



Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

**OFFICIAL REPORT
(Hansard)**

Departmental Briefing on Budget 2010

4 November 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Lord Morrow (Chairperson)

Lord Browne

Mr Thomas Buchanan

Mr Tom Elliott

Mr Paul Givan

Mr Alban Maginness

Mr Conall McDevitt

Mr David McNarry

Ms Carál Ní Chuilín

Mr John O'Dowd

Witnesses:

Mr Glyn Capper) Department of Justice

Mr Anthony Harbinson)

Mr Sean Lavery)

The Chairperson (Lord Morrow):

I welcome today Anthony Harbinson, director of resources; Glyn Capper, deputy director of finance; and Sean Lavery, head of financial planning and control. You are very welcome, gentlemen. I remind everyone that this part of the session will be covered by Hansard.

Mr Anthony Harbinson (Department of Justice):

Good afternoon and thank you for the opportunity to update the Committee on the Department of Justice's (DOJ) current Budget 2010 position. When I last briefed the Committee on 2 September, I discussed two detailed papers that we had prepared for the Department of Finance and Personnel and had shared in advance with the Committee.

The first paper set out the information that the Committee received at the end of July about the pressures that the DOJ family had identified over the Budget 2010 period. Those pressures fell into a number of categories, including pay inflation, price inflation, Northern Ireland Civil Service (NICS) assimilation costs, and other resource pressures and legacy costs. We also identified a security pressure on the PSNI as regards the resources needed to tackle the ongoing dissident threat.

The second paper set out information on a range of savings scenarios that the DOJ and its arm's-length bodies will have to consider and suggest to the Minister and the Committee if the Department has to live with a 5% year-on-year reduction in baselines. As I explained to the Committee, for the purposes of the Budget 2010 planning process, the Department has been working with the Department of Finance and Personnel (DFP) on the basis that the DOJ will remain ring-fenced throughout the four-year period covered by Budget 2010. Therefore, DFP did not set the Department an annual savings target; rather, we have been working on the basis that the Department will absorb the full effect of the cuts that apply to policing and justice in England and Wales, calculated using the Barnett formula. Thus, the information that we shared with you in the second paper showed the results of a scenario-planning exercise conducted in each of our spending areas using the 5% year-on-year target, because we did not know the actual savings that we needed to make. We were, therefore, not in a position to firm up where and how we might make the savings or how to be more accurate about baseline cuts.

The reason we settled for a 5% year-on-year target was that, given the uncertainty that we faced about the exact quantum of savings that we needed to address, we felt that it was prudent to undertake a planning exercise that asked each area to identify how they would meet a crude year-on-year baseline reduction. We felt that that was a useful starting point from which to identify

the issues that each area would face in handling the cuts. Based on the information that we had from the planning assumptions that were used by the Home Office and the Ministry of Justice, a 5% reduction appeared to be of the right magnitude. As I said, that was the position when I briefed the Committee in September.

I will now turn to the current position facing the Department. Since the Chancellor's Budget announcement on 20 October, we have had a better understanding of the Barnett consequentials for comparable policing and justice functions. However, I caution the Committee that, even now, decisions on detailed allocations are still some way off and will not be possible until two key issues are resolved.

The first issue relates to the need for additional security funding. The Committee will be aware that, as part of our initial Budget 2010 planning, the Department identified the need for additional security funding to enable the PSNI to maintain its efforts in tackling the threat caused by dissident activity. That requirement has subsequently increased, and we are working closely with DFP to determine how that can be secured under the terms of the devolution settlement.

The second issue that we must have clarity on before we can begin the process of finalising the budget allocation is that of ring-fencing. The Executive have yet to reach a view on whether the DOJ will continue to be ring-fenced throughout the Budget 2010 period and are unlikely to do so until they are in a position to determine the overall allocation of the NI block grant to the 12 Departments. We are undertaking a rigorous review to establish the implications of living within a ring-fenced scenario, while recognising that that will be an Executive decision. The Minister can then reach a judgement about whether a ring-fenced settlement is one that can be delivered. Until a final decision is reached, we are continuing with the working assumption that the Department will remain ring-fenced. Based on that premise, I want to consider what ring-fencing the DOJ might mean going forward.

When I last appeared before you, I indicated that DFP was still discussing with the Treasury whether it was appropriate for the Department of Justice to face the Barnett consequentials of cuts to the budgets of the Home Office and the Ministry of Justice in June 2010 as part of the emergency Budget. We had hoped that those cuts would not be applied. However, it has now

been confirmed that the 2010-11 cuts of £22 million will apply, of which £15 million is resource and £7 million is capital. Therefore, we will have a reduced DOJ baseline going into the Budget 2010 period. We will meet that pressure this year through a combination of efficiency savings and allocation of end-year flexibility (EYF). In addition, there will be a £6 million reduction to the legal baseline in both 2013-14 and 2014-15 as expected and set out in the devolution settlement. The need to meet those savings is already built in to the legal aid reform proposals, which the Committee has been considering.

I will turn to the impact of the cuts that were announced by the Chancellor in his spending review on 20 October 2010. Our calculations indicate that, at this stage, funding consequentialities that arise from the Barnett formula result in a reduction to the NI block resource departmental expenditure limit as a result of the comparable policing and justice functions of around 7% of our opening budget in cash terms. However, when the effect of inflation is taken into account, there is a significantly greater impact — perhaps almost double that amount. If the Executive decide that DOJ is to remain ring-fenced throughout the Budget 2010 period, those cuts would apply directly and in full to DOJ. I should make it clear that those cuts would apply to our existing baseline.

In addition, we would also need to absorb pressures that we have flagged previously. Given that almost 70% of DOJ expenditure goes on staff costs, particularly for police and prison officers, structural factors will impact on budgetary flexibility, and the Department will need to take that into account. That information will allow us to further develop Budget 2010 scenario planning for the Department. We are now in the process of working through the implications of those cuts, taking into account the pressures and savings scenarios that have previously been submitted to the Committee and the Minister of Justice's high-level priorities, which I will deal with in a second. I want to reiterate that, until decisions are reached on security funding and ring-fencing, we are still some way off setting final budgets and, therefore, determining precisely what savings will need to be made and where. Other than in broad-brush terms, therefore, I will not be able to go into detail on which individual areas will be affected and to what extent.

