



Northern Ireland
Assembly

**COMMITTEE FOR
FINANCE AND PERSONNEL**

**OFFICIAL REPORT
(Hansard)**

Budget No.2 Bill

10 March 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Jennifer McCann (Chairperson)
Dr Stephen Farry
Mr Simon Hamilton
Mr Mitchel McLaughlin
Mr David McNarry
Mr Adrian McQuillan
Mr Declan O'Loan
Mr Ian Paisley Jnr

Witnesses:

Mr Michael Daly) Department of Finance and Personnel
Ms Brenda Shearer)

The Chairperson (Ms J McCann):

We will be taking evidence from Michael Daly, head of central expenditure division, central finance group, and Brenda Shearer, from the central expenditure division. The papers have just arrived, so I am conscious that the Committee has not had much time to consider them. The Committee for the Office of the First Minister and deputy First Minister is also involved, so it too must look at the papers. Furthermore, the Committee will not meet next Wednesday because that will be St Patrick's Day, so if members want to ask the Department of Finance and Personnel (DFP) officials about anything arising from this session, we might need to meet on Monday. We will decide whether it is necessary to do so at the end of the session. I believe that the Budget No 2 Bill is to be debated the following Monday or Tuesday. Is that right?

The Committee Clerk:

The Second Stage debate will take place on Monday 22 March, and the Committee must decide about accelerated passage in advance of that.

The Chairperson:

I just wanted to flag that matter up. The witnesses are very welcome. Please give us a quick run through the issues, after which members will ask questions.

Mr Michael Daly (Department of Finance and Personnel):

By now, the Committee will be more than familiar with the format of the 2010-11 Main Estimates. Nevertheless, I would like to draw out a couple of points that are relevant to the draft Budget No 2 Bill.

As we move towards the devolution of policing and justice powers, we are using inherited spending plans, although we have made a couple of changes, which I shall point out. Basic information has been used to construct new Estimates for the Northern Ireland Office and the Court Service, and they are in the format that members will be familiar with. I do not propose, therefore, to go through them in too much detail.

On page 3 of the Main Estimates booklet, members will see the high-level objectives for the three bodies concerned. In addition, I draw members' attention to the table on page 5 that deals with the Vote on Account, which I mention because we recently dealt with the Spring Supplementary Estimates and the Vote on Account for the 11 existing Departments. The Estimate in the table for the Office of the First Minister and deputy First Minister is the balance that will be required to complete the year, because we have already taken a Vote on Account.

The figures given for the other two bodies — The Department of Justice and the Public Prosecution Service (PPS) — are Main Estimates for the year. The Department of Justice Estimates begin on page 19. As I said, they were constructed on the basis of spending plans that were agreed prior to devolution. Two areas have been adjusted slightly. As part of the devolution package, it was necessary to build police pensions into the Main Estimates. That is really a reclassification of the pensions. The other area concerns the Legal Services Commission, for which an additional £20 million was included in the financial package. At this time, those

two adjustments are the only ones that have been necessary. Any other changes that are deemed to be necessary as a result of the financial package will be dealt with in year, if and when they arise, and they will then be sorted out in the Spring Supplementary Estimates.

To illustrate that point, on pages 28 and 29, Members will see the reconciliation that took place between the Department of Justice Estimates and the Budget provision. The Budget is broken down according to departmental expenditure limits, annually managed expenditure and total managed expenditure. The same format is applied to OFMDFM Estimates that start on page 35 and the PPS Estimates on page 53.

We have brought forward the OFMDFM Estimates so soon after the spring Supplementary Estimates and the Vote on Account simply because there was a need to provide the necessary ambit cover for the Attorney General and the Northern Ireland Judicial Appointments Commission. Unless there are any further changes, and I do not anticipate any, the OFMDFM Estimates will not be among the Main Estimates that come before the Committee in May or June. The Estimates that we are presenting now will provide the necessary cover, and any changes will be picked up in next year's spring Supplementary Estimates.

