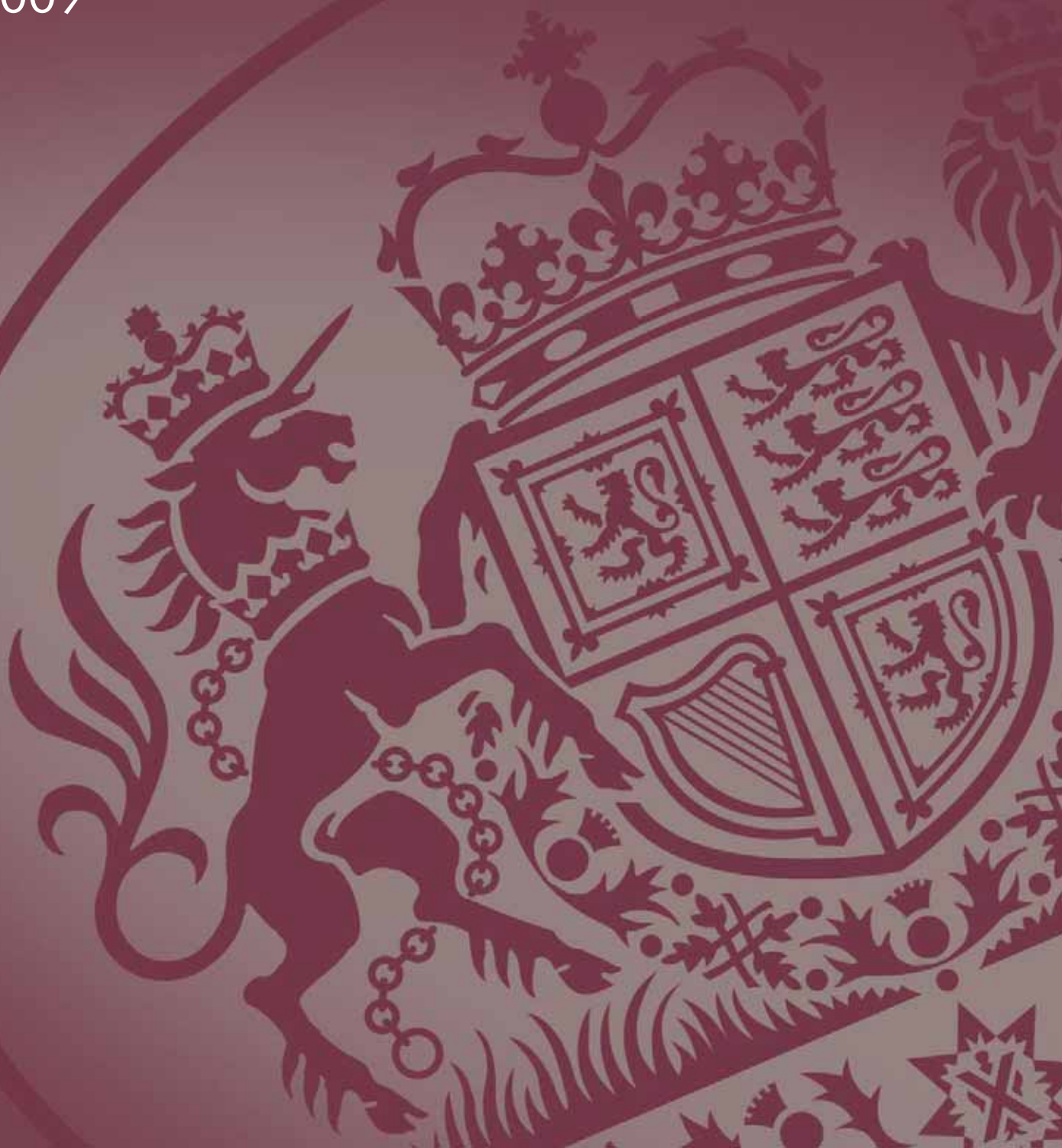




Scotland Office  
and  
Office of the Advocate General for Scotland

Annual Report  
2009





Scotland Office  
and  
Office of the Advocate General  
for Scotland

Annual Report 2009

Presented to Parliament by the Secretary of State for Scotland  
by Command of Her Majesty

June 2009

Updated to include corrections to Annex 9, June 2009

This is part of a series of departmental reports which, along with the Main Estimates 2009-10, the document Public Expenditure: Statistical Analyses 2009, and the Supply Estimates 2009-10: Supplementary Budgetary Information, present the Government's outturn and planned expenditure for 2009-10 and 2010-11.

If you have any general comments or queries about this Report, please forward them to Paul Geoghan at the Scotland Office, 1 Melville Crescent, Edinburgh EH3 7HW (Tel: 0131-244-9050 or e-mail at Paul.Geoghan@scotland.gsi.gov.uk) Further information can also be obtained at our websites: [www.scotlandoffice.gov.uk](http://www.scotlandoffice.gov.uk) and [www.advocategeneral.gov.uk/](http://www.advocategeneral.gov.uk/)

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## Foreword by the Secretary of State for Scotland

It was a great honour to be appointed as Secretary of State for Scotland last October and to be given the task of taking forward the fine work of my predecessor Des Browne.

The Scotland Office and the Office of the Advocate General are fast approaching their tenth anniversary. Ten years since the UK Government delivered the Scottish Parliament that had been sought for so long and which remains the ‘settled will’ of the people of Scotland.

The principal role of the Scotland Office and the Office of the Advocate General remains the same, to oversee the devolution settlement and make it work effectively for the people of Scotland and the rest of the United Kingdom. Much of the work of the Scotland Office concentrates on the detailed legislative mechanisms and co-operation required to make sure that new laws for Scotland, wherever they originate from, can be implemented successfully.

It may surprise some people that, at present, the UK Parliament legislates to a much greater extent in Scotland than the Scottish Parliament. In the 2007 Queen’s Speech there were 25 Bills announced and 22 of them applied in Scotland. In the 2007-08 session the Scottish Parliament passed 7 Scottish Bills and passed 10 Legislative Consent Motions for UK Bills.

The decision by the Prime Minister to return to a dedicated Secretary of State for Scotland has been timely given the great economic challenges we have faced. It helps ensure that Scotland’s interests are represented in the Cabinet, the National Economic Council and in a range of meetings with economic stakeholders.

The UK Government moved quickly last autumn to rescue Scotland’s two largest banks when they got into difficulty. The investment of £50bn was vital to protect savers and those companies who depend on lending from the banks. These are very difficult times but the UK has led the way internationally. The scale of the rescue package also starkly illustrated the benefits of Scotland being part of one of the world’s largest economies.

The regular meetings I initiated with the STUC, First Minister and CBI to work together on the economy have paid dividends. I think they have strengthened the working relationships between the two governments. My view on this is simple. Those who face the prospect of losing their job or their home will have no time for politicians who can’t work together.

Since day one in this job I have committed myself to working with the Scottish Government and colleagues in the UK Government to get results.

I worked closely with Jack Straw and Alex Salmond to give the Scottish Parliament the powers to change the law on stopping out payments to criminals in Scotland.

Talks with John Swinney and Yvette Cooper led to a £1bn funding package being put on the table from the Treasury to help finance the new Forth Bridge.

My colleague Ann McKechnie, the Parliamentary Under Secretary of State, worked hard with the MoD, the MoJ and the Scottish Government to find a way that will enable Fatal Accident Inquiries to be held in Scotland into most categories of overseas deaths of Scottish-based service personnel. This will help to minimise any extra distress for families at what is for them already an extremely difficult time.

If we focus on the issues that matter to people and work together then we can make a difference.

During the year, judgments were handed down by the House of Lords and Judicial Committee of the Privy Council in four cases in which my colleague, Neil Davidson, appeared personally for the UK Government, as Advocate General for Scotland. He also appeared in two other major cases before the European Court of Justice and the Appeal Court, High Court of Justiciary, as well as representing the Government at a number of high profile events, including the Boao Forum for Asia annual conference.

While the Scotland Office is now ten years old we recently had the first visit of the UK Cabinet to Scotland for nearly 90 years. I know my colleagues valued the chance to hear directly from people in Glasgow about the challenges they face in this recession and what the Government can do to help.

Over the coming 12 months those economic challenges will remain the top priority of the UK Government. I will ensure that The Scotland Office works with others to provide real help for people and businesses during the recession and also to invest for Scotland's future.

A handwritten signature in black ink that reads "Jimi Murphy". The signature is written in a cursive, flowing style.

**The Rt Hon Jim Murphy MP**  
**Secretary of State for Scotland**

# Chapter 1: Introduction

## The Scotland Office and Office of the Advocate General for Scotland

**1.1** The Scotland Office<sup>1</sup> and Office of the Advocate General for Scotland<sup>2</sup> report to the Secretary of State for Scotland and the Advocate General for Scotland respectively. This Annual Report covers the work of both Offices for the year.

## The Devolution Settlement

**1.2** The primary role of the Secretary of State for Scotland is to promote the devolution settlement and to act as guardian of it. He promotes partnership between the UK Government and the Scottish Government.

**1.3** The Secretary of State represents Scottish interests in reserved matters within the UK Government, advising colleagues about any distinctive Scottish aspects that arise for reasons other than the impact on devolved matters and supporting them in presenting Government policies in Scotland.

**1.4** The Scotland Act 1998 provides the legislative basis for devolution in Scotland. The Scotland Act identifies those matters that are reserved to the UK Parliament. All other matters are considered to be within the devolved competence of the Scottish Parliament. Whilst the UK Parliament remains sovereign - retaining the power to legislate on any matter affecting any part of the UK - the Government respects the devolution settlement and has indicated that it will not normally legislate at Westminster in relation to devolved matters without the consent of the Scottish Parliament.<sup>3</sup>

**1.5** Reserved matters include:

- UK Single Market
- Energy regulation, UK and International Transport
- Immigration and Nationality
- Social security

<sup>1</sup> The Scotland Office was established on 1 July 1999, following devolution, as part of the UK Government.

<sup>2</sup> The Office of the Advocate General was established on 20 May 1999.

<sup>3</sup> The Scottish Parliament's consent is sought through consideration of a motion laid before the Parliament. This was previously known as a "Sewel Motion" but the name has been changed to a "Legislative Consent Motion" - see chapter 9B of the Standing Orders of the Scottish Parliament.



- Taxation and Economic Management
- Foreign Affairs including European Union negotiations
- Defence
- National Security
- The Constitution
- Broadcasting

## Ministers

**1.6** The Secretary of State for Scotland, the Rt Hon Jim Murphy MP, was appointed on 3 October 2008. The Parliamentary Under-Secretary of State for Scotland, Ann McKechin MP, appointed on 16 September 2008, assists him. The Rt Hon Des Browne MP was Secretary of State for Scotland from 28 June 2007 to 3 October 2008. David Cairns MP was Parliamentary Under-Secretary of State and later Minister of State, from 10 May 2005 to 16 September 2008. Following Mr Murphy's appointment, the Scotland Office again has a dedicated Minister in the United Kingdom Cabinet.