In September, I noted that the next stage of the process was to consult key stakeholders in the justice family to identify the main issues and areas of concern and to assist the Minister in

reaching a judgement on priorities for the allocation of resources. The Minister and policy officials have now completed that process. The note that you will have received in advance of our discussion set out the various stakeholders whom the Minister has met. That series of meetings has allowed the Minister to challenge the pressures and savings scenarios that have been presented and to begin the process of prioritising spending pressures and areas for savings.

The Minister's high-level priorities are as follows. Given the current security position, his overriding priority is to secure additional security funding for the PSNI. As I said, that requires close working between DOJ, the PSNI and DFP and, through DFP, with Treasury. That work is under way. Beyond that, assuming the funding levels that DOJ could expect to get in a ring-fenced scenario, the Minister has decided that he will also prioritise, as far as is practicable, funding for all front line policing, by which I mean normal day-to-day policing provision rather than specific security measures. As a result, as many as possible of the PSNI pressures that have been identified will be funded. Its savings targets will be reduced to enable it to allocate as much resource as possible to the front line. That is not to say that the PSNI will be expected to make no contribution at all but that its contribution will be proportionately less than that of other areas of the DOJ budget.

Secondly, it is the Minister's intention to protect other front line areas, notwithstanding the fact that we need to seek efficiencies in all areas. However, we also need to be rigorous in defining the front line and recognising that our key goals should be to protect outcomes for the public.

Thirdly, in recognising the important work that is performed by the voluntary and community sectors, the Minister aims to, as far as possible, protect funding for third sector organisations, provided that those organisations can clearly demonstrate that they operate as efficiently as possible and that they provide value-for-money services. As a result, the Minister has requested that we reduce the savings targets for, for example, the Probation Board and the Youth Justice Agency. Spending areas also raised a number of other front line pressures. The Minister's meetings with stakeholders identified some key pressures that we will seek to fund, such as PSNI working time directive costs and the funding for the Causeway system.

I will now turn to the areas of savings. Since the initial planning stages, the Minister has always made it known that he is not in favour of crude, equally applied savings targets or, as they are sometimes referred to, salami cuts. Therefore, while the areas that I have mentioned will be protected to a greater or lesser extent, we also recognise that, correspondingly, additional savings will be required in other areas. Few areas will be completely exempt, but the Minister will look at a number of areas, particularly for important efficiency contributions.

First, the Minister expects the Northern Ireland Prison Service to continue to accelerate the delivery of significant savings with a view to reducing the cost per prisoner place. He believes that there is scope to do that through various modernisation and reform programmes, and, in due course, he hopes to build on the recommendations of the review of prisons to reduce costs while enhancing effectiveness and the operational environment not just for prisoners but for prison staff.

Secondly, the Minister also recognises the need to ensure that legal aid expenditure is managed as effectively and efficiently as possible and that, to meet the reducing baseline that will occur in the third and fourth years of the Budget 2010 period, we will need to build on legal aid reform that is already in train and on any recommendations from the Daniell review of access to justice to introduce measures to maximise the effectiveness of spending in that area.

Thirdly, given that the Minister has recognised the need to protect the front line, a disproportionate contribution must be made by the core directorates and by back-office functions. All support functions need to be made as efficient as possible and, to do that, we must, for example, establish and operate or buy into shared services. Therefore, we are urgently undertaking a series of reviews that cover areas such as finance, HR, IT and the DOJ estate with the aim of delivering savings that are significantly higher than those requested from other areas.

We will not be able to deliver the necessary savings simply by redesigning the back office. We also need to consider wide-ranging changes to make longer-term savings. We are some way off doing that, but we know that designing and delivering those changes will take time and some tough decisions. Work is currently under way to determine how, on the assumption that we are ring-fenced and that additional security funding is available, the total resource funding available

could be allocated to deliver those priorities. However, given the Barnett cuts for policing and justice and the pressures that we need to absorb, that will by no means be easy. As part of that process, we are continuing to develop equality impact assessments.

Up to now, I have concentrated on our resource funding, but I will now turn to our capital position and consider the impact on that area. As with our resource funding, the Barnett formula results in a reduction to the NI block capital departmental expenditure limit as a result of comparable policing and justice functions that will total £17 million by 2014-15. That represents around 24% of our opening capital budget in cash terms. Again, if the Executive decide that the DOJ is to remain ring-fenced throughout the Budget 2010 period, those cuts will apply in full to the DOJ.

During his meetings with key stakeholders, the Minister explored the need for capital spend in each of their areas. That has allowed him to prioritise his capital plans in the following ways. First, he wants to see the forensic science accommodation at Seapark upgraded as soon as possible in the Budget 2010 period at a cost of £12 million. Planning for that has been under way for some months, although building work is not expected to begin in this financial year.

Secondly, the Minister remains committed to the Desertcreat integrated training college, although, as the Committee will be aware, that is dependent on £30 million of funding from the Department of Health, Social Services and Public Safety.

Thirdly, the Minister has flagged up his intention to replace Magilligan Prison with a new adult male facility as soon as possible.

Fourthly, the Minister has recognised the need to improve facilities for female prisoners and to ensure that other essential security and maintenance projects are completed across the DOJ estate.

Work is currently under way to determine how the total capital funding available could be allocated to deliver those priorities. That will depend on not only the quantum of capital funding but the availability of other potential procurement routes, including private sector investment. In setting out that approach, the Committee will recognise the key assumptions that we have made

and understand that, if any of those key assumptions do not materialise, we will need to reconsider the priorities as laid out.

Were we to conclude that the ring-fenced settlement is deliverable, the following points would be key. First, we will seek to utilise completely our current and future end-year flexibility in order to supplement baselines throughout the Budget 2010 period and to give us the freedom to move money between different areas of the Department if necessary. Secondly, any pressures that arise in the course of the Budget 2010 period as a result of decisions or policies introduced by other Departments would be funded by the Executive. Thirdly, we need to flag up that we will be required to deal with further legacy inquests, which are outside our control. Those inquests would place considerable pressure on the Department's budget if they were to go ahead.