The Chairperson referred to the need for accelerated passage. Accelerated passage is the normal procedure for Budget Bills, because they require Royal Assent within a very short timescale. However, the Minister will propose additional acceleration for this Bill. He will ask for the Bill to be introduced on 22 March with a Supply resolution, for its Second Stage debate to take place later that day and for its Final Stage to be the next day. Therefore, instead of having a bit of space between those stages, the Bill will pass through the Assembly over two days. For that to happen, it will be necessary for the Assembly to agree to suspend a number of additional Standing Orders.

As I said, the Bill is an essential part of implementing devolution because, although the actual powers will be devolved through other pieces of legislation, it will allow the new Department, its agencies and the Office of the First and deputy First Minister to incur expenditure. Other than that, the issues around the Bill are largely technical.

Mr McLaughlin:

I apologise that you were kept waiting for so long.

We are only getting the documentation now. For accelerated passage to be granted, the Committee must be satisfied that it has been appropriately and properly consulted. There is also a well-established convention on pre-legislative consultation. Why was the Committee not consulted on this occasion?

Mr Michael Daly:

Until yesterday, we could not be sure that the powers would be devolved. The Minister decided that the papers would be released after it was confirmed that the powers would be devolved.

Normally, when we give the Committee the Main Estimates, it does not have an awful lot of time to look at them. That lack of time has been rather more extreme in this case. However, other than on the two items that I mentioned, the information in the Estimates reflects a recasting of existing plans. The figure work on those Estimates has been agreed with the Treasury, so, taking the Estimates for the Department of Justice, the Public Prosecution Service and the future NIO together, there is nothing new, other than the figures on police pensions and legal aid that I mentioned. Therefore, the matter is very much a technical one.

Mr McLaughlin:

You will recall that the Committee wrote to the Department more than a year ago asking to be kept informed of DFP's role in discussions on the financing of the Department of Justice.

Mr Daly:

Yes, but the discussions on the financing of the Department of Justice, on the Haywood process in particular, continued at a political level. We are now dealing with the outworking of that.

Mr McLaughlin:

I am not going to press the issue, because we are where we are. However, I am making a broad point, which I ask you to take note of, Michael, because consideration should be given to the amount of time that the Committee has been given to complete the task. We have been generally supportive and responsible in carrying out our functions. There is nervousness about the process of accelerated passage, which can, at times, become an issue.

Mr Daly:

I accept that point.

Mr McLaughlin:

To what extent have you been consulted about the various spending areas and agencies in the new Department of Justice, the Public Prosecution Service and OFMDFM on the expenditure proposals that are reflected in the Bill?

Mr Daly:

The Estimates before the Committee were not made by DFP. The spending areas produce and approve the Estimates, which then come to DFP for our approval.

Mr McLaughlin:

I am sure that there is a legacy and historical dimension.

Mr Daly:

Yes. It is important to point out that those are not DFP figures. We did not draft them and then say —

Mr McLaughlin:

What issues arose for DFP, given that the figures are the result of someone else's work and that there is a process for transposing them?

Mr Daly:

I will bring in Brenda in a moment, because she was involved more directly in DFP's approval of the Estimates. That process involves checking the Estimates and making sure that they balance with the Treasury's totals. If the Estimates are wrong, a Department could suddenly have more spending power than it is entitled to. Therefore, it is important that the draft Estimates, as they come through, are subject to challenge by Brenda and our small team.

Ms Brenda Shearer (Department of Finance and Personnel):

We had to populate the resource budgeting management system. The detail behind the Estimates has been scrutinised. We have liaised with NIO and Court Service officials to make sure that all the figures balance the Treasury's figures. We cannot process more than the amount that

Treasury holds, and, therefore, that is what will be transferred.

Mr McLaughlin:

Did you come across any concerning or outstanding issues? Are you of the view that the Estimates have been adequately scrutinised and agreed?

Mr Daly:

As far as we are concerned, there are no outstanding issues. Indeed, the Estimates would not be before the Committee today otherwise. There are obviously other issues regarding the outworking of the devolution of justice and the restructuring of the various Departments, which will happen in the coming year. However, the transfers between DFP and the Department of Justice regarding the provision of central services and so on will be handled separately and within a longer time frame. The key issue for us is to make sure that, on day one of devolution, the budgets and the previously agreed spending plans are restructured and reflected in the Estimates.