Parliamentary Under-Secretary of State for Scotland, Ann McKechin MP

- 1.7** The Secretary of State has overall Ministerial responsibility for the operation of the Scotland Office and represents Scottish interests at Cabinet. He also has certain executive functions, notably in relation to the financial transactions between the Government and the devolved Scottish Government and in relation to Parliamentary elections.
- 1.8** The Secretary of State is responsible for maintaining close working relations with Scottish Ministers. This includes preserving the place of Scotland in the Union; representing the UK Government in relation to a wide variety of UK Government interests in Scotland; and ensuring that Scottish interests are properly understood and represented across Whitehall.
- 1.9** The Secretary of State and the Parliamentary Under-Secretary of State between them are members of 23 Cabinet Committees and Sub-Committees. The interests of Scotland are represented through Scotland Office Ministerial involvement in Cabinet discussions on reserved matters.
- 1.10** The Secretary of State is also a member of the National Economic Council established in October by the Prime Minister to co-ordinate economic policy across Government.
- 1.11** Scotland Office Ministers also make orders under the Scotland Act. The settlement is sufficiently flexible to enable changes to be made to reflect

legislation enacted by both the UK and Scottish Parliaments. This is delivered through secondary legislation under the Scotland Act.

- 1.12** The then Secretary of State appointed Tom Greatrex as his Special Adviser on 26 February 2007; the previous Secretary of State confirmed this on 29 June 2007. In addition, John McTernan was appointed as Special Adviser in the Scotland Office on 20 August 2007. Both Special Advisers were retained by the incoming Secretary of State in October 2008.

## Advocate General for Scotland

- 1.13** The Advocate General for Scotland, Lord Davidson of Glen Clova QC, was appointed on 21 March 2006.



Lord Davidson of Glen Clova QC

- 1.14** The Advocate General for Scotland is a Minister of the Crown and is one of the three UK Law Officers. Along with the Attorney General and the Solicitor General for England and Wales, the Advocate General provides legal advice to all UK Government Departments on a wide range of issues including human rights, European and constitutional law. The Advocate General is the UK Government's principal legal adviser on Scots law and its senior representative within the Scottish legal community.
- 1.15** The Advocate General also has statutory functions under several enactments. His principal functions, which can be exercised by other Law Officers, are under the Scotland Act 1998. He is responsible to Parliament for the work of his Legal Secretariat and for overseeing the provision by the Office of the Solicitor to the Advocate General of litigation and advisory services in Scotland to UK Departments and Agencies.
- 1.16** As a Minister, the Advocate General sits on a number of Ministerial Cabinet Committees. These committees meet frequently throughout the Parliamentary year.
- 1.17** Since February 2008, the Advocate General has been the Scotland Office spokesperson in the House of Lords.

# Chapter 2: Scotland Office: Organisation, Activities in 2008-09 and Plans for 2009-10

## Organisation

- 2.1** The Office is based in Melville Crescent in Edinburgh and Dover House in Whitehall.
- 2.2** For a range of corporate services, for example, staffing, finance and office services, the Scotland Office and the Office of the Advocate General are part of the Ministry of Justice (MoJ). This does not affect the separate accountability of the Offices to their respective Ministers.

## Staffing

- 2.3** The Scotland Office does not directly employ any staff; staff are seconded by other Government Departments, mainly the Scottish Government and the MoJ. The number of staff in post in the Scotland Office at 31 March 2009 was 55; Figure 3 shows the breakdown.

**Figure 3: Number of Staff in the Scotland Office at 31 March 2009 by Area of Work**

Director's Office	3
Special Advisers	2
Scotland Office, London	21
<i>of which Ministerial Private Office</i>	9
Scotland Office, Edinburgh	29
<i>of which Press Office</i>	2
<b>Total</b>	<b>55</b>

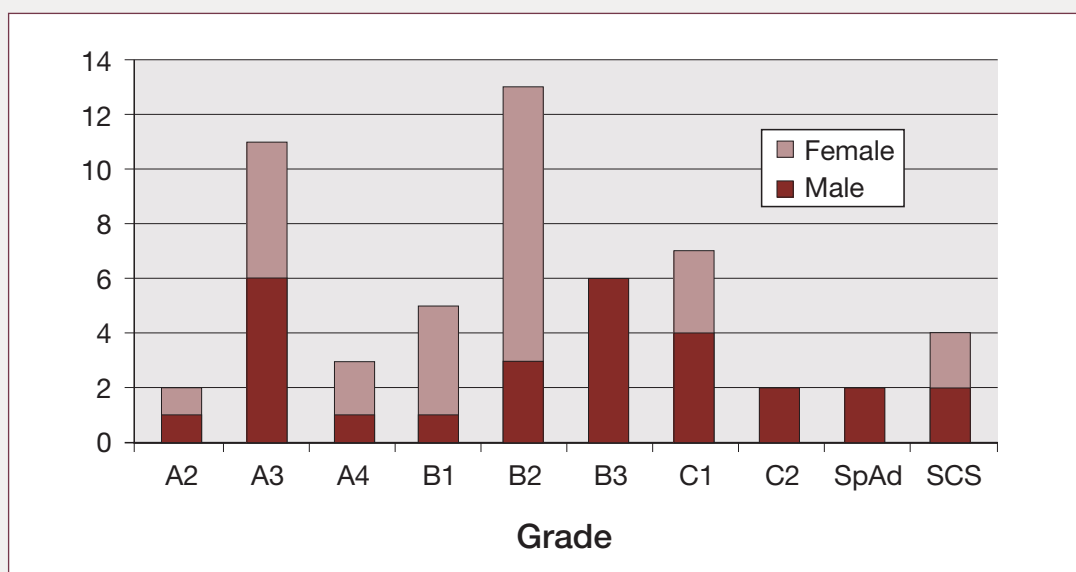
\* The Scotland Office Press Office is also responsible for OAG, the Boundary Commission and for providing logistical support to the Calman Commission.

- 2.4** Annex 9 sets out the staffing of the Scotland Office since 2004-05, and the Office's plans up to 2010-11.

## Women

**2.5** Women make up 49.1 % of staff in the Scotland Office; the figure below shows the number of women in each grade.

**Figure 4: Gender in the Scotland Office at 31 March 2009**



## Senior Civil Service Salaries

**2.6** The salaries of Senior Civil Servants in the Scotland Office are;

**Figure 5: Senior Civil Service Salaries in the Scotland Office as at 31 March 2009**

Annual Salary	Number of Staff
Under £59,999	-
£60,000 - £64,999	-
£65,000 - £69,999	2
£70,000 - £74,999	-
£75,000 - £79,999	2
£80,000 - £84,999	-
£85,000 - £89,999	-
£90,000 - £94,999	-

## Activities in 2008-09

**2.7** The Office's objectives for 2008-09, and progress in achieving them, were:

**Objective 1:** To ensure that Scotland's interests in relation to reserved areas are known and represented within the UK Government.

**2.8** The Scotland Office's task is to ensure good working relations between Whitehall and the Scottish Administration and to ensure that Scottish and devolved elements are taken into account in the development and management of policy and legislation. Most of this work is carried out behind the scenes, including in Cabinet and in Cabinet Sub-Committees on which Scotland Office Ministers are represented. In total, Scotland Office Ministers are represented on 23 Committees to ensure that the UK Government appropriately reflects Scottish interests in decisions. Ministers actively pursue a programme of meetings and visits to ensure that the UK Government is aware of Scottish needs.

**2.9** In Parliament, Ministers represented the UK Government's position on a range of issues relating to the Scottish devolution settlement and appeared before the Scottish Affairs Select Committee and the House of Lords Select Committee on the Barnett Formula.

**2.10** As part of Scotland Office Ministers wider accountability to the UK Parliament, a considerable number of Parliamentary Questions were tabled in 2008-09.

	Ordinary Written	Nominated/Named Day	Oral
House of Commons	342 <sup>4</sup>	19	105 <sup>5</sup>
House of Lords	7	N/A	0
Total	349	19	105

**2.11** The Office also answered 1573 pieces of written correspondence. This activity, as a process of accountability to the public, is an important part of our work. Written correspondence was up by 11% on 2007-08.

**2.12** The Office provided support to Ministers in a number of policy areas that either are reserved or are on the interface between reserved and devolved matters to ensure that Scotland's interests were fully represented in the development of policy across Whitehall and that the devolution settlement was respected.

<sup>4</sup> Includes ordinary written questions that were withdrawn after they were tabled and ones that were transferred to other Government departments.

<sup>5</sup> Oral questions that were tabled, but not all would have been reached during oral questions sessions. Those not answered orally received a written response but these responses are included here and not in the figures for ordinary written questions.

## Economy

- 2.13** The main priority in the past year has been providing real help for individuals and companies in Scotland during the global economic recession. The Secretary of State represented Scotland's interest at Cabinet and the National Economic Council as the Government acted decisively to rescue Scotland's two largest banks. The Government recapitalised the banks with an investment of £50bn that protected savers and the interests of those companies in Scotland that depend on the banks for lending.
- 2.14** On taking office in October the Secretary of State initiated a regular series of 'Quadrilateral' meetings with the STUC, CBI Scotland and the First Minister to monitor the economic situation in Scotland. These have been constructive meetings which have shown the benefits of both governments working together with others for the people of Scotland.
- 2.15** The Secretary of State also visited Iceland on 3 November 2008, where he met the Icelandic Prime Minister, Geir Haarde and the Acting Foreign Minister to discuss the position of Scottish depositors whose money was at risk because of the Icelandic banking crisis. He made clear in these meetings that he expected the government of Iceland to take steps to ensure that Scottish depositors, including local authorities, were reimbursed. Scottish organisations have subsequently received payments from the Financial Services Compensation Scheme.
- 2.16** Scotland Office Ministers also liaised closely with the Treasury over the Government's decision to intervene and secure the future of Dunfermline Building Society. The Government acted in March to protect savers, tax payers and as many jobs as possible when it was clear that DBS did not have a future as a viable business.
- 2.17** In April, Mr Murphy organised an employment summit in Lanarkshire to look at the challenges facing the local economy and how the Government can help.
- 2.18** Mr Murphy also helped facilitate discussions between Her Majesty's Treasury and the Scottish Government on the financing of a new Forth Road Bridge. The Chief Secretary identified an unprecedented £1bn funding package to help finance this vital economic artery across the Firth of Forth.
- 2.19** In late March the Secretary of State also led one of the largest ever Scottish trade missions to China. The Scottish Council for Development and Industry delegation to Shanghai and Hong Kong included the signing of a link between Silport Golf Club Shanghai and Carnoustie Links Golf Club in Angus and a



visit to Clyde Bergemann, a Scottish company supplying equipment to the Chinese energy sector. At Hong Kong University the Secretary of State gave a speech with a G20 theme to an audience of staff and students.