I hope that this update of the DOJ's Budget 2010 position is of some help. As I say, the reality is that the DOJ Budget 2010 position cannot be finalised until we have more certainty about ring-fencing and additional security funding for the PSNI. As more information becomes available on those two issues, the Minister will obviously be in a much better position to identify the savings that we will need to make and precisely where those will be targeted. He will want the Department to brief the Committee fully at that point. However, he was keen that, in the meantime, we take this opportunity to provide an interim update. Against that background, I am happy to take any questions that the Committee may have.

The Chairperson:

Thanks very much, Mr Harbinson. You lost me at some stage when you were giving out all the figures.

Mr Harbinson:

Apologies.

The Chairperson:

I calculated those figures in a different way, and I cannot reconcile them with the ones that you gave. However, I am sure that we will be able to go through and decipher them in some way.

We received a document from the Minister that is dated 29 October, nine days after the Chancellor made his statement. I understand that the Chancellor made it clear that EYF was to be discontinued. Yet, in the paragraph on key assumptions for Budget 2010 in the paper, which came nine days after the Chancellor said that about EYF, the Minister said:

“We will seek to utilise end-year flexibility”.

Will you explain that? That sounds like a contradiction to me, but I suspect that it does not to you.

Mr Harbinson:

The position is that the Chancellor aims to eradicate the current EYF system and replace it with a new system. However, the devolution settlement agreement stated that the Department of Justice will have access to its EYF and will continue to do so into the future. Therefore, DFP has been in discussions with the Treasury about getting us an exemption from the Chancellor’s rule that EYF will disappear, and we are waiting for confirmation of that. However, it looks as though we will have access to our EYF.

The Chairperson:

Despite the fact that he said that not only will EYF disappear but Departments will not be permitted to carry over any stock, you are happy enough that that is not what he really meant?

Mr Harbinson:

Yes. He meant that for everyone else, but we think that we have an exemption from that. Certainly, DFP is discussing that with Treasury at the moment. We believe that we will have access to our EYF and our stock.

The Chairperson:

Do you agree that, over four years, resources are going to be reduced by approximately £182 million?

Mr Glyn Capper (Department of Justice):

Are you taking the annual reductions and adding them up over four years?

The Chairperson:

Yes, a quick calculation brings one to that figure. The Minister intends to prioritise funding for front line policing and, as much as possible, for other front line areas and to protect funding for voluntary and community sectors, the PSNI working time directive costs and the Causeway electronic monitoring system. Is that right?

Mr Harbinson:

Yes.

The Chairperson:

The savings to cover that are going to come from the Northern Ireland Prison Service, back-office functions and reducing the cost of legal aid. Are you confident that that is the way that it will be and that that is the way in which it will work out?

Mr Harbinson:

Based on the assumptions that I laid out, yes, that is the approach that we will be taking.

The Chairperson:

And, at this stage, we cannot be stronger other than to assume things?

Mr Harbinson:

Whether we will be ring-fenced is an Executive decision, so we do not have direct control over that. As I said, we are working with DFP, the Treasury and the Cabinet Office to secure additional funding for the PSNI's security bid, which, at this point in time, involves a very big assumption.

The Chairperson:

You also said that you are still committed to the Desertcreat training college, provided you get the necessary funding from the —

Mr Harbinson:

The Department of Health, Social Services and Public Safety.

The Chairperson:

And if you do not get it?

Mr Harbinson:

If we do not get it, we will need to seriously redesign the project, which would introduce a considerable delay. I am not quite sure what we would end up with, but it would be significantly different from what we have at the moment.

The Chairperson:

Would it be possible for you to go on with your expenditure on the project, with the additional funds being treated as additional and the project being designed in such a way that would be amenable to doing that?

Mr Harbinson:

Various options to move the project forward have been looked at. However, because it will be an integrated training college, the Fire and Rescue Service needs to be involved in a lot of the work at the start. For example, much of the Fire and Rescue Service element of the college will involve site works to allow real fires to be lit and dealt with. Consequently, a lot of upfront costs relate specifically to the Fire and Rescue Service element of the college, including getting the site ready to handle the discharge of water that will be needed to tackle mock fires and blazes.

The Chairperson:

Of the capital projects that were planned, which ones have been ruled out and dropped due to the financial constraints that are coming down the track?

Mr Harbinson:

Off the top of my head, I cannot think of a particular project that we have dropped. We have always been interested, and are maintaining an interest, in three main areas: the forensics laboratory, the Desertcreat training college and, as far as possible, the Magilligan prison rebuild. However, as I said, the Magilligan programme will be quite expensive, so we need to look at various options for delivering it.

The Chairperson:

And you cannot be more definite than that at this stage?

Mr Harbinson:

I am sorry, but I cannot.

The Chairperson:

It is difficult to understand why you do not have under your radar the projects that will definitely go. However, you are telling me that that is not the case.

Mr Harbinson:

I have not put a line through any projects. We have always stuck with those big projects, and, running into this period, we knew that those were the projects that we wanted to run with.

Mr McNarry:

You are welcome, gentlemen. I heard you say, Mr Harbinson, that you are still some way off finalising figures. With all due respect, this is the second or third time that you have come to us and said that. You have not explained, certainly to my understanding, why that situation prevails.

We have some information on additional security funding, which, as you know, the Committee is very interested in. The Department's paper says that:

“The figurework excludes the impact of additional security funding for the PSNI. The Committee will be aware that as part of the earlier Budget 2010 planning, the Department has identified the need for additional security funding for the PSNI. The requirement has subsequently increased. We are currently working with DFP to determine how this can be secured under the terms of the devolution settlement.”

I remember well that settlement and the discussions on it, and I remember well the presentation that stated that nothing, particularly financial issues, would be an obstacle. At yesterday's meeting of the Finance Committee — I am sure that the Hansard report will confirm this — DFP officials indicated that access to reserves for additional funding that is specific to PSNI security needs will remain open. I took that to mean that it was not under threat. However, these documents suggest that you are not sure about that.