Dr Farry:

I welcome Michael and Brenda, and, for obvious reasons, I appreciate the urgency of the matter. The Assembly and Review Committee (AERC) refers to a figure of £1.328 billion as the incoming baseline. I gather that that figure is made up of a mix of funding from different sources. The main source is the NIO, but there is also a transfer from the Lord Chancellor's Department at Whitehall as regards the Court Service, and a small figure will come from DFP for law reform.

Ms Shearer:

The Secretary of State quoted the figure of £1.328 billion at a meeting of the Assembly and Executive Review Committee on 18 February. Within the Department of Justice's departmental expenditure limit, on page 28 of the Estimates booklet, there is a resource departmental expenditure limit. A capital departmental expenditure limit must also be included; that is on page 29. In addition, the Public Prosecution Service resource and capital departmental expenditure limits, which are detailed on page 60 and 61, also have to be included. The only differences in the figures are due to the fact that the Secretary of State, in quoting the £1.328 billion, did not include the £20 million increase to the legal aid baseline and the adjustment that was factored in for a George Cross museum.

Dr Farry:

Would it be possible to map out the various transfers between Departments on a single A4 page?

Mr Daly:

Are you referring to these Estimates in particular?

Dr Farry:

Yes. It would be useful for lay people to have that information on a single sheet. I refer to us as lay people.

Mr Hamilton:

All of us.

Dr Farry:

My second point relates to the separation of budgets from the various sourcing Departments. I appreciate that approximately 95% of the NIO's budget will come out, with only a small figure remaining. There are also aspects such as the Northern Ireland Court Service and law reform. How can we be satisfied that the appropriate level of funding will be transferred for the devolved services?

Ms Shearer:

The Court Service is transferring in full, and there are other smaller transfers. The Northern Ireland Judicial Appointments Commission will transfer to OFMDFM, and there will be small transfers of about £0.5 million between the Department of Justice and DFP. Probably around 2% of the NIO baseline will stay with the remaining NIO. Everything else will come to us.

Dr Farry:

Is that an absolutely objective process? Are you at all concerned that there may be subjectivity in the way in which DFP might interpret budget transfer as opposed to the way in which current NIO financial staff might view it?

Mr Daly:

No; we have no concerns. The process works through bilateral negotiation between two Departments. For example, some transfers will be made later between DFP and the Department

of Justice, and they will be negotiated by the two Departments. That happens routinely throughout the year, even among the 11 existing Departments. The two sides agree the transfer, and then they come to DFP, which then moves the money around. One key assurance is that the people who are negotiating those transfers are the people who will actually be running the Department of Justice. Therefore, if they are short-changed, they will have brought that on themselves.

Dr Farry:

As things stand, is there any danger of a devolved Department being asked to carry out functions that will have less resource allocated to them than under current arrangements?

Mr Daly:

No; not that I am aware of.

Dr Farry:

When that figure is placed into the operating budget for the new Department, will that money be ring-fenced against any cuts that may be made over the forthcoming year, or is it a starting point that will be eligible for review as the year goes on like everything else?

Mr Daly:

That will be one of the early decisions that the Executive will have to take as we move into next year. I do not know what their view will be on that. I can see merits in ring-fencing that money in the early stages, but I am not sure whether the Executive will decide that. That decision will have to be taken early, and I expect that the Finance Minister will bring it to the Executive once the new Department is in place.

Dr Farry:

Will that be the assumption for the ongoing baseline for the Department's budget beyond 2011?

Mr Daly:

At that point, we will be in the new spending review period, which will be new territory for us all. We have certainty about some elements of the Budget beyond the spending review as regards the financial package, but that is new territory. The Treasury's view is that, ultimately, the total Budget here will be a matter for the Northern Ireland Executive.

Dr Farry:

Is it possible to reconcile the detail of the Estimates for the Department and the various agencies with what the AERC has been reviewing? I have not been party to those discussions in any form, but I understand that around 28 or 29 different agencies will be transferred under devolution. Some of those are non-departmental public bodies and others are Executive agencies, but the Supplementary Estimates do not seem to list every one of those as coming across. Is that due to the legal status of some of the bodies? For example, they mention prisons but not the Northern Ireland Prison Service. The Judicial Appointments Ombudsman is mentioned as a distinct body.