**2.20** The Secretary of State visited Beijing and met China's Minister of Foreign Affairs Yang Jiechi to discuss G20 issues, the loan of giant pandas to Edinburgh Zoo and strengthening measures to combat the counterfeiting of whisky. Further meetings were held with Zuo Guangyau, Finance Minister, and senior officials of the China Securities Regulatory Commission and the State Administration of Foreign Exchange to discuss greater market access for Scotland's financial institutions. The Secretary of State also delivered a speech to staff and students at Beijing's Tsinghua University with a global economy theme.

**2.21** In order to represent Scottish interests, Scotland Office Ministers hold regular events and visits with relevant groups. The Office has supported roundtable meetings on child poverty in Scotland. In January 2009, the Secretary of State met with representatives from Scotland's leading anti-poverty organisations to hear their concerns and to update them on the UK Government's plans to tackle poverty. The 2008 Queen's Speech included proposals for a Child Poverty Bill that will put a target for the reduction of child poverty into statute. The Secretary of State has also met Scottish citizens advisory groups to find ways to help the poorest members of Scottish society stay out of avoidable debt during the credit crisis.

## Justice

- 2.22** This year has seen a range of developments in asylum and immigration policy. The Scotland Office has worked with the Home Office to ensure that these developments are appropriately shaped to meet any particular Scottish circumstances. The work on the new Immigration Points Based System has specifically ensured that the immigration rules changes will have no adverse impact on Scotland's sporting and cultural events. As a result, thousands of future performers at the Edinburgh Festivals will not require an official 'sponsor' to attend the annual cultural showpiece.
- 2.23** Ann McKechin worked very closely with Home Office Ministers to ensure that visas issued to overseas students will be valid for the entire length of their course. This is especially relevant to Scotland where undergraduate courses typically last four years and Scottish universities were concerned about the previously proposed limitations.
- 2.24** The Scotland Office has also been involved in a pilot scheme alongside the UK Border Agency, Scottish Government, Glasgow City Council and the Scottish Refugee Council offering an alternative to the detention of children of failed asylum seekers at Dungavel.
- 2.25** In the national security and civil contingencies area, the Office has worked closely with the Scottish Government and other partners on the delivery of CONTEST, the Government's counter terrorism strategy, and on fuel supply during the industrial action by INEOS staff at Grangemouth in April 2008 and by tanker drivers across Great Britain in June 2008.
- 2.26** The Office has also played an important role on developing policy to be enacted through the Coroners and Justice Bill to allow Fatal Accident Inquiries to be held in Scotland into the overseas deaths of service personnel, thus ending the need in future for service families based in Scotland to travel to England for coroners' inquests.

## International

- 2.27** The Office has played an active role in international relations. As well as the Secretary of State's trade mission to China we have promoted Scotland's interests abroad with other ministerial visits.
- The Secretary of State visited the Royal Scots Dragoon Guards at their home base of Fallingbommel, Germany on 12 December 2008. The Secretary of State presented campaign medals to a representative group of soldiers who had returned from active service in Iraq and Afghanistan.
  - On 6-7 February 2009, the Parliamentary Under-Secretary of State visited Kolkata (Calcutta) to promote Scotland, which was the featured country at



the Kolkata book fair, the largest in the world. She also spoke at a seminar to strengthen the collaboration between Scotland's further education colleges and partners in the Kolkata area. Other engagements included meeting with the Chief Minister of West Bengal, a visit to see how the Department for International Development support slum clearance projects in the area and speaking at a Burns Supper in this year of Homecoming.

## Dover House

**2.28** Dover House in Whitehall continues to provide a valuable platform for Scotland in the heart of London . The Office has managed a programme of events to enable Scottish interests to meet with Ministers and Scottish MPs. The programme included annual Scotland Office events, such as a reception on the day of HM The Queen's Birthday Parade (Trooping the Colour) and a lunch for the Moderator of the General Assembly of the Church of Scotland. There are also numerous third party events hosted at the Scotland Office, including receptions by CBI Scotland, Scottish Financial Enterprise, the Scottish North American Business Council and the Earl Haig Fund's London launch of the PoppyScotland Appeal.

**2.29** In January 2009, the launch of commemorative stamps and coins to mark the 250th anniversary of the birth of Robert Burns was held in Dover House. This evening reception was arranged together with The Robert Burns World Federation. Seven children performed at this launch, all regional winners or National Champions of The Robert Burns World Federation Schools Festival. Earlier that afternoon they met the Prime Minister at No 10 Downing Street.



## Representing Scottish Interests

**Objective 2:** To fulfil all requirements in relation to UK Government and Parliament activities concerning Scotland and in relation to constitutional functions under the Scotland Act.

- 2.30** The identification and resolution of devolution issues in the UK legislative programme and the co-ordination and delivery of subordinate legislation has continued to be a key part of the Scotland Office's business in 2008-09.
- 2.31** The Office pro-actively promotes Scottish interests in the formulation of Government legislation with its extensive involvement in the development of Government Bills. The Office is in day-to-day contact with every Bill team, offering advice and guidance to Whitehall Departments, particularly on those Bills which trigger the Sewel Convention. (see para 1.4) Scottish Office Ministers sit on the Cabinet Sub-Committee on Legislation which approves all Bills before they are introduced. Scotland Office officials continue to work with officials in Whitehall Departments to ensure that devolution issues are resolved at an early stage and any new legislation works with Scots law. The Scotland Office conducts an ongoing outreach programme within Government to increase knowledge of the devolution settlement.
- 2.32** The UK Government's current programme of legislation has extensive application in Scotland: by the end of this financial year 14 of the 15 Government Bills before the UK Parliament extended to Scotland. Seven of these Bills triggered a Sewel Convention and required the consent of the Scottish Parliament. By the end of the reporting year the Scottish Parliament had considered and approved six Legislative Consent Motions (LCMs) with one further currently under consideration. In the 2007-2008 Parliamentary year, which ended during this reporting year, Scottish Ministers sought the consent of the Scottish Parliament for ten UK Bills which triggered the Sewel Convention.
- 2.33** The Office continues to encourage Departmental Bill teams to embed the recommendations of the Scottish Affairs Select Committee following their Inquiry into the Sewel Convention in 2006. As a result, the Explanatory Notes to each Bill now provides a clearer indication of the territorial application of each Bill across the United Kingdom, whether the Bill engages the Sewel Convention and an indication that if any amendments during the passage of the Bill should trigger the Convention, the consent of the Scottish Parliament will be sought.
- 2.34** The Secretary of State moved decisively to push legislation through Westminster to change the law in relation to certain claims made under the Scotland Act, including for stopping out payments to criminals. A section 30 Order was laid by the Scotland Office in early April and has now gone through

both the House of Commons and the House of Lords. This gives the Scottish Parliament the power to introduce a one year time limit for certain claims against the actions of Scottish Ministers under human rights law. This will ensure that a time limit applies with legal certainty and create the parity across the UK that both the UK Ministers and Scottish Ministers want to see on this issue.

## **Statutory Instruments**

**2.35** A list of subordinate legislation made under the Scotland Act 1998 is provided at Annex 6.

**2.36** During the course of this reporting year, the Scotland Office delivered 7 pieces of subordinate legislation which covered a variety of policy matters. The successful delivery of this legislation is part of the Scotland Office's ongoing management of the devolution settlement and reflects the Government's commitment to work with the Scottish Ministers to ensure that the devolution settlement continues to deliver. The Scotland Office is continuing work with the Scottish Government and UK Government Departments on a number of proposals for the coming year.

**2.37** The power at section 104 of the Scotland Act 1998 allows for necessary or expedient amendments to be made to reserved law in consequence of Acts of the Scottish Parliament. An Order was taken forward under this power in July 2008 which was key to the introduction of the Single Survey for homes sales in Scotland. The introduction of the Single Survey in Scotland relied on a Scotland Act Order making stand alone provisions in reserved law regarding consumer protection. The Order will ensure that the buyer can claim damages from the surveyor commissioned to do the single survey by the seller, if the buyer suffers loss, following reliance on that survey.

**2.38** The power at section 63 of the Scotland Act allows for any function of a UK Minister of the Crown, so far as it is exercisable in or as regards Scotland, to be exercisable by the Scottish Ministers instead of, concurrently with or after agreement with the UK Minister of the Crown. An Order was taken forward in July 2008 under section 63 to transfer specific regulation-making functions in both the Pollution Prevention and Control Act 1999 and the Environmental Act 1995. This was necessary as the Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC) imposes an obligation to regulate pollution from industrial sources and in particular requires the regulation of energy efficiency. Whilst the majority of environmental controls are devolved matters, the regulation of energy efficiency is a reserved matter. By executively devolving certain regulation making functions to the Scottish Ministers, this Order allowed for the reserved and devolved aspects of the IPPC Directive to be transposed by one set of regulations enforced by a single agency in Scotland – the Scottish Environment Protection Agency (SEPA).

**2.39** The power at section 93 of the Scotland Act enables the Scottish Ministers to make arrangements for any of their specified functions to be exercised on their behalf by a Minister of the Crown. Two orders were taken forward under section 93 in the last reporting year, the first in April 2008 made provisions to allow the Scottish Government and DEFRA to enter into an agency agreement. The functions in question relate mainly to the administration of various licensing and inspection regimes regarding animal health and welfare that are common across Great Britain and are carried out under parallel legislation in each jurisdiction. The second Order taken forward in July 2008 using this power allows Scottish Ministers to put in place the necessary contractual arrangements for the electronic monitoring of certain offenders who have been transferred from England and Wales to Scotland, and vice-versa, and who are released on licence subject to a curfew condition.

**2.40** The Scotland Office is currently working with the Scottish Government to take forward in the next reporting year the Commonwealth Games section 104 Order which will make provisions in reserved law to protect the intellectual property rights of the Games to be held in Glasgow in 2014. This will allow the Scottish Government to sell the sponsorship rights to the Games. The Scotland Office is currently working with the Intellectual Property Office on an online consultation of the Order which will provide an opportunity for interested stakeholders to provide comments that might assist in the finalisation of the Order.

**2.41** Further information, including the Explanatory Memorandum for each of the Instruments laid in the last reporting year, is available on the website of the Office of Public Sector Information.<sup>6</sup>

### **Other Parliamentary Matters**

**2.42** The Office continued to perform a liaison function in relation to the Parliamentary Select Committees. Staff ensured that memoranda and Government responses to Scottish Affairs Select Committee reports were submitted by the deadline so that the Committee could progress its inquiries in line with its timetable. The period covered by this annual report included work on the Committees' inquiries into:

- Poverty in Scotland
- Skills and employment for the defence industry in Scotland
- Credit Unions
- Scotland and the EU
- Banking in Scotland

<sup>6</sup> [www.opsi.gov.uk](http://www.opsi.gov.uk)

- 2.43** The Scottish Affairs Select Committee also took evidence from Ministers and the (then) Head of the Office on the Annual Report for 2008.
- 2.44** The Secretary of State for Scotland also gave evidence to the House of Lords Select Committee on the Barnett Formula.
- 2.45** The Scotland Office has been extensively involved in the Political Parties and Elections Bill, including the preparation of a clause transferring responsibility for the storage and supply of the marked register from sheriff clerks to returning officers.