Mr Harbinson:

We have not been given any direct allocation of the moneys that we have identified that the PSNI needs.

Mr McNarry:

You and your Minister have sat at this Committee and, under fair and reasonable questioning, have indicated, as fully as one could, that direct access to the reserves was a given. I understand that the Chief Constable has ventured across to London to ask for £200 million. Therefore, he has identified a need. I have told you that a DFP official told the Finance Committee yesterday that, as far as he is concerned, that access remains open. I do not disbelieve that official, and, therefore, I really need to know that the Minister of Justice is confident that access to the reserves that you spoke about, he spoke about and a DFP official spoke about only yesterday will be available to meet the needs that are identified by the Chief Constable. That is important to the people in today's or any day's security situation. I really need you to do that.

I asked that for the obvious reasons that I have been spelling out. However, I now wonder whether, in light of his statement about disbanding the IMC, the Secretary of State has some idea about the security of this country that may be different to what the Chief Constable knows. The most important thing to the people of Northern Ireland is that, within reason, the Chief Constable has access to those reserves. I need you to tell me that I can have confidence that we will get them. I am not prepared to hear that you have not sorted that out.

Mr Harbinson:

I will answer the question as best I can. Mr McNarry asked why we do not have full detailed budgets. At this point, we still do not know the Department's budget and, until I know the Department's budget, we cannot set budgets for each of our arm's-length bodies.

Mr McNarry:

I am not talking about budgets. I am talking about special access to reserves that are not part of your budget requirements.

Mr Harbinson:

I understand that, and I will come to the second part of the question now. The settlement letter to Northern Ireland states that there will be continued access to the Reserve. It also makes it plain that it should be used in extremis and that, as far as possible, the Executive should deal with any call in the first instance.

The Treasury is in negotiations with DFP, not with us directly — it is DFP that handles negotiations with Treasury — to quantify how much of that £200 million we can expect to come via the Reserve. We are waiting to hear how much that will be, but we believe that there should be funds for the PSNI coming from the Reserve directly to us.

Mr McNarry:

I am not going to pit one Department's official against another Department's official. I ask members to read the Hansard report of yesterday's Finance Committee meeting. The answer that that Department gave to a similar question is much clearer than the one that you have given, Mr Harbinson. I am a bit disturbed about that.

You make key assumptions, and the Chairperson has already queried the access to EYF. I think that somebody is flying a kite on that issue. I wonder how you cannot be sure about a commitment to access to reserves but be positive that you will have special dispensation to access EYF. I have listened to your answer, but I want to be sure about where we might go with this. If the outlet of EYF — which is not a given — is removed, what effect will it have on your budget plans? You said a minute ago that you have not finalised your budget plans. Do I take it, then, that you are finalising your budget plans to include EYF?

Mr Harbinson:

We are working on the assumption that we will have full access to our EYF stock.

Mr McNarry:

OK. I am just worried about those assumptions, because, in the world that I live in, none of them seems to be based on yes or no.

Finally, the talk from you is that, should PSNI equal pay liability crystallise additional costs — we all know how that was arrived at in the past — those costs would initially be funded by proceeds from the sale of military sites. Will you expand on that for me? It seems that a lot of people in various Departments have some sort of claim on those military sites and the money that they will generate. Do you have first claim on them? Can you name the sites and tell me the value of them?

Mr Harbinson:

I can name the sites, but I am not sure of their current value.

Mr McNarry:

Can you tell me yesterday's value?

The Chairperson:

It would be the same as today. I think that you are looking to find out what their value was one or two years ago.

Mr Harbinson:

Two or three years ago, the Ministry of Defence (MOD) had them valued at over £100 million. I honestly do not know their value in today's market.

Mr McNarry:

What are those sites?

Mr Harbinson:

They are Lisanelly Barracks and St Lucia Barracks in Omagh, St Patrick's Barracks in Ballymena and Shackleton Barracks in Ballykelly.

Mr McNarry:

Do you have first call on them?

Mr Harbinson:

The devolution settlement clearly stated that the proceeds from the sale or disposal of those four military sites would be used to meet pressures in DOJ, and it gave an example of equal pay costs. My understanding and certain belief is that we have first call on any proceeds from the disposal of those assets.

Mr McNarry:

Do you know when they might be revalued at today's price? I am very surprised that nobody has done that. When it is thought that they might be on sale?

Mr Harbinson:

Discussion on disposal is ongoing between OFMDFM, the MOD, the Treasury and the Cabinet Office. The Department of Justice has not been involved directly in the transfer or the disposals. My understanding is that the value of the sites has fallen dramatically, probably to around £30 million or £40 million. There may also be costs for decontamination and other matters. That is why I am not in a position to give you the value. I simply do not know the value of those sites.

Mr McNarry:

If people are in discussion about the sites, surely they are discussing their current value?

Mr Harbinson:

The sites have not been handed over. I am not sure what work has been done or what costs are needed to decontaminate any sites where, for example, live rounds were used and need to be cleared up. In previous transfers from the MOD to the Executive, that was an issue that had to be sorted out.

Mr McNarry:

I realise that you are doing your best. Far be it for me to tell someone how to do his job. Perhaps the Minister should be at the table more often when discussions take place that are relevant to his Department. It seems that everything that you have told us is dependent on someone else's decision. If that is the way that the Department is to be run, God help us. It is not the way that any other Departments that I have come across are being run. They seem to be in control. They seem to be in a delivery situation. I am talking, in particular, about EYF and reserves.

Mr Harbinson:

They are both financial matters. Therefore, it is DFP's responsibility to take them forward with the Treasury. No individual Department becomes involved in Treasury discussions about finances. That is all handled through DFP.

Mr McNarry:

I accept that. As I said, it is not for me to tell someone how to do his job. However, I would want to know what DFP was doing on my behalf. Clearly, you do not.

