish government borrowing could not be undertaken without regard to the interaction with, and impact upon, wider UK government borrowing; and also

- The impact upon the extent to which local government in Scotland could borrow would also need to be carefully considered.

4. Q6: SUPPORT FOR RESERVED / DEVOLVED DISTINCTION

4.1 We have no adverse comment to make about the terms reserved or devolved including the categories of policy areas which sit under these headings. We would however like to draw attention to three recent examples which make the case for more clarity on the financial consequences arising from the category distinctions.

Council Tax Subsidy

4.2 The source of debate on this matter was the Scottish Government's proposals for a local income tax. Council tax collection of approximately £2Bn annually includes £400M which is met from council tax benefit paid by local authorities. Scotland's local authorities are then reimbursed by the Department of Work and Pensions. The benefit and consequent subsidy is dealt with under reserved social security legislation.

4.3 The current proposals by the Scottish Government for a local income tax makes the case for retention of monies equivalent to the annual level of council tax subsidy while acknowledging that there would no longer be eligibility for this funding.

4.4 The view of the Scottish Government is that the whole of the Scottish block grant is unconditional and that the council tax subsidy is part of that block and therefore they have entitlement to those monies irrespective of the system of taxation in place.

Police Pension

4.5 Recent proposals for Police pensions will result in amendment to computations for pensions and for widows pension. It was understood that these changes which would result in additional pension payments by Police joint boards, would be funded by HM Treasury as 'policy consequentials'. Policy consequentials derive from the Funding Statement[6] which stipulates :

"The aim of the arrangements is to determine consequentials based on the change of funding English local authorities that is not raised locally"

4.6 It is understood however that there is continuing debate on the specific funding arrangements. While we make no comment on the outcome of ongoing discussions, we would highlight this as an area where policy developments as a consequence of Police Negotiating Board and the Home Office could have a direct impact upon funding in Scotland. This case would suggest that more clarity is required around the practice of applying "policy consequentials".

[6] HM Treasury Statement of Funding Policy

Increased spend on prisons

4.7 Recently, spending was increased on prisons in England and Wales in response to the Carter Review and pressure on prison. This extra spending was taken from the UK reserve, outside of the Comprehensive Spending Review, meaning there was no Barnett consequential for Scotland.

4.8 For the future it may be helpful to develop and publish more explicit criteria concerning the details circumstances in which Barnett calculations are triggered.

5. Q7 & Q8: FINANCIAL ARRANGEMENTS

Principle 1: Focusing Upon Purpose And Outcomes For Citizens And Service Users;

5.1 The block grant received by Scotland's devolved government is not ring fenced and this enables the devolved government to pursue outcomes for Scotlands citizens and service users. Many of the outcomes being pursued since devolution are very different from those being pursued in England. Examples include free personal care, proposals for a local income tax, abolition of bridge tolls and abolition of student tuition fees.

5.2 A similar focus can be detected in the relationship between the Scottish Government and local government. That relationship is now formally expressed in the Concordat agreement. The agreement, effective from 2008/9, included a modification to the financial settlement. That modification removed much of the ring-fenced funding enabling the funding to be directed towards locally determined purposes and outcome. It could be argued that the absence of ring fencing within the Scottish block grant has permitted the removal of ring fencing from local government.

5.3 The current funding arrangement continues to be driven by the Barnett Formula. The question of whether the Formula remains fit for purpose more than thirty years after its introduction needs to be tested in the contemporary context of devolved government arrangements.

5.4 In our recent assessment of the Government's proposals for a local income tax, we identified a number of principles which we believe any system of taxation should be capable of being assessed against. A similar set of principles should be capable of being identified for assessing a system for distributing resources. This would enable the Barnett formula to be objectively assessed alongside alternative approaches/models.

Principle 6: Engaging Stakeholders and Making Accountability Real

5.5 A finding from the Committee of Inquiry into Local Government Finance in 1976 (the Layfield Committee) was "Any body that is responsible for setting tax is held to account for its spending decisions". Layfield recognised that beneficiaries from public services may not in fact pay tax and that those who pay for services (the taxpayers) and those who benefit from services will have different interests at different times. Notably Layfield concluded that the only means of reconciling this tension was to ensure that whoever was responsible for spending more or less money should also be responsible for raising more or less taxation.

5.6 Layfield was recognising that any body responsible for raising revenues will be incentivised to challenge (and be challenged on) spending more closely. The Howatt Review, interestingly concluded that within the Scottish system there was a need for improved scrutiny and challenge within government. Does this stem from not having responsibility for raising revenues? In our view, it is not enough to rely on tax raising powers in order to improve challenge. Howatt himself recommended the development of a more robust challenge function, which should be strongly supported by the Director of Finance.

5.7 Although the Scottish Parliament is not responsible or accountable for raising much public money, they do still have to face the electorate and account for the spending of public money at election time. In our submission to the finance committee inquiry into the budget process[7], we made a number of recommendations about strengthening the accountability to the electorate for proposed spending plans. In paragraphs 2.14 – 2.16 of this response, we have proposed the extension of WGA to Scotland. Financial Statements are an invaluable tool in terms of public accountability for the money spent.

[7] CIPFA response can be accessed on our website http://www.cipfascotland.org.uk/technical/responses.cfm