**Objective 3:** To promote UK Government interests in Scotland.

- 2.46** The UK Cabinet met in Glasgow in April to discuss the economy. This was the first time the Cabinet had met in Scotland for nearly 90 years and it was the first time ever that it had met in Glasgow. The Secretary of State gave a presentation to Cabinet colleagues on the economic situation in Scotland and also chaired a question and answer session with members of the public and Cabinet Ministers.
- 2.47** The Prime Minister and Business Secretary also came to Scotland on different occasions to hear at first hand from groups of business leaders about the issues they are facing in the current global recession and what help the UK Government can provide. These meetings were set up at the request of Mr Murphy and supported by the Scotland Office.
- 2.48** To coincide with the UK Cabinet meeting in Scotland the Scotland Office worked with the Cabinet Office and Scottish Government to produce a Real help for Scotland publication. This sets out the range of help available to individuals and businesses in Scotland during the economic downturn and is available online on the Scotland Office website [www.scotlandoffice.gov.uk](http://www.scotlandoffice.gov.uk)
- 2.49** The Secretary of State hosted a Broadcast Summit in Scotland in March 2009 with the Department of Culture, Media and Sport (DCMS) to consider the future of Public Service Broadcasting in Scotland and to feed the Scottish perspective into the UK Government's Digital Britain work. The Office had hosted an earlier summit in the House of Commons with representatives from Scottish creative industries, DCMS and Scottish members of the Houses of Commons and Lords in July 2008.
- 2.50** The Office has been at the forefront of minimum wage and welfare reform initiatives. Scotland Office Ministers spearheaded the Scottish leg of a Department of Business, Enterprise and Regulatory Reform campaign to boost Scottish workers' awareness of the increased national minimum wage in November 2008. In December 2008, the Secretary of State announced



that Glasgow had been selected to trial innovative 'benefit recycling' that harnesses private and voluntary sector expertise to support long-term incapacity benefits claimants back into work.

- 2.51** Staff in the Office have supported Ministers in their meetings with equality representatives. Meetings have been held with the Equalities Co-ordinating Group, and with representatives from the Scotland office of the Equality and Human Rights Commission. This has helped facilitate feedback from Scottish stakeholders in relation to the development and operation of reserved legislation on equalities within the Scottish context.
- 2.52** Following much planning work by the Scotland Office, the Department of Culture, Media and Sport and the Scottish Government, the dedicated digital Gaelic service BBC Alba was successfully launched in September 2008.
- 2.53** The Parliamentary Under Secretary of State has hosted roundtable discussions with key Scottish stakeholders in the Life Sciences sector and on consumer protection, and, together with Huw Irranca-Davies, the Fisheries Minister, met with the North-West and Mallaig Fisherman's Association to hear their concerns.
- 2.54** Much of the Scotland Office's work on energy over the past year related to the progress of the Climate Change, Energy and Planning Bills through Parliament and on further proposed legislation such as a Marine Bill. Officials were also closely involved in taking forward with colleagues in Whitehall, new measures to combat fuel poverty as well as reduce emissions, through revisions to the Carbon Emissions Reduction Target following the Prime Minister's announcement in September 2008.
- 2.55** The Scotland Office has also been working closely with the Scottish Government and the Department of Transport on a number of areas. These include High Speed rail links, measures to collect on-the-spot fines from overseas motorists under UK legislation, proposed legislation to provide powers to stop vehicles by the Vehicle and Operator Services Agency (VOSA).
- 2.56** The Secretary of State has visited universities, including Dundee, Abertay, Strathclyde and Heriot Watt to highlight their success in obtaining UK Research Council funding and to help showcase their enterprise initiatives. The Parliamentary Under-Secretary of State has met with representatives from Scotland's higher and further education sectors to enable them to engage directly with the UK Government on matters of most concern to them.
- 2.57** Other developments this year include the ongoing preparation for the Olympic Games in London in 2012, and maximising the opportunities that the event will bring for the whole of the UK. The Scotland Office has been

delighted to be involved over the last reporting year in the preparations for the necessary legislative arrangements required to secure the Commonwealth Games in Glasgow in 2014. The Scotland Office continues to work closely with the Scottish Government and Government Departments to ensure the successful delivery of the subordinate legislation which is required ahead of the Games. The Scotland Office will be taking forward two Orders under section 104 of the Scotland Act 1998 to protect the intellectual property rights to the Games and to make touting tickets for the 2014 Games an offence in England, Wales and Northern Ireland. The Office looks forward to making any contribution that it can to make both of these major sporting events a success.

**2.58** The Scotland Office also worked with the Home Office to ensure that Football Banning Orders imposed in England will also apply in Scotland. This results in the more effective policing of football violence across the UK by ensuring that Scots involved in violence at away matches can also be banned from Scottish grounds.

**Objective 4:** To respond to the Gould Review on the Scottish elections 2007 and implement those recommendations necessary for the effective administration of future Scottish Parliament elections.

**2.59** Following the elections in May 2007, the Scotland Office assisted the Scottish Elections Review team, headed by Ron Gould CM, with their independent review of the 2007 Scottish Parliamentary elections. After a comprehensive consultation process, the then Secretary of State announced in June 2008 his acceptance of many of the recommendations from the Gould report. At the same time, he responded to the Scottish Affairs Committee's report on the same subject. Work has begun on implementing the recommendations. An Interim Electoral Management Board has been established, chaired by Tom Aitchison Chief Executive of Edinburgh City Council, to improve the co-ordination of election planning.

**2.60** In respect of elections, the then Secretary of State appointed a number of Assistant Commissioners to the Boundary Commission for Scotland in May 2008 to preside over the public inquiries set up by the Commission as part of its review of Scottish Parliament constituencies. The Office also facilitated the arrangements for the appointment of a new Deputy Chair to the Commission (which is a judicial appointment made by the Lord President of the Court of Session).

**2.61** In respect of the European Parliament elections to be held in June 2009, the Office has been involved in the development of required legislation, in particular ensuring that the regulations take account of the views of election administrators in Scotland.

**Objective 5:** To handle all financial matters timeously and with propriety – including payments to the Scottish Consolidated Fund.

**2.62** Government funding for the Scottish Government's budget is prescribed by the United Kingdom Parliament. The Secretary of State makes the grant each year to the Scottish Consolidated Fund to meet expenditure by the Scottish Parliament and the Scottish Government. The grant made in 2008-09 was £24.862 billion. (see Annex 4)

### **Finance and Administration**

**2.63** The finance team continued with its programme of improvements for the checking of local authority election accounts, managing to clear all outstanding accounts by 31 March 2009. The Finance team processed 2599 invoices, an increase of 22% on the previous year's total, on behalf of the Scotland Office and Office of the Advocate General. The Office also conformed to the government's new payment performance target of processing invoices within ten days. (see para 5.1 for information on the Office's payment performance).

**2.64** An ongoing process has been the need to liaise with HR Divisions of the MoJ, Scottish Government and other Departments about the need to loan staff to the Offices as well as the interpretation of MoJ and Scottish Government terms and conditions on a group and individual basis. Staff also ensured that the relevant health and safety regimes were in place in Melville Crescent and Dover House.

### **Plans for 2009-10**

#### **Objectives for 2009-10**

**2.65** The Office has adopted the following objectives for 2009-10:

- to fulfil all requirements in relation to UK Government and Parliament activities concerning Scotland and in relation to constitutional functions under the Scotland Act
- to ensure that Scotland's interests in relation to reserved areas are known and represented within the UK Government
- to promote UK Government interests in Scotland
- to ensure the effective administration of future Scottish Parliament elections
- to handle all financial matters timeously and with propriety – including payments to the Scottish Consolidated Fund



- 2.66** The Office will advise Ministers on a wide range of issues that affect home, social, business, energy and economic matters that are mainly within the reserved policy sphere but have an impact on Scotland.
- 2.67** The Office is responsible for policy and legislation for the effective conduct of the Scottish Parliament elections. Work to implement the Gould report's recommendations is ongoing and the Office will shortly be introducing many of these changes through an Order under Section 12 of the Scotland Act, 1998. The Office will also be making progress with reviewing the legislation for Scottish Parliament elections to meet our commitment to have a consolidated statutory instrument in place by November 2010. The Office will also ensure that Scotland's interests in relation to the policy and planning for the 2009 European elections are represented within the UK Government.
- 2.68** The Office will ensure that Scotland's interests in relation to the policy and planning of UK Parliamentary elections are represented within the UK Government and will continue to maintain effective sponsorship for the Boundary Commission for Scotland.
- 2.69** Ministers and officials will uphold close working links with key representative bodies in the industrial and commercial world in Scotland, including maintaining Scotland Office participation in joint industry/Scottish Government groups considering the impact of regulation in Scotland and the wider business environment. The Scotland Office will continue to ensure key Scottish stakeholders are connected to the UK macro economic and fiscal policy framework.



- 2.70** The Scotland Office will continue to participate in work arising from the UK Energy review of 2006. The boundary between reserved and devolved competencies is complex in many aspects of energy policy, whilst Scottish interests have a significant bearing on UK policy. The Office will continue, however, to make clear in its activities in this area that energy policy is firmly in the UK Government's domain.
- 2.71** Given that the boundary between reserved and devolved competencies is complex in many aspects of energy and environment policy, the Scotland Office will continue to play a key role as an intermediary between other Government Departments and the Scottish Government in these areas. Much of this work over the next year will relate to follow up actions to deliver progress on the Climate Change, Energy and Planning Bills through close involvement in some 17 consultation exercises. Electricity transmission access and charges and actions necessary to meet the various Scottish, UK and EU energy targets are likely to continue to come under closer scrutiny domestically and internationally. There will be an emphasis on working with Whitehall colleagues to continue to deliver the UK's energy policy messages on diverse energy mix. The Scotland Office will also maintain its commitment to the UK PILOT initiative – the joint industry/government group forum which seeks to maximise exploitation of oil and gas reserves in the UK Continental Shelf.
- 2.72** The Scotland Office will work to ensure that UK and Scottish initiatives on Transport and Environmental matters will progress smoothly in the 2009-2010 reporting year.

## **Finance and Administration**

- 2.73** The finance team will endeavour to pay all invoices to the Offices within the government's revised target of 10 days. The team will also ensure that advances to Returning Officers for the 2009 European election are made expeditiously; and, wherever possible, arrange for the reimbursement of expenses due to Returning Officers, on receipt of their final accounts, to be processed as quickly as possible.