Mr Harbinson:

We speak to DFP. We give it any additional information that it needs to take the discussion forward with the Treasury. As I said, discussions are ongoing. My understanding is that we do and will have access to our EYF. That is the indication that we are getting from the Treasury.

Mr McNarry:

I hope so. I hope that the next time that you appear in front of us you will not tell us that you are still finalising figures. Can I take it that your Department will actually participate in the Budget process and that the Minister will aim to agree a Budget in the Executive and will be part of the discussion on draft proposals that are to be put to the Assembly early in the new year? If that is the case — we are talking about working extra time in the Committee — you boys may not go home between now and Christmas. I do not know how you will put all of that together and participate in the Budget.

The Chairperson:

Just do not go home worried about that aspect. We will sort that out. Are you finished, Mr McNarry?

Mr McNarry:

Yes. I have done my overtime.

The Chairperson:

I would not want to cut you off.

Mr McDevitt:

I want to ask about three specific areas. The first is the question of police budgeting. On 2 September, we discussed the fact that the PSNI had offered up potential savings of £360 million, and that figure was based on preliminary 5% scenario planning. You may recall that we discussed that. At that time, you assured us that the PSNI believed that those savings were achievable without any impact on front line services or police personnel.

Mr Harbinson:

I said that that would be without the need for any redundancies among police officers.

Mr McDevitt:

Yes. Now, we are hearing that the Chief Constable has made a £200 million bid. What is the actual situation with policing finance? Is it that the police are able to absorb £360 million savings without any redundancy impact on the service or that they need an extra £200 million on their current baseline?

Mr Harbinson:

The £200 million equates to £50 million a year over the four-year Budget period. It is not £200 million right now.

Mr McDevitt:

Is that on the current baseline or after the PSNI has offered up a 5% saving?

Mr Harbinson:

That is just for additional work to meet the need to tackle the dissident threat. The rest is on the day-to-day baseline budget. I hope that I did not give the impression that there would be no pain for the police in meeting the 5% saving. Certainly, there would be pain. However, they had no planned reduction in police numbers in order to meet that 5%. We are thankful that the overall savings look as though we do not have to go anywhere near that level, certainly not for the police anyway. Therefore, we are going forward with a priority to protect police funding, and we are looking for additional money from the Treasury via the Reserve via DFP.

Mr McDevitt:

Are we not accidentally gilding the lily? I will play devil's advocate on this. If the police were able to offer up £360 million — I hear what you are saying; there would have been some pain in doing so — and were, fundamentally, able to guarantee that services would be protected despite a 5% or £360 million saving, why are they now saying to us that they need £200 million on top of the current baseline, which would, of course, come before the £360 million of savings? That is a difference of over £0.5 billion.

Mr Harbinson:

As I say, the first set of figures on the savings element is based on a reduction in service provision. I did not say that it was in front line service provision; I said that it was in the number of staff and police officers. For example, a lot of police activity is funded through the overtime budget, so that would have been significantly reduced. The savings would have impacted on certain areas of their budget, which may well have impacted on front line services.

When the police offered up those areas, they were not saying that they could or would want to do so. Rather, they were saying that they would target them in the first instance to reduce the baseline by 5%. Therefore, the police were never in favour of reducing their budget by that amount, and they never said that that would not affect front line services. However, they assured me that they could do that without reducing the overall number of police.

Mr McDevitt:

On the issue of police, I note under the current capital bids that there is a miscellaneous bid of around £30 million over the four-year period for what is described as non-security-related transport, including the replacement of an old helicopter. I am sure that colleagues will join me in expressing our pleasure that, despite the fact that a helicopter was lost, no lives were lost last week. I presume that those officers are recovering, and we wish them all the best. What is the plan to deal with the loss of that helicopter? Is it fully underwritten? What is the likely cost? Do you think that that will need to be replaced?

Mr Harbinson:

I am honestly not sure. I think that the helicopter that went down had been leased. It was not the brand new one that we had only just bought. I think that the company that leased it to us had it insured and would, therefore, be able to replace it.

Mr McDevitt:

I just want to pick up on the Chairperson's point about Desertcreat, for which the Department has made an allocation of £105 million in its capital budget. Will DHSSPS be bringing £140 million to the table?

Mr Harbinson:

The total cost is £142 million, £30 million of which will come from the Department of Health, Social Services and Public Safety.

Mr McDevitt:

Good stuff. It is overwhelmingly a Department of Justice project, then.

Mr Harbinson:

Yes.

Mr McDevitt:

At what point do you think that the Minister will have to make a definitive decision about whether or not to proceed with that project?

Mr Harbinson:

As soon as we have an indication from the Health Department about whether or not it is prepared to put in the £30 million.

Mr McDevitt:

Given that the Department is in a four-year budget cycle, that it has made capital allocations and that is bidding for those allocations and prioritising them, at which point will the Minister of Justice need to make a decision about whether or not he needs to go this alone or about whether

he can partner with the Health Department?

Mr Harbinson:

He will not be able to make that decision until the wider Northern Ireland Budget for all Departments is determined and the Health Minister makes a decision about whether or not the £30 million will be available. The two are completely linked.

Mr McDevitt:

I understand that. They are linked in the current scheme. As you say, the current design involves £30-odd million from the health budget going into the pot. However, the Department has a budget line of £105 million to spend in the next four years. It cannot, therefore, put off the decision to spend that money for ever. I am trying to find out where the point of no return is for the Department of Justice. At what point will it have to decide to either continue to work on the project as a joint project or accept that it is no longer a joint project and that it is going to have to build a college with the money from this budget or a revised budget?

Mr Harbinson:

I imagine that we will make that decision no later than early in the new financial year, because, by that stage, we will have had the Health Department's decision about whether or not it is in on the project. If it is not, we will have to seriously determine what we will do thereafter.

Mr McDevitt:

I am sure that colleagues will have their own opinion, but I think that, for all sorts of political reasons, it is quite conceivable that the Health Department will not have made up its mind by the beginning of next year. Therefore, it would be useful to us, as a scrutiny Committee, to have some sense from you as to when you feel that, one way or another, this needs to proceed.

