

COMMITTEE FOR JUSTICE
RESPONSE TO THE COMMITTEE FOR FINANCE
DEPARTMENT OF JUSTICE BUDGET 2020-21

Background

1. The Committee for Justice received an overview briefing on the Department of Justice budget on 6 February 2020 as part of a series of initial overview briefings of the Department's key directorates and agencies. The briefing included information on the 2019-20 budget as well as an outline of the anticipated pressures for 2020-21.
2. The Minister of Justice subsequently wrote to the Committee in advance of the Vote and Account and Budget Bill debates in the Assembly to confirm the Department's budgetary position for 2019-20 and advise of an increase in the pressures previously detailed on 6 February 2020.
3. The template developed by RaISe for use by statutory committees as part of a standardised approach to budget scrutiny was forwarded to the Department of Justice for completion on 25 March 2020 along with a list of additional questions that the Committee asked were addressed in written briefing papers to be provided by the Department. Following the Covid-19 outbreak, the Committee agreed not to proceed with a planned oral briefing on the Department's budget for 2020-21 but to instead consider the written information to be provided by the Department. This was on the understanding that the Department would respond to questions or requests for further information from the Committee within a short timeframe.
4. On 23 April 2020 the Committee considered the written information provided by the Department. The Committee agreed a series of additional questions that were issued to the Department on the same day for response on 27 April 2020. The Department's response was received and issued to Committee Members via correspondence on that date.

Department of Justice Budget 2020-21

5. The 2020-21 Budget announced by the Minister of Finance and Personnel on 31 March 2020 included allocations for the Department of Justice of £1,111.2m unringfenced resource DEL, an increase of 6.3% from the 2019-20 baseline, and £88.1m capital DEL. From the information provided by the Department of Justice on its 2020-21 allocation, the Committee noted the following key points:

Resource DEL

- Planning for the 2020-21 Budget took place in advance of the Covid-19 outbreak and response.
- The resource budget includes £22.5m towards unspecified pressures; £5m ringfenced for legacy pressures; funding for EU exit costs equal to the opening 2019-20 allocation; and PSNI security funding. Therefore, comparing like with like, the increase in resource DEL from 2019-20 is only 2.5%.
- The resource DEL budget is not adequate to maintain current services.
- The Department understands that funding for tackling paramilitarism is not included in the resource DEL allocation but will be dealt with separately.
- The Department is facing inescapable pressures of £67.3m.
- The Department focused on the following objectives in preparing the 2020-21 Resource DEL allocations:
 - to fund 100% of Pay and Price pressures given the current challenging position due to the Covid-19 outbreak;
 - to provide sufficient budget to allow all spending areas to increase funding to the Voluntary and Community Sector by 5%;
 - to provide funding to take forward problem solving justice initiatives; and

- to find a number of other pressures identified as truly inescapable.
- Departmental revenue estimates from fees, charges and levy income are being reconsidered as a result of the Covid-19