## **Constitutional Policy**

- 2.74** The Office will continue to ensure the principles underpinning Scotland's settlement are properly represented in the UK and Scottish legislative programmes and the development of policy.
- 2.75** The Scotland Office is responsible for providing advice and support to both Bill teams and policy counterparts in the Scottish Government during the preparation of legislation. The identification and resolution of devolution issues in the UK legislative programme in line with the Government's

commitments under the Sewel Convention (see para 1.4) remains a high priority for the Office. This will include workshops for Bills teams with the Wales and Northern Ireland Offices on handling devolution issues.

**2.76** The co-ordination and delivery of subordinate legislation under the Scotland Act 1998, continues to be a key part of our business and it is expected that demand will remain steady throughout the 2009-2010 reporting year both from the Scottish Government and UK Government (see Annex 6 for information on instruments made in 2008-09). The provision of advice and guidance to Whitehall Departments on the Scotland Act 1998 will also continue, as will our maintenance of the Scotland Office's interest in the administrative arrangements for devolution. (see the Memorandum of Understanding and Devolution Guidance Notes)<sup>7</sup>

### **National Security**

**2.77** The Office will continue to fulfil its important responsibilities in relation to national security and civil contingency matters, liaising with the Scottish Government and other delivery partners.

### **Parliamentary Matters**

**2.78** The Scotland Office will continue to assist the Scottish Affairs Select Committee and other Select Committees with their inquiries, providing evidence and co-ordinating the Government's response to the Select Committees' reports. In the early part of 2009-10 the Scottish Affairs Select Committee is likely to be involved in its inquiries on credit unions, banking in Scotland, and the Scottish press.

**2.79** The Scotland Office will also continue to enable the Secretary of State to perform his function if necessary under the Private Legislation Procedure (Scotland) Act 1936.

<sup>7</sup> [http://www.justice.gov.uk/docs/odpm\\_dev\\_600629.pdf](http://www.justice.gov.uk/docs/odpm_dev_600629.pdf);  
<http://www.justice.gov.uk/guidance/devolutionguidancenotes.htm>

# Chapter 3: Office of the Advocate General for Scotland: Organisation, Activities in 2008-09 and Plans for 2009-10

## Organisation

**3.1** The Office of the Advocate General for Scotland is made up of:

- The Office of the Solicitor to the Advocate General (OSAG) based in Edinburgh;
- The Legal Secretariat to the Advocate General (the Legal Secretariat) based in London; and
- The Ministerial Private Office based in London.

## Office of the Solicitor to the Advocate General (OSAG)

**3.2** The Office of the Solicitor to the Advocate General for Scotland (OSAG) provides legal services in Scotland to most UK Government Departments and supports the Advocate General in the exercise of his functions under the Scotland Act and in relation to functions as a UK Law Officer.

**3.3** OSAG provides legal advice in relation to Scots law, instructs United Kingdom legislation applying to Scotland and represents UK Government Departments in litigation in the Scottish Courts. It has particular expertise in constitutional and public law matters and acts for UK Government Departments in a substantial proportion of the judicial reviews which come before the Court of Session. The Office is based in Victoria Quay, Edinburgh.

**3.4** OSAG is split into two distinct divisions that provide legal services to UK Government Departments, Division A and Division B. Division A is focused on litigation, whereas Division B deals with legislation and advisory work.

- Division A provides Scots law advice and services in respect of any proceedings raised by or against most UK Government Departments in Scotland. It also supports the Advocate General in respect of proceedings raised or defended in Scotland which are relevant to the exercise of his functions. This work includes consideration of devolution issues, within the meaning of Schedule 6 to the Scotland Act, that arise in the Courts. Full details of the cases in which Division A has supported the Advocate

General can be found at: [www.advocategeneral.gov.uk](http://www.advocategeneral.gov.uk). Division A also provides advisory services (but usually related to litigation in some way) to UK Government Departments.

- Division B provides legal advice and services to UK Government Departments, including primary and subordinate legislation. On the instruction of the Scotland Office, Division B also drafts Orders under the Scotland Act. Details of the range of work Division B has been involved in can be found at Annexes 6, 7 and 8.

**3.5** The UK Government Departments which regularly receive legal services from OSAG include: the Scotland Office; the Home Office; the Ministry of Justice; the Cabinet Office; the Department for Work and Pensions; the Department for Environment, Food and Rural Affairs; the Foreign and Commonwealth Office; the Department for International Development; the Department for Business, Enterprise and Regulatory Reform; HM Treasury; the Department for Communities and Local Government; the Department for Innovation, Universities and Skills; the Department for Children, Schools and Families; the Department of Energy and Climate Change; and the Office of Fair Trading.

## **Legal Secretariat to the Advocate General**

**3.6** The primary functions of the Legal Secretariat are:

- To support to the Advocate General in his capacity as a UK Law Officer, including the exercise of statutory functions under the Scotland Act;
- To support the Advocate General's Ministerial responsibilities, including supporting him as a member of Cabinet Committees and as a Member of the House of Lords; and
- To liaise effectively with OSAG and UK Government Departments to support the Advocate General's functions.

**3.7** The Legal Secretary oversees the work of the Secretariat, which is comprised of a small team of lawyers, as well as the Ministerial Private Office. The Private Office manages the Advocate General's dealings with the Secretariat, OSAG, the Attorney General's Office, the Scotland Office, other UK Government Departments, the Parliamentary authorities and other external bodies. In addition, the Private Office organises the Minister's diary and travel arrangements.

## **Staffing**

**3.8** Like the Scotland Office, the Office of the Advocate General does not directly employ any staff. In the main, legal staff are part of the Government Legal Service for Scotland (GLSS) and are seconded to the UK Government

from employment with the Scottish Ministers. The recruitment of all legal staff is undertaken by the GLSS, a professional community of lawyers in government from various legal offices. The Office is supported by a small number of administrative staff. The number of staff in post in the Office of the Advocate General at 31 March 2009 was 40. Figure 6 shows the breakdown.

**Figure 6: Number of staff in the Office of the Advocate General at 31 March 2009**

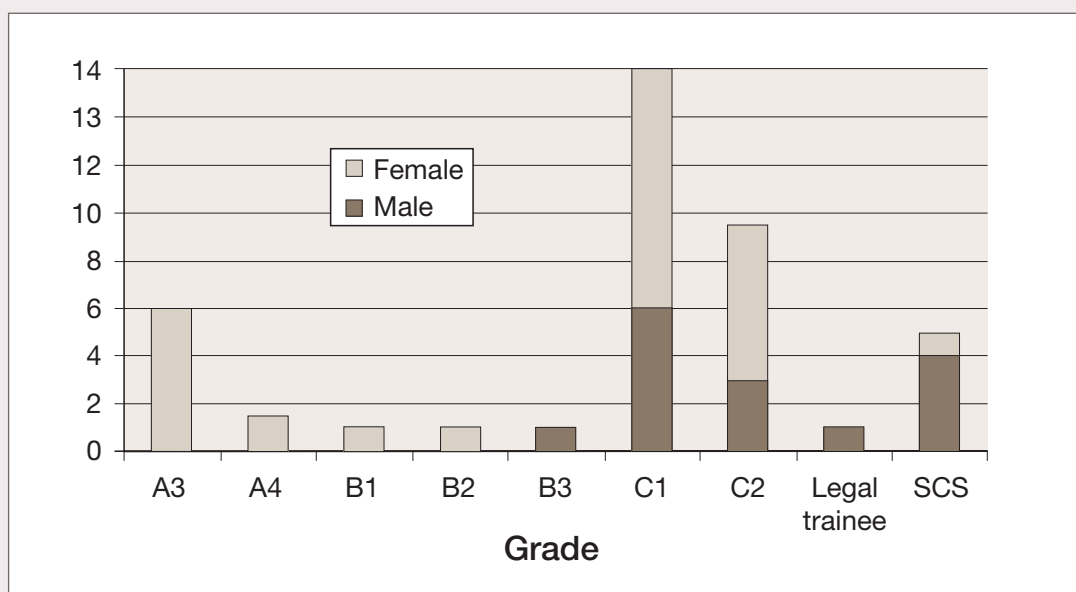
Ministerial Private Office	2
Legal Secretariat to the Advocate General	4
Office of the Solicitor to the Advocate General	34
<b>Total</b>	<b>40</b>

**3.9** Annex 9 sets out the staffing of the Scotland Office and the Office of the Advocate General since 2004-05, and the Offices' plans up to 2010-11.

### Women

**3.10** Women make up 67.5 % of staff in the Office of the Advocate General; the figure below shows the numbers of women in each grade.

**Figure 7: Gender in the Office of the Advocate General at 31 March 2009**



## Senior Civil Service Salaries

**3.11** The salaries of Senior Civil Servants in the Office of the Advocate General are:

**Figure 8: Senior Civil Service Salaries in the Office of the Advocate General as at 31 March 2009**

Annual Salary	Number of Staff
Under £59,999	-
£60,000 - £64,999	1
£65,000 - £69,999	1
£70,000 - £74,999	1
£75,000 - £79,999	1
£80,000 - £84,999	-
£85,000 - £89,999	-
£90,000 - £95,000	1

## Premises

**3.12** The Legal Secretariat, including the Ministerial Private Office, is located at the Advocate General's headquarters in Dover House, Whitehall. They also share accommodation with the Scotland Office at Melville Crescent, Edinburgh. OSAG is based at Victoria Quay in Leith, Edinburgh.

## Activities in 2008-09

**Objective:** Providing high quality legal advice and efficient services relating to Scots law and the Scottish devolution settlement to UK Government Departments and to the Advocate General for Scotland, in support of his role as a UK Law Officer and of his statutory functions under the Scotland Act and in relation to the Human Rights Act.

**3.13** During 2008-09, OSAG provided legal services to a wide range of UK Government Departments, including general legal advice, work on primary and subordinate legislation and civil litigation. During that period, the Legal Secretariat provided the Advocate General with support in the performance of his functions as a UK Law Officer.



## **General Legal Advice**

**3.14** The range of legal services the Office of the Advocate General provides includes the provision of general legal advice on Scots law and advising UK Departments and Agencies on the Scots law aspects of the operation of the reserved law for which they are responsible. OSAG had a key role in advising on the devolution aspects of UK Government policies, and on the implications for UK Government Departments of proposals by Scottish Ministers and of Bills introduced into the Scottish Parliament. The Office provided a wide range of advice to many Government Departments.

## **Primary and Subordinate Legislation**

**3.15** OSAG instructs the Scottish Parliamentary Counsel (UK) in the drafting of provisions for Scotland in Bills before the UK Parliament and drafts subordinate legislation on behalf of UK Departments.

**3.16** OSAG was involved in instructing the UK Bills which have been introduced and which are set out in Annex 7. As far as subordinate legislation is concerned, OSAG was responsible for the drafting of the Insolvency (Scotland) Amendment Rules 2009, and for advising on the Scotland Act Orders listed in Annex 6. OSAG also contributed to the preparation of a wide range of secondary legislation prepared by UK Government Departments.