Mr Harbinson:

We have purchased and now own the land, and we have done the design work. The moment we decide not to proceed or to do something else, we will incur further costs because a redesign will be necessary. Therefore, we are trying not to lose the money that we have already invested by redesigning. We may have to wait a period of months for the Health Department to make that

decision. It is in the public interest to, if possible, use public money sensibly and to not waste it on one project then change to another.

Mr McDevitt:

Finally, you made provision of £141 million for the replacement of Magilligan prison. Do you still assume that a new prison will be built by the Northern Ireland Prison Service or are you considering other options?

Mr Harbinson:

We are considering all the options. The business case will look at a range of delivery options, including PFI and PPP.

Mr McDevitt:

How far advanced is the development of that business case?

Mr Capper:

The business case has been under way for a number of months, and I expect to get a business case from the Prison Service in this calendar year, hopefully, or, if not, very early in 2011. However, the business case is well developed at this stage.

Mr McDevitt:

We look forward to seeing that when it is available.

Mr O'Dowd:

Despite Mr McNarry grilling you, I accept the fact that no Department knows its budget yet and that it is impossible for officials to outline budgets to any Committee. Having said that, I will give you a hard time anyway. You have outlined the Barnett consequentials, but it is feasible that the Executive could reduce your budget further or could put more money into your budget to alleviate the cuts coming from the Barnett consequentials. Is that the case?

Mr Harbinson:

Yes, that could happen if the budget is not ring-fenced.

Mr O'Dowd:

In that sense, everything is up for grabs. You said that the Minister is seeking to protect the voluntary and community sector to the best of his ability, and you talked about efficiencies in the system. Paragraph 11 of your document, which deals with protecting the voluntary and community sectors, says:

“This will reduce the savings targets to be met by the Probation Board and Youth Justice Agency.”

Is that working on the 5% figure?

Mr Harbinson:

Yes.

Mr O'Dowd:

Do you have a figure in mind for the Probation Board and the Youth Justice Agency? Do you want them to achieve 4% or 3% savings?

Mr Harbinson:

I am trying to remember how much we added back in.

Mr Capper:

As part of the Youth Justice Agency and Probation Board savings, a line within that 5% total relates to a number of voluntary bodies. We do not expect those two bodies to make those savings, and, therefore, the overall savings target will be reduced.

Mr O'Dowd:

The budget line related to a number of bodies. Is that right?

Mr Capper:

It included a number of third sector bodies.

Mr O'Dowd:

Do you have an idea of which bodies will be included? You can forward that information to us if you do not have it.

Mr Capper:

We have the detail of the bodies and the amounts. We will send that to the Committee.

Mr O'Dowd:

The Committee heard a detailed briefing on the policing college, and one suggestion was to reconsider the design of the college, which would cost money but could save money in the long term. Is that still a viable proposal? I am of the view that architects will design a beautiful building with the best materials. I am not saying that they should use poor quality materials, but architects are very arty people — God love them — and will create an aesthetic look for the building and the interior. Is it an option to redesign the building to such an extent that it will reduce costs?

Mr Harbinson:

Absolutely. If the Health Department does not put up the money, we will look at all the options, one of which will be a redesigned training college that deals with training on policing and prisons only rather than fire training as well.

Mr O'Dowd:

I am not suggesting that anybody should have to work in an inferior building.

Mr Harbinson:

We would have to look again at everything to try to live within the amount of money that the Department of Justice has set aside for the programme.

Mr O'Dowd:

I am neither complacent about nor fixated on those who are trying to drag this society back into conflict, regardless of whatever banner they operate under. However, I am concerned that this scenario, particularly in relation to the justice budget and policing budget, can be used to gild the

lily, as my colleague said. In England, we have seen recent comments by MI5 being described by a number of commentators as a budget bid. I see from your paper that one of your priorities is:

“ensuring that essential security and maintenance projects are completed.”

We hear of the PSNI seeking £200 million extra for the top line of its budget. When it comes to scrutinising any budget coming before us, do not expect to come before the Committee and say that the security threat will cover it. I know that you do not have access to intelligence details, but we cannot allow those who are trying to drag us back into conflict to set an agenda, and we cannot allow that agenda to be used to gild the lily.

I know that it is difficult for you to respond to what I have just said; it was more of a comment than a question. However, I have a specific question on the line about ensuring that essential security and maintenance projects are completed. What does that headline mean?

Mr Capper:

That line is about our capital funding. There are a number of buildings across the DOJ estate in Northern Ireland — for example, those belonging to the Youth Justice Agency and the Probation Board — and essential security and maintenance works need to be carried out to maintain the estate at a certain level.

Mr O’Dowd:

So it is the day-to-day maintenance.

Mr Harbinson:

It is not about security in that sense; it is about maintaining the day-to-day stuff. The £200 million for the PSNI that people talk about is a mixture of both revenue and a small amount of capital that relates to specific security issues. That is completely separate, and that bid goes through its own scrutiny route whereby the police look at it, we look at it and Treasury and DFP look at it.

Mr O’Dowd:

Do we look at it?

Mr Harbinson:

I am sure it will probably come to the Committee as well.

Mr O'Dowd:

You talked about about legacy inquests. I missed some of your commentary, but, to paraphrase, I think you said that you are not sure if that falls under your remit.

Mr Harbinson:

No; I meant that it is not within our current funding. At this point, we do not have money set aside for legacy inquests. If the Attorney General pushes forward with those inquests and they go ahead, that will be an additional pressure that we will have to absorb. We do not have it in our baseline.

Mr O'Dowd:

Do you have an estimate of the costs that would be involved?

Mr Harbinson:

No, not at this point.

Ms Ní Chuilín:

Is there a business case for 100 spaces in Hydebank Wood women's prison? Has that been brought forward yet?

Mr Harbinson:

As I said, it is one of the areas that the Minister would like to prioritise if the capital funding is available going forward.

Ms Ní Chuilín:

What if it is not? How are the facilities for women going to be improved?

Mr Harbinson:

If that funding is not available, we will have a look at other options, including PFI and other

forms of funding, to see if we can secure funding for the four main areas on which the Minister wants to go forward, one of which is a women's facility.