Mr Daly:

That is the nature of the Estimates. I would have to look at the AERC's list of the 28 bodies that you mentioned.

Dr Farry:

Off the top of my head, there are 28 bodies.

Mr Hamilton:

It is around 28.

Mr Daly:

I am confident that everything is covered because the figures add up, but, as you say, the nature of the Estimates is that sometimes they will talk about a broad spending area rather than a specific function.

Dr Farry:

Finally, I appreciate that there will be a number of financial pressures on policing and justice. The wider context of that has been set out for the AERC. In some respects, things are done inefficiently in our criminal justice system, and you may anticipate that things can be done more cost-effectively over time. The counter argument is that the financial package from the Prime Minister addresses four discrete pressure points, but the same underlying reasons that contribute to inefficiencies in our budgets are still there, as is the potential for increased pressures over time.

Has DFP done any mapping of how that is likely to evolve over the forthcoming year at least?

Does the Department expect a decrease in financial pressures? How would an increase in pressures be handled?

Mr Daly:

The relationship between DFP and the Department of Justice and the PPS will be subject to the normal scrutiny and challenge role that we have with all Departments. We are at the starting point of that process, but we are aware of a number of areas of reform, such as legal aid, and we will form a view as we engage more vigorously in those areas. At present, I have no more details, but it will be a key priority for us.

Dr Farry:

Someone could argue, for example, that our Prison Service should be made more efficient on a cost-per-prisoner basis. Compared to the norm elsewhere in the UK, the service costs almost twice as much per prisoner here. It could be said that that is an obvious area in which efficiencies should kick in over time. Equally, things could deteriorate in the short term due to unforeseen circumstances. How does DFP see that sort of situation being resolved financially?

Mr Daly:

In the first instance, it will be for the Justice Minister to deal with the hypothetical scenarios that you have painted. That will be a key challenge for the individual appointed. However —

Dr Farry:

It may be Alban Maginness. Declan O'Loan woke up there all of a sudden.

Mr McLaughlin:

And his advisers.

Mr Paisley Jnr:

He is 6/1 in the bookies.

Mr Hamilton:

There is money to be made there. *[Laughter.]*

Mr O’Loan:

For my clarification, is the Department presenting a whole year’s set of Estimates?

Mr Daly:

Yes.

Mr O’Loan:

Why is that happening in relation to the Department of Justice and the changes to OFMDFM? We have had a Vote on Account for other Departments, and the final Budget for the year will be done some months ahead. Why is it necessary to present a complete year’s budget for the Department of Justice at this stage?

Mr Daly:

That is simply to do with making sure that we have the appropriate authorities to incur expenditure on these functions for those three Departments. Mr O’Loan is correct: a Vote on Account has already been taken for the Office of the First Minister and deputy First Minister. However, it was necessary to submit this Estimate now to gain statutory authority for the new functions — the Attorney General and the Northern Ireland Judicial Appointments Commission. Those were not covered by the ambit of the earlier Vote on Account. Therefore, it is necessary to do this and, rather than take another Vote on Account, it is much more straightforward to ask for the balance needed for completion. Instead of bringing a Main Estimate for OFMDFM to the Committee and to the Assembly in May or June, we can bring it now and sort it out. As I mentioned earlier, unless something were to change, the Main Estimates book that comes to the Committee in May or June should be a little thinner than it otherwise would have been.

The cases of the Department of Justice and the Public Prosecutions Service are slightly different in some respects and just the same in others. Put simply, if we create one or two new Departments, they must have the statutory authority to spend, and that does not exist here. The Northern Ireland Office and the Court Service took Votes on Account that would have allowed the necessary expenditure to be incurred had devolution not taken place. However, it will take place, so the new Departments here need that authority. It is as simple as that. Again, at present, it is simpler to take the Main Estimate. That is all there is to it.

The timetable at that point of the year is only reason we do not have the Main Estimates along

with the spring Supplementary Estimates and the Vote on Account. It is because of the amount of work that must be done by departmental finance branches; bringing in a full-blown Main Estimate takes a little longer.