## **Support to the Advocate General**

**3.17** OSAG was responsible for advising the Advocate General with respect to his functions under the Scotland Act 1998 in relation to the assessment of the legislative competence of Bills introduced into the Scottish Parliament, and in relation to his powers to intervene in devolution issues under Schedule 6 to that Act. A list of the Scottish Parliament Bills scrutinised during 2008-09 is given in Annex 8.

## **Litigation**

**3.18** During 2008-09, 326 devolution issue minutes were intimated. The Advocate General intervened in 13 cases in which devolution issues were raised during the year. Most of these cases have raised complex issues of importance that have been heard before the highest Courts, including the Inner House of the Court of Session, the Judicial Committee of the Privy Council and the House of Lords. A breakdown of the cases can be found at: [www.advocategeneral.gov.uk](http://www.advocategeneral.gov.uk)



- 3.19** Immigration litigation continues to be a major area of work. During the past year, the Immigration Litigation Team has dealt with a total of 252 new cases on behalf of the Home Office (169 petitions for judicial review and 83 statutory applications for leave to appeal).
- 3.20** Another significant area of work for Division A is social security litigation. In the year, the Office appeared for the Secretary of State for Work and Pensions in 40 appeals to the Child Support and Social Security Commissioners/Upper Tribunal, 4 statutory appeals to the Inner House of the Court of Session and 1 judicial review.
- 3.21** In the last year, OSAG has also acted on behalf of the Secretary of State for Foreign and Commonwealth Affairs, and the Lord Lyon, King of Arms, in judicial review proceedings, as well as continuing to assist the Scotland Office in appeals before the Information Tribunal.

### **Legal Secretariat to the Advocate General**

- 3.22** The Legal Secretariat to the Advocate General is a small team of lawyers and support staff, based in Dover House in Whitehall. The legal team advises the Advocate General on the legal advice that is given by the Law Officers to UK Government Departments. They work closely with staff in the Attorney General's Office who provide a similar service to the Attorney General and Solicitor General for England and Wales.
- 3.23** Many of the issues referred to the Law Officers by UK Government Departments relate to Great Britain or to the United Kingdom as a whole. The Advocate General works with the Attorney General and the Solicitor General for England and Wales to advise on these issues. The Advocate General also advises on the law as it applies in Scotland.
- 3.24** It is a long standing convention followed by successive administrations that neither the Law Officers nor the Government disclose whether the Law Officers have given advice in any particular case, let alone the content of such advice. Accordingly, no details of this significant aspect of the Legal Secretariat's advisory work are disclosed in this report.
- 3.25** The Legal Secretariat also assists the Advocate General in relation to Parliamentary and Cabinet Committee business, correspondence, speeches and other general government business. The Legal Secretariat takes part in Cabinet Office committee meetings at official level and other UK Government coordination meetings on European law, human rights, devolution, the constitution and other subjects.
- 3.26** Further, in relation to the Advocate General's functions under section 33 of the Scotland Act, the Legal Secretariat consults UK Government Departments

regarding whether, in their view, Bills passed by the Scottish Parliament are within legislative competence. Under Section 33, the Advocate General may refer to the Judicial Committee of the Privy Council the question of whether a Bill, or any provision of a Bill, would be within the legislative competence of the Scottish Parliament.

## **Plans for 2009-10**

### **Objectives for 2009-10**

**3.27** The Office has adopted the following objectives for 2009-10:

**Objective 1:** To provide high quality legal advice and efficient services in relation to Scots law and the Scottish devolution settlement to UK Government Departments.

**Objective 2:** To provide high quality and efficient services to the Advocate General for Scotland in support of his role in upholding the rule of law, his statutory functions under the Scotland Act, and in relation to his functions as a UK Law Officer.

### **Office of the Solicitor to the Advocate General**

**3.28** OSAG will continue to provide an efficient and responsive, high quality, legal service to UK Government Departments in relation to litigation in Scotland and legislation affecting Scotland, and to give effective, high quality, legal advice in relation to Scots law generally. It will also ensure that the Advocate General receives effective support in carrying out his statutory functions under the Scotland Act and in relation to his functions as a UK Law Officer.

### **Legal Secretariat to the Advocate General**

**3.29** The Legal Secretariat, including the Ministerial Private Office, will continue to provide an efficient, responsive, high quality legal and administrative service to the Advocate General. The Secretariat will support him in the performance of his functions as a UK Law Officer upholding the rule of law and in relation to his statutory functions, as well as in respect of his work on Cabinet Committees and in the House of Lords.

# Chapter 4: Government Expenditure in Scotland

## Funding

- 4.1** Responsibility for fiscal policy, macroeconomic policy and public expenditure allocation across the United Kingdom remains with HM Treasury, and the Scottish Government's budget continues to be determined within the framework of public expenditure control in the United Kingdom. The financial relationship is set out in the *Statement of Funding Policy*<sup>8</sup>.
- 4.2** The Scottish Government's budget is determined by means of a population-based formula (the 'Barnett' formula). The UK Parliament votes the necessary provision to the Secretary of State, who, in turn, makes grants to the Scottish Government as set out in the Scotland Act 1998. Provision for the costs of the Scotland Office, Office of the Advocate General, Scottish Parliament Elections and European Elections are found from within these resources.
- 4.3** The Scottish Administration makes its own spending decisions on devolved programmes within the overall totals, subject to approval by the Scottish Parliament.

## Spending Review 2007

- 4.4** The Scottish Government received large increases in spending in the 2007 spending review, with spending some £3.7 billion higher by 2010-11 compared to 2007-08.

## Budget 2009

- 4.5** The Chancellor of the Exchequer announced in his Budget of 22 April 2009, an extra £104 million for the Scottish Government as a consequence of spending increases for UK Government Departments (mostly housing, education and green packages), for the period 2009-10 to 2010-2011. It is for Scottish Ministers to decide how these monies will be spent in Scotland. Copies of the full Budget details are available on HM Treasury's website at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

<sup>8</sup> The most recent edition was published in October 2007 and is available at [http://www.hm-treasury.gov.uk/media/2/2/pbr\\_csr07\\_funding591.pdf](http://www.hm-treasury.gov.uk/media/2/2/pbr_csr07_funding591.pdf)

## Spending by the Scotland Office and Office of the Advocate General

**4.6** Details of planned Scotland Office and Office of the Advocate General expenditure are contained in Annex 1. The combined provision for the net administration costs is £7.124m in 2009-10.

## Scottish Government Budget

**4.7** The Scottish Government has published details of how it has allocated its budget for 2009-10; these are contained in *Scotland's Budget Documents 2009-10*.<sup>9</sup>

**4.8** Annex 2 shows changes in Scotland Departmental Expenditure Limit (DEL) between Public Expenditure Statistical Analyses<sup>10</sup> (PESA) 2008 and 2009. The Scotland DEL no longer includes the expenditure of the Scotland Office and Office of the Advocate General.

## Government Expenditure and Revenue in Scotland

**4.9** The Scottish Government published the report, *Government Expenditure and Revenue in Scotland*, on 20 June 2008<sup>11</sup>, which provides an analysis of the public finances in Scotland. This was the fourteenth edition of the report (reports before July 1999 were published by the Scottish Office). This latest report presented data for the 2005-06 fiscal year, the latest year for which information on Government expenditure and revenue was available for Scotland.

## Resource Accounting and Budgeting (RAB)

**4.10** RAB provides an accurate measure of Departmental expenditure by matching costs to time, measuring the full resource cost of Government activity, including non-cash expenditure such as depreciation, cost of capital charges and provisions.

**4.11** The aim of the tables in this Report is to provide a detailed analysis of Departmental expenditure plans in resource terms, showing resource consumption and capital investment; voted and non-voted expenditure;

<sup>9</sup> <http://www.scotland.gov.uk/Publications/2009/01/08095240/0>

<sup>10</sup> PESA is a compendium that brings together recent outturn data, estimated outturns for the latest year and budgetary plans over the whole range of UK public expenditure. It is published annually as a Command paper alongside the Supply Estimates and Departmental Reports. It includes an analysis of public spending by country and region, spending by function and economic category of expenditure, and full details of spending by Department and grouped by budgetary control aggregates. The most recent edition of PESA, which was published on 21 April 2008, is available at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

<sup>11</sup> This publication can be found at <http://www.scotland.gov.uk/Publications/2008/06/18170334/0>

expenditure in three year Departmental Expenditure Limits (DEL) and Annually Managed Expenditure (AME).

## **Whole of Government Accounts (WGA)**

**4.12** The Scotland Office continues to participate in the WGA project, which is being conducted by HM Treasury. WGA will comprise a consolidation of the individual accounts of all of the public bodies that are designated under the Government and Resource Accounts Act 2000, and also public bodies governed by the Public Finance (Scotland) Act 2000. A staged approach has been adopted to produce a WGA starting with a 'dry run' consolidation in 2001-02 of central government bodies, which included departments, their agencies and non-departmental public bodies, and funds. In 2004-05, health and local government bodies, and public corporations were included in the 'dry run' consolidation. The Scotland Office has been involved since the inception of the project, providing data for 'dry runs' since 2001-02 and assisting with the development of systems. The process will result in the publication of WGA for 2008-09. These accounts will be based on international financial reporting standards (IFRS).

# Chapter 5: Delivering Efficient and Effective Government

## Performance Targets

**5.1** For 2008-09, the Offices set three main indicators aimed at ensuring the provision of high quality and efficient services in dealings with the public:-

### Performance Indicators in 2008-09 for Dealing with the Public

Target	Indicator	Performance in 2008-09
We will reply to Ministerial correspondence within 15 working days of receipt; or we will send an interim reply explaining the reasons for the delay and indicating when a full reply will be sent.	Percentage of correspondence replied to within 15 days.	<ul style="list-style-type: none"> <li>The Scotland Office replied to 81% of Ministerial correspondence within the target time.</li> <li>The Office of the Advocate General replied to 100% of Ministerial correspondence within the target time.</li> </ul>
We will reply to FOI requests within 20 working days of receipt or within permitted extension or we will send an interim reply explaining the reasons for the delay and indicating when a full reply will be sent.	Percentage of correspondence replied to within 20 days.	<ul style="list-style-type: none"> <li>The Scotland Office replied to 66% of FOI requests within 20 working days.</li> <li>The Office of the Advocate General replied to 100% of FOI requests within the target time.</li> </ul>
We will ensure that accounts are paid promptly. Where a contract applies, we will make payment in accordance with the applicable timetable. We will otherwise pay accounts within 30 days of receipt of a valid invoice.	Percentage of payments made within target times.	<ul style="list-style-type: none"> <li>The payment target was met in 99.12% of payments.</li> </ul>

**5.2** The Offices have decided upon the following performance indicators for 2009-10.

## Performance Indicators for 2009-10 for Dealing with the Public

Target	Annual Indicator
We will reply to Ministerial correspondence within 15 working days of receipt or we will send an interim reply explaining the reasons for the delay and indicating when a full reply will be sent.	Percentage of correspondence
We will reply to FOI requests within 20 working days of receipt.	Percentage of correspondence
We will ensure that accounts are paid promptly. Where a contract applies, we will make payment in accordance with the applicable timetable. We will otherwise pay accounts within 10 days of receipt of a valid invoice.	Percentage of payments made

**5.3** These targets are monitored by the Joint Management Board (see para 5.10 et seq).

### Freedom of Information Act 2000

**5.4** Under the Act, the Scotland Office and Office of the Advocate General are required to respond to written requests for information within 20 working days. Information released and considered to be in the wider public interest is placed on the Offices' websites and recorded on the Offices' disclosure logs. In addition, the Office has an Agreement with the Scottish Government on the handling of information contained in the pre-devolution records of the former Scottish Office.