Ms Ní Chuilín:

What if you do not get agreement in the Executive for PFI or PPP?

Mr Harbinson:

There will be a range of issues, and we will just have to take those forward as we become clearer as to what we are asking for.

Ms Ní Chuilín:

So no change?

Mr Harbinson:

At this point in time, I do not have the ability to give you a way forward on that. We have to come forward with projects in the business case.

Ms Ní Chuilín:

My other questions have been answered. My colleague David McNarry has pressed the point that the situation with end-year flexibility needs to be clarified. We are hearing one thing and then being told something else. This is a scrutiny Committee, but our ability to scrutinise is hamstrung.

Mr Harbinson:

As I said, the guidance from DFP indicates that we will have access to our EYF. I can only tell you what DFP has told me, which is that, going forward, we will have access to our EYF.

Ms Ní Chuilín:

On the basis that your budget will not be ring-fenced?

Mr Harbinson:

On the basis, I presume, that it is ring-fenced.

Ms Ní Chuilín:

But what if it is not?

Mr Harbinson:

I still think that that is a devolution issue and that the Treasury has made an exception for us. However, I assume that it would be easier to work if the budget is ring-fenced.

The Chairperson:

Do you think, therefore, that ring-fencing is the best option?

Mr Harbinson:

As I said, ring-fencing is a double-edged sword; there are pros and cons, so it depends on the overall settlement. It could swing either way for us. My view is that ring-fencing brings slightly more advantages than disadvantages, although it depends on the headline numbers.

The Chairperson:

So, is it the better option as far as you are concerned?

Mr Harbinson:

Yes, I personally think so.

Mr Buchanan:

If I heard you right, you said that DFP officials are negotiating access to reserves on your behalf. Should DOJ officials, who really know what pressures and issues there are, not be negotiating that, rather than having someone else do it on their behalf?

I am not convinced that front line areas will be protected. Your paper states that:

“It is the Minister’s intention is to protect other front line areas as much as possible”.

So, there is no indication there that front line areas can or will be protected. Rather, it is more likely that there will be huge slippage on the issue, because the Minister intends to protect it only “as much as possible”. To me, that is a get-out clause that opens the door to huge slippage in

those areas. Perhaps you will comment on that.

Finally, military sites were mentioned. When do you foresee the first of those sites being sold off so that you can reap the benefits of the revenue that comes in?

Mr Harbinson:

On the first point, as I said, no Northern Ireland Department has direct access to the Treasury. That is just how the system works. DFP handles direct access to the Treasury. We certainly brief DFP, and, if required, I would be more than happy to attend with its officials any meeting with the Treasury that might make our position stronger.

The settlement letter stated that there is access to the Reserve. However, it makes plain that DFP has to negotiate how much access there is, which is the bit that DFP is talking about at the moment. The Treasury always tries to bear down on any call on the Reserve to ensure that those calls are kept at the lowest possible level.

On protecting the front line, we can only spend what we are given, so we will have to cut areas in order to protect front line areas, as I said, as far as possible. Front line services may be cut if we do not get a settlement that covers everything sufficiently. However, the Minister is working as hard as he can to get a settlement that covers all those areas.

Mr Buchanan:

When do you foresee getting money in from the first sale of a military site? Realistically, will it happen within the next four years, or will it happen at all?

Mr Harbinson:

As far as I am aware, negotiations about the transfer of assets are still taking place between OFMDFM, the Cabinet Office and the Ministry of Defence. Transfers have yet to happen because of concerns about matters such as decontamination costs and who will pay the running costs of the sites until they are sold or delivered. At this point, I cannot give you a date for when the market will be such that people are prepared to buy them. We are very much in a depressed market at the moment, and I am not too sure how quickly those sites could be sold even if

everything else is sorted.

Mr McNarry:

Two issues arose from what my colleague said. First, has the Department accepted the Chief Constable's request for £200 million over four years?

Mr Harbinson:

We have scrutinised that bid, and, in conjunction with DFP, have put forward a bid to Treasury.

Mr McNarry:

Is the bid for £200 million over four years?

Mr Harbinson:

It is in that sort of region.

Mr McNarry:

Secondly, is the disposal of those sites part of the Department's contribution to the budget that the Executive will be looking at based on the overall sale of assets?

Mr Harbinson:

The four military sites were specifically separate from everything else, in that their sale will meet the cost of equal pay claims and other legacy costs. They are, therefore, slightly different. They will not, for example, meet the cost of hearing loss cases or such things.

Mr McNarry:

Nevertheless, if the sites were disposed of and the Department did not need the full amount for whatever it said it needed it for, would it still retain that money?

Mr Harbinson:

That is an argument that I will have with DFP. My view is that it was agreed under the settlement that the proceeds of those four sites should come to the DOJ to meet its pressures.

Mr McNarry:

So, in round terms, they are assets that the Department is disposing of.

Mr Harbinson:

No, they are assets that OFMDFM will be disposing of, and we will get the profits from the sale. The Department of Justice will never actually own or have those assets to dispose of. The sites were transferred to OFMDFM.

Mr McNarry:

I appreciate that.

The Chairperson:

You are hoping that savings will be made in the Prison Service and other areas. However, it is difficult to see how the savings from legal aid will put more cash into the Department's basket. If those savings are not made, will you have to go back to the drawing board?

Mr Harbinson:

Yes. We will continually monitor whether the savings that we have anticipated are being delivered. However, if there were a failure to deliver savings in a certain area, we would begin to look at other areas and try to find other ways of making savings to fill the gap. That is what we normally do in any given budgetary period.

The Chairperson:

At that stage, the Department would start kicking out a whole lot of stuff from its programme and then come to us and say, "We have a programme that we can put forward. We have kicked out A, B, C, D, E and F, and we are now left with the skeleton of what we hoped to have."

Mr Harbinson:

We would do what we normally do. We would come to the Committee during the September and December monitoring rounds and tell it, at each point in time, what the pressures are, what the easements are and what course of action we propose taking to fill the gap. That is just part of the normal budgetary process.