Mr O'Loan:

We understand that the total budget of £1.328 million is ring-fenced. I take it that the presentation of this level of detail means that spending in those different areas is now ring-fenced; or would there be a virement option? Will the Minister of Justice have any capability to vary the incoming year's budget?

Mr Daly:

That goes back to Dr Farry's point that the Executive will have to decide early to what extent the Department of Justice and the PPS will be treated in the incoming year rather like, as you say, the Department of Health, Social Services and Public Safety or in the same way as any other Department. As yet, there has been no decision because the Executive have not considered that, but they must do so urgently.

Mr O'Loan:

Do you mean that the Department's entire budget is not necessarily ring-fenced, or do you mean elements in the budget?

Mr Daly:

The Executive have to decide whether they treat the new Departments in the incoming year in the same way that they treat all the other Departments. Will that new Department put in a bid in the June monitoring round, for example, or will the Executive decide that they have inherited these spending plans and will, therefore, just run with them for this year? That is something that the Executive have not yet considered but will, no doubt, have to consider fairly quickly.

Mr O'Loan:

Will some of that £1.328 million potentially be surrendered to other Departments?

Mr Daly:

That would be for the Executive to decide at that time.

Mr O'Loan:

Is that still an open question?

Mr Daly:

Yes. I think that the point that you are getting at is that the funding package that comes with that Department will go to the Executive, and they can collectively decide how they want to manage it.

Mr O'Loan:

What does DFP know about the previous spending performance and standard of financial management of the various Department of Justice business areas and the Public Prosecution Service?

Mr Daly:

I would not have any information on that to be honest, because it is not an area that we scrutinise. We will pick that up in due course.

Mr O'Loan:

So, in even the next year you may find issues of concerns?

Mr Daly:

Certainly, over the next year, as part of our routine engagement with Departments, we will be starting to engage quite closely with the new Departments to learn about their business. At this point, however, I would not be able to comment one way or the other on their internal financial management, because it has not been within our remit to look at that.

Mr O'Loan:

The overall package was presented in a letter from the Prime Minister to the First Minister and deputy First Minister. Do the Estimates that you are presenting here today reconcile fully with the information that was given on that occasion?

Mr Daly:

There are two items in the Estimates presented today. One relates to the reclassification of police pensions, and the other relates to the additional £20 million for legal aid. Those are the only

elements of that package that are necessary to put into the Estimates at this stage. There are other items, for example, the gifting of four military sites. A lot of work has to be done with the Ministry of Defence and the Treasury on the timing of the acquisition of those sites, and subsequent sale, disposal or utilisation. Only when that work is done can consideration be given to whether we need to take additional Estimates cover. However, that will be dealt with in-year, and then at Supplementary Estimates.

Other items mentioned in the package are contingent on certain things happening, for example, the claims on the reserve. You would not build provision into the Estimates for a claim on the reserve; you would wait until you had to claim on the reserve, and sort it out afterwards. Therefore, those are the only two items necessary at this time, and they are in there.

Mr Hamilton:

I want to ask about access to the £37 million reserve, which was secured as part of that package, and which none of us want to see having to be used. Obviously, access to the reserve will not be in the budget. However, a mischievous suggestion was made by an individual outside this institution that there was access to the reserve but that it had to be paid back. Can you assure the Committee that, if the reserve is accessed for precisely the sort of situations that others keep mentioning, it is just access to the reserve and will not affect the Northern Ireland Budget in an adverse way?

Mr Daly:

That is our understanding.

Ms Shearer:

The Treasury confirmed that any access to the reserve contained in the Prime Minister's package is not repayable if used for exceptional security pressures. That is a matter for the Chief Constable and the Prime Minister. Ultimately, the Prime Minister must decide what an exceptional security pressure is. The Chief Constable is preparing a bid for this year. Again, however, that would not be built into this Estimate; it would be drawn down in the spring Supplementary Estimates if it is required.

The Chairperson:

Thank you, Brenda and Michael. Members have seen the documents only this morning. The

Committee may write to the Department if members have any other questions.

Mr Daly:

Yes. Thank you.