**5.5** In 2008-09, the Scotland Office received 148 requests and Office of the Advocate General dealt with 5 requests under Freedom of Information legislation.

### Complaints Procedure

**5.6** The procedure for handling complaints made to the Scotland Office is under review and will be set out on our website at [www.scotlandoffice.gov.uk](http://www.scotlandoffice.gov.uk)

### Efficient Use of Resources

**5.7** Delivering efficient public services is a central plank of the Government's agenda for improving productivity. We are committed to achieving efficiency and effectiveness in all areas of our activities.

**5.8** The Scotland Office's executive functions relate to the conduct of elections and to the delivery of subordinate legislation and certain other functions under the Scotland Act. In addition, the Office plays a key role in helping to facilitate exchanges and coordination between the UK Government and the

Scottish Government. It advises Ministers across the whole range of reserved policy matters.

- 5.9** Programme expenditure is small (£0.3m) and relates to the Boundary Commission for Scotland. The bulk of the costs of the Scotland Office and the Office of the Advocate General relate to staffing and associated expenditure linked to advisory and support functions for Ministers and other UK Government Departments. The Scotland Office spent £0.043m on consultancies in 2008-09.

## Corporate Governance

- 5.10** The Director of the Scotland Office is an Additional Accounting Officer (AAO) within the overall responsibility of the Accounting Officer of the MoJ. The former's responsibilities cover both the Scotland Office and the Office of the Advocate General.
- 5.11** The Offices have a Joint Management Board that oversees both organisations; the Director of the Scotland Office chairs that Board. This Board meets regularly and considers a wide range of issues, from the overall complement of the Offices to the budgeting allocations within the Offices. The Board's non-executive member was an official of the MoJ and the AAO is satisfied that he was able to give the Board independent advice.
- 5.12** In addition, the Management Board has two sub-committees; Audit (described in paragraph 5.13) and the Office of the Advocate General Management Board; the latter deals with operational matters within the Office of the Advocate General.

## Audit Committee

- 5.13** The Offices have a single Audit Committee whose remit is to evaluate and challenge the activities of the Scotland Office and Office of the Advocate General. It is not responsible for the wider MoJ organisation. It may, however, if it considers this necessary, report issues to the corporate Audit Committee of the MoJ.
- 5.14** The Committee has been re-constituted to meet the guidance in the *Audit Committee Handbook* and to reflect the *Corporate Governance in Central Government Departments: Code of good practice*. The committee now has three external members<sup>12</sup>. The Chairman of the Committee was a non-Executive Member of the Joint Management Board. The new Committee met 4 times in the year and discussed a range of subjects, particularly the audit relationship with Scottish Government and the Offices' expenditure plans. The Scotland Office was given a High assurance on governance, risk management

<sup>12</sup> At the end of the year, an external member resigned his position and the Scotland Office is in the process of seeking a successor.



and control arrangements on action taken to implement recommendations from the Gould report. Auditors also reported rapid and positive progress in establishing a solid framework for sponsorship of the Boundary Commission for Scotland. The Committee's Annual Report is shown at Annex 10.

## **Services Provided by the Scottish Government and the MoJ**

**5.15** Both the Scottish Government and MoJ provide help and support to the Offices including information and communications technology, financial systems, personnel and accommodation. The Offices also endeavour – wherever possible – to utilise existing contracts operated by the Scottish Government or MoJ for goods and services.

**5.16** The Scotland Office and the Office of the Advocate General do not provide executive services directly to the public but nonetheless need modern information systems for dealing with intra-Government contacts, explaining UK policies and supporting the activities of Ministers. The Offices have staff based in Edinburgh and London and therefore make extensive use of communications technology including e-mail, scanning and videoconferencing.

**5.17** The Offices regularly update their internet and intranet sites. The relevant internet sites are:

[www.scotlandoffice.gov.uk](http://www.scotlandoffice.gov.uk)

[www.advocategeneral.gov.uk](http://www.advocategeneral.gov.uk)

## **Information Assurance**

**5.18** Reliable and accurate information is critical to proper decision making in the Scotland Office and Office for the Advocate General for Scotland. This makes information a critical business asset that we need to protect. Information Assurance provides this protection by managing risks to the availability, integrity and confidentiality of information so that our business always functions effectively. We are actively involved in meeting the principles of Information Assurance and participating in the wider Ministry of Justice programme has meant that we benefit from their corporate experience.

Information Assurance is important to our Offices because it will:

- enhance our reputation by providing stakeholders with greater assurance as to how we collect, store, transfer and dispose of their information and all other official information;
- improve controls and increase the confidence we have in our partners' ability to handle information; and
- improve the way we do business across Government.

## **Sustainable Development**

**5.19** The Scotland Office manages its buildings and resources in accordance with the Government's sustainable development strategy. In accordance with legislation in England, Dover House has on public display a Display Energy Certificate, which enables the public to see the energy efficiency of the building. As a result of work to make the building more energy efficient Dover House has received a C rating, a good performance for an 18th century listed building.

## **Health and Safety**

**5.20** The Offices aim to provide a safe and healthy working environment for all staff and have procedures in place, to ensure that all equipment, plant and premises are safe and free from adverse effects to health. The Offices have six staff trained in Health and Safety management who undertake regular workplace inspections and conduct risk assessments, including Display Screen Equipment assessments. The Offices recognise environmental protection as an integral element of efficient business management and the aim is to protect, maintain and, where possible, improve the environment.

## **Recruitment of Staff**

**5.21** Most of the staff in the Office of the Advocate General, and more than half of the staff in the Scotland Office, are seconded from the Scottish Government. They are mainly based in Edinburgh. Most of the remaining staff are employees of the MoJ and are based in London. The Offices seek staff on secondment that can provide additional skills and experience that can underpin the Offices' roles.

**5.22** Both the Scottish Government and the MoJ recruit staff in accordance with the Civil Service Order in Council 1995. Every individual appointed is selected on merit on the basis of fair and open competition, apart from cases where exceptions are permitted under Articles 6 and 7 of the Order. To this end:

- Prospective candidates are given equal and reasonable access to adequate information about the job and its requirements and about the selection process;
- Applicants are considered equally on merit at each stage of the appropriate selection process;
- Selection is based on relevant criteria applied consistently to all candidates;
- Selection techniques are designed to be reliable and guard against bias; and
- Equal opportunities policies apply throughout the recruitment process.

## **Ethnic Minorities**

**5.23** Information on the ethnic origin of civil servants is collected using a voluntary, confidential questionnaire. To protect the identity of individual staff, data relating to fewer than five people is not disclosed in equal opportunities monitoring. Action is being taken across the Civil Service to address the under-representation of ethnic minorities. Diversity awareness training is mandatory for all Scotland Office and Office of the Advocate General staff.

## **People with Disabilities**

**5.24** The Scotland Office and Office of the Advocate General have a small number of staff with disabilities; for privacy reasons, the actual numbers are considered confidential. The Offices are aware of their responsibilities under the Disability Discrimination Act 1995 and, with this in mind, have provided an external stair lift at its premises in Melville Crescent and an internal lift.

## ANNEX 1:

### Departmental Expenditure Limit - Scotland Office, Office of the Advocate General and Scottish Government

	2003 -2004 outturn £'000	2004 -2005 outturn £'000	2005 -2006 outturn £'000	2006 -2007 outturn £'000	2007 -2008 outturn £'000	2008 -2009 estimated outturn £'000	2009 -2010 provision £'000	2010 -2011 provision £'000
<b>Resource</b>								
Scotland Office Administration costs	4,467	3,703	3,360	3,631	4,552	4,539	3,903	2,803
Scotland Office other (1)	362	325	279	227	241	57	300	300
OAG Administration costs	1,464	1,484	1,845	1,935	2,561	2,688	2,921	2,921
<b>Subtotal - Administration costs</b>	<b>6,293</b>	<b>5,512</b>	<b>5,484</b>	<b>5,793</b>	<b>7,354</b>	<b>7,284</b>	<b>7,124</b>	<b>6,024</b>
Boundary Commission	244	178	141	119	170	593	300	300
Commission on Boundary Differences & Voting Systems in Scotland	0	108	135	0	0	0	0	0
<b>Total Resource</b>	<b>6,537</b>	<b>5,798</b>	<b>5,760</b>	<b>5,912</b>	<b>7,524</b>	<b>7,877</b>	<b>7,424</b>	<b>6,324</b>
<b>Capital</b>								
Scotland Office	13	76	64	0	0	79	100	100
<b>Scotland Office DEL (2) (3)</b>	<b>6,550</b>	<b>5,874</b>	<b>5,824</b>	<b>5,912</b>	<b>7,524</b>	<b>7,956</b>	<b>7,524</b>	<b>6,424</b>
<b>Scottish Government</b>								
Near Cash	17,913,869	18,511,620	20,010,412	21,440,336	22,853,531	23,632,240	24,412,630	25,460,947
Non Cash	507,339	947,487	780,579	913,368	951,107	1,006,286	997,252	1,051,252
Scottish Government Resource (4)	18,421,208	19,459,107	20,790,991	22,353,704	23,804,638	24,638,526	25,420,586	26,128,946
Scottish Government Capital	1,696,982	2,170,568	2,390,089	3,035,063	3,563,019	3,336,544	3,712,703	3,180,806
Scottish Government DEL (3)	20,118,190	21,629,675	23,181,080	25,388,767	27,367,657	27,975,070	29,133,289	29,309,752
<b>Scottish Government Depreciation</b>								
Election expenditure (Resource non-voted)	12,179	8,095	8,237	1,081	18,012	980	0	0
<b>Total Scottish Block</b>	<b>20,136,919</b>	<b>21,643,644</b>	<b>23,195,141</b>	<b>25,395,760</b>	<b>27,393,193</b>	<b>27,984,006</b>	<b>29,140,813</b>	<b>29,316,176</b>

Totals may not sum due to roundings.

(1) Including depreciation.

(2) Expenditure Voted on MoJ Estimate, Request for Resources 2, Overseeing the effective operation of the devolution settlement in Scotland and representing the interests of Scotland within the UK Government.