The Chairperson:

The Department cannot, therefore, really draw up its priorities at the moment, because its budget is in a state of flux, is it not?

Mr Harbinson:

Yes. As Mr O'Dowd pointed out, no Department can know what its position will be until the overall Budget has been set, and we are in exactly that position. I will not have any detailed budgetary figures until the Executive have made the overall allocation.

The Chairperson:

Will you come back to us at that stage?

Mr Harbinson:

Absolutely. We will come back with a detailed allocation that is based on size of the cake that we get, and we will split that across all the various spending areas.

The Chairperson:

When is the latest time by which you will know what size of cake you are getting?

Mr Harbinson:

When the Executive make the decision about how they will split the bigger cake. It really very much depends on the Executive. I just do not know what our budget will be until the Executive cut the bigger Northern Ireland cake.

The Chairperson:

Fair enough. However, in answer to a question about the Desertcreat project, you said that it will be early in the new financial year before the Department will be able to make a definitive decision about the project, which this Committee sees as one of the priorities. We think that the college is essential, or at least that is what we have said in the past. Have I read you right? I am not trying to misrepresent you.

Mr Harbinson:

Your colleague asked what the latest possible point was at which I could or should make a decision, rather than let this drift — I hope that that is a fair approximation of what he said. We should know the overall Northern Ireland Budget when the Executive make their decision. The Health Department will then know what its capital budget will be, and I expect the Minister of Health, Social Services and Public Safety to determine his priorities and say whether or not he is prepared to put in his £30 million. I think that that would be done by the start of the Budget 2010 spending period, which is 1 April 2011.

The Chairperson:

So there is no danger of you coming back to the Committee with a budget and, then, when we get into the next financial year, saying, “By the way, we miscalculated and we cannot do what we said we would.” That is what I am concerned about. I understand and appreciate that the Departments have not yet got their budgets. It is not the case that this Committee is trying to be contrary with you or put you behind the eight ball all the time. We are trying to get some facts and figures so that we, in turn, can have some ability to scrutinise and make intelligent comments on what you are telling us. I find that we are not able to do that, simply because you have said that you cannot come here with a budget because you do not know what it is going to be and that, even when you get that budget, you will be into the new year spend before you can make other decisions.

Mr Harbinson:

As soon as the Department of Health, Social Services and Public Safety tells us whether or not it is going to make its £30 million contribution, we will make a decision as to how we will proceed with Desertcreat. The Minister has made it clear that Desertcreat is our priority area. He wants Desertcreat to go ahead and has set money aside for that. However, we need that £30 million, otherwise Desertcreat will have to be redesigned to go forward. Therefore, as soon as we know, we will come and tell you that the Desertcreat project will begin or that it will be redesigned to come up with a new solution.

The Chairperson:

When are you coming back to the Committee?

Mr Harbinson:

We are coming back on 25 November, although I may be wrong on that. Unfortunately, every time I come back to the Committee, I am going to be saying that I cannot give you any detailed figures until the Northern Ireland Executive —

Mr McNarry:

You had better not come back then. *[Laughter.]*

The Chairperson:

I do not think that we will let you away with that next time.

Mr McDevitt:

I want to come back to the PSNI bid for £200 million. Mr Harbinson, in reply to Mr McNarry you said that you have approved a bid of £200 million to DFP.

Mr Harbinson:

The bid is going forward via the Northern Ireland Office, which is responsible for the counterterrorism side. We have seen the bid, because the police shared it with us. We have scrutinised the bid and are happy —

Mr McDevitt:

Treasury, DFP and the Department have a scrutiny role. Are you sure that nobody else has a scrutiny role?

Mr Harbinson:

The Northern Ireland Office.

Mr McDevitt:

Which bit of the NIO?

Mr Harbinson:

There is a counterterrorism element and that is its responsibility. It does not fall within normal police budgeting.

Mr McDevitt:

Is it appropriate for us to see that bid?

The Chairperson:

It may be appropriate, but the question is whether we would be allowed to see it.

Mr McDevitt:

I am not trying to be awkward. However, it seems to me that that is a huge amount of money. I understand that that would be resourced through some capital.

Mr Harbinson:

You have already seen the bid, if I could be so bold as to say that. It is pretty much the same as the bid for this year, rolled forward for four years. It is mainly in police overtime, and I am sure that that has come before the Committee.

Mr McDevitt:

In that case, it may be helpful if we could see that broken down relative to the regular police overtime commitment to keep services in communities at their current levels. I still find it very difficult to get my head around the fact that there is a potential spectrum of over £0.5 billion — £560 million — between getting by and getting what we must have. That is a very big amount of money, especially if it is mainly on resource issues over a four-year period.

Mr Harbinson:

Sorry, just to make it very clear, the police said that the £360 million cut, which is 5%, could be made and that they could go forward. However, that was always on the assumption that they were going to get £200 million in security funding. It was not that they were going to give that up, would not take it and would look for £0.5 billion. It was very much our assumption that the £200 million would come.

Mr McDevitt:

In which case, you would still be looking at savings of £160 million. I struggle to figure out how we can scrutinise that and determine whether those savings of £160 million are achievable, possible or real and, if so, why we are not looking for them. If they will not have a huge impact on front line services, why would we not seek that level of efficiency from any system?

Mr Harbinson:

We have given you the breakdown of how that figure was made up by the police and what things they would actually stop doing, such as recruitment.

Mr McDevitt:

Yes. However, we do not have a comparison between it and the £200 million. They knit into each other.

Mr Capper:

It is important to stress that there is a third variable; it is not just the 5% saving and the security bid. Other police pressures have been presented, such as pay inflation and price inflation. They go into the pot as well, which, perhaps, reduces the gap.

Mr McDevitt:

It would be helpful if we were able to see, in real terms, what efficiencies have been achieved at the end of that.

Mr Harbinson:

If you are content, we will go away and try to come up with figures along the lines of what you have suggested and provide a table and breakdown as best as we possibly can.

The Chairperson:

OK. I believe that we are finished. Thank you for your presentation. I suspect that we will meet again some time. Thank you very much for coming.