(3) Resource + capital

(4) Near Cash + Non Cash

## ANNEX 2:

### Changes to Scottish Government Departmental Expenditure Limit for 2007-08 to 2010-11 Since PESA 2008

	2007-08 £m Outturn	2008-09 £m Estimated Outturn	2009-10 £m Plans	2010-11 £m Plans
Position at publication of PESA 2008 (Table 1.12) net of depreciation	27,029	27,267	28,377	29,752
<i>Depreciation</i>	356	302	363	396
<i>Subtotal</i>	27,385	27,569	28,740	30,148
Outturn adjustments	-17	-40		
<b>Budgeting &amp; classification changes:</b>				
Scottish Water non-cash		17	11	5
Interdepartmental transfers		17	3	0
End Year Flexibility		300	0	0
<b>Spending Policy:</b>				
PBR 2008 - Citizens Advice Bureau		0	1	0
PBR 2008 - Warm Front		5	5	0
Modernisation Fund (2)		13	0	0
Health Capital reduction		0	0	-129
Budget 2009 - Housing Package		0	34	12
Budget 2009 - Green Energy Package		0	22	6
Budget 2009 - Youth Employment Package		0	5	7
Budget 2009 - Employment Fund		0	0	0
Budget 2009 - Third Sector & Icelandic Banks		0	2	0
Budget 2009 - Capital for FE Colleges		0	17	0
Budget 2009 - VFM Savings		0	0	-392
Capital draw forward		53	294	-348
<i>Subtotal</i>	-17	366	393	-838
Capital DEL plus Resource DEL	27,368	27,935	29,133	29,310
Less depreciation	422	459	465	489
<b>Position at publication of PESA 2009 (Table 1.12) net of depreciation</b>	<b>26,946</b>	<b>27,476</b>	<b>28,668</b>	<b>28,821</b>

## ANNEX 3:

### Grant Paid to the Scottish Consolidated Fund 2007-08: Provision and Final Outturn

	Original Provision £m	Final Provision £m	Final Outturn £m
Expenditure Classified as Departmental Expenditure Limit <sup>(1)</sup>	26,628	27,409	27,368
Expenditure Classified as Annually Managed Expenditure	3,489	3,812	2,879
Non Domestic Rates Income	1,860	1,860	1,860
<b>Total Managed Expenditure</b>	<b>31,977</b>	<b>33,081</b>	<b>32,107</b>
<b>Adjustments to cash requirement</b>			
Non-budgetary cash items including Housing Stock Transfer	25	114	101
Depreciation and Impairments	-357	-411	-476
Other Cash to accruals adjustments	-3,449	-3,783	-2,973
Non Domestic Rates Income	-1,860	-1,860	-1,860
National Insurance Fund Payments towards Scottish NHS	-1,406	-1,814	-1,886
Other items including LA supported borrowing and non-voted expenditure	-317	-317	-322
<b>Closing balance in Scottish Consolidated Fund</b>			<b>-74</b>
<b>Grant paid to Scottish Consolidated Fund</b>	<b>24,613</b>	<b>25,010</b>	<b>24,617</b>

Totals may not sum due to roundings.

<sup>(1)</sup> Resource and capital DEL inc. depreciation.



## ANNEX 4:

### Grant Paid to the Scottish Consolidated Fund 2008-09: Provision and Estimated Outturn

	Original Provision £m	Final Provision £m	Estimated Outturn £m
Expenditure Classified as Departmental Expenditure Limit <sup>(1)</sup>	27,569	27,975	27,935
Expenditure Classified as Annually Managed Expenditure	3,241	3,394	3,312
Non Domestic Rates Income	1,963	1,971	1,963
<b>Total Managed Expenditure</b>	<b>32,773</b>	<b>33,340</b>	<b>33,210</b>
<b>Adjustments to cash requirement</b>			
Non-budgetary cash items	25	25	15
Depreciation and Impairments	-357	-539	-539
Other Cash to accruals adjustments	-3,740	-3,796	-3,574
Non Domestic Rates Income	-1,963	-1,971	-1,963
National Insurance Fund Payments towards Scottish NHS	-1,724	-1,880	-1,925
Other items including LA supported borrowing and non-voted expenditure	-317	-317	-317
<b>Closing balance in Scottish Consolidated Fund</b>			<b>-45</b>
<b>Grant paid to Scottish Consolidated Fund</b>	<b>24,697</b>	<b>24,862</b>	<b>24,862</b>

Totals may not sum due to roundings.

<sup>(1)</sup> Resource and capital DEL inc. depreciation.

## ANNEX 5:

### Reconciliation of the Grant Payable to the Scottish Consolidated Fund with Total Managed Expenditure in Scotland: 2009-10

	Original Provision £m
Expenditure Classified as Departmental Expenditure Limit <sup>(1)</sup>	29,133
Expenditure Classified as Annually Managed Expenditure	3,147
Non Domestic Rates	2,127
<b>Total Managed Expenditure</b>	<b>34,407</b>
<b>Adjustments to cash requirement</b>	
Non-budgetary cash items	139
Depreciation and Impairments	-520
Other Cash to accruals adjustments	-3,553
Non Domestic Rates Income	-2,127
National Insurance Fund Payments towards Scottish NHS	-1,724
Other items including LA supported borrowing and non-voted expenditure	-317
<b>Grant payable to Scottish Consolidated Fund</b>	<b>26,306</b>

Totals may not sum due to roundings.

<sup>(1)</sup> Resource and capital DEL inc. depreciation.

## ANNEX 6:

### Scotland Act Orders and Other Statutory Instruments

<i>SI Number</i>	<i>Title</i>
2008/1035	The Scotland Act 1998 (Agency Arrangements) (Specification) Order 2008
2008/1776	The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2008
2008/1788	The Scotland Act 1998 (Agency Arrangements) (Specification) (No. 2) Order 2008
2008/1889	The Housing (Scotland) Act 2006 (Consequential Provisions) Order 2008
2009/729	The Title Conditions (Scotland) Act 2003 (Development Management Scheme) Order 2009
2009/822	The Building (Scotland) Act 2003 (Exemptions for Defence and National Security) Order 2009
Orders before Parliament awaiting approval:	
The Scotland Act 1998 (Modification of Schedule 4) Order 2009	

## **ANNEX 7:**

### **UK Government Bills**

#### **Westminster Bills introduced which OSAG was involved in instructing**

Dormant Bank and Building Society Accounts Bill

Housing and Regeneration Bill

Legal Services Bill

Local Transport Bill

Planning Bill

Regulatory Enforcement and Sanctions Bill

Channel Tunnel Rail Link (Supplementary Provisions) Bill

Climate Change Bill

Counter-Terrorism Bill

Criminal Justice and Immigration Bill

Apprenticeships, Skills, Children and Learning Bill

Employment Bill

Energy Bill

Health and Social Care Bill

Human Fertilisation and Embryology Bill

Child Maintenance and Other Payments Bill

Football Spectators and Sports Grounds Bill

Pensions Bill

Banking Bill

Coroners and Justice Bill

Savings Gateway Accounts Bill

Policing and Crime Bill

Marine and Coastal Access Bill

Local Democracy, Economic Development and Construction Bill

Temporary Agency Workers (Equal Treatment) Bill

Postal Services Bill

Health Bill

Borders, Citizenship and Immigration Bill

Political Parties and Elections Bill

Welfare Reform Bill

Criminal Evidence (Witness Anonymity) Bill

#### **Bills published in draft for consultation in the period**

Construction Contracts Bill

Heritage Protection Bill

Marine Bill

## ANNEX 8:

### Scrutiny of Scottish Parliament Bills

In connection with advising the Advocate General on his functions under section 33 of the Scotland Act, the Office of the Solicitor to the Advocate General considered the legislative competence of the following Bills before the Scottish Parliament in 2008-09.

Glasgow Commonwealth Games Bill
Public Health Bill
Budget (Scotland) Bill
Judiciary and Courts (Scotland) Bill
Arbitration (Scotland) Bill
Damages (Asbestos-related conditions)(Scotland) Bill
Scottish Register of Tartans Bill
Health Boards (Membership and Elections)(Scotland) Bill
Scottish Parliamentary Pensions Bill
Climate Change (Scotland) Bill
Offences (Aggravation by Prejudice) (Scotland) Bill
Creative Scotland Bill
Flood Risk Management (Scotland) Bill
Sexual Offences (Scotland) Bill
Disabled Persons' Parking Places (Scotland) Bill
Education (Additional Support for Learning) (Scotland) Bill
Scottish Local Government (Elections) Bill
Tobacco and Primary Medical Services (Scotland) Bill
Criminal Sentencing (Equity Fines) (Scotland) Bill

## ANNEX 9:

### Staffing

	2005-06			2006-07			2007-08			2008-09			2009-10		2010-11		2011-12							
	SO		OAG	SO		OAG	SO		OAG	SO		OAG	SO		OAG	SO		OAG						
	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual						
Permanent staff	60	51	32	30	54	48	32	30	30	55	51.5	32	34.3	55	50.6	38	35.4	58	40	58	40	58	40	
Casual staff				1.5		0.3		1.9	0.9		1.4		0.4	2										
Overtime	1	0.5	1	0.5		1.3		0.6	1.1		1.4		2.8	1.1										
Total	61	51.5	33	32	54	49.6	32	32.5	36.3	55	54.3	32	36.3	55	53.8	38	38.5	58	40	58	40	58	40	

Notes:

1. "Comp" refers to the complement of staff agreed by the Offices' Joint Management Board at the beginning of each financial year.
2. The "actual" figures show the average number of staff in post throughout the year and thus reflect fluctuations in staffing due to transfers, vacancies, retirements etc.

## **ANNEX 10:**

### **Annual Report of the Audit Committee**

#### **Audit Committee<sup>13</sup>: Annual Report**

The Audit Committee met on 18 April 2007, 23 July 2007, 5 October 2007 and 21 February 2008. Three of the meetings were held in Dover House, London and one in Melville Crescent, Edinburgh. In addition to the Members, meetings are attended by the Director of the Scotland Office and the Solicitor to the Advocate General, representatives of the National Audit Office and Internal Audit of the Ministry of Justice, as well as the Head of Finance in the Scotland Office. The Committee may also ask other officials to attend, as necessary.

The Committee considers the assurance available to the Head of Office about its operation, and may raise any issues with senior management that it considers appropriate. During the year, the Committee had wide-ranging discussions on several subjects. In particular, members discussed Corporate Governance & Risk Management, the Statement of Internal Control and regularly reviewed the Offices' projected expenditure and overall payment performance. Regular progress reports were also received from Internal Audit and the National Audit Office. It also benchmarked its own operation against the best practice set out in the Treasury's Audit Committee Handbook.

A range of other subjects including Data Integrity Assurance, Strategy and Business Plans and the draft Annual Report were also discussed. The Committee also considered the cumulative impact on the Offices of a number of issues over the year, including the outcome of the Scottish Parliamentary Election, the creation of the Ministry of Justice and changing ministerial priorities.

#### **MARK TAYLOR**

Chair

<sup>13</sup> See para 5.14 et seq for information on the composition of the Committee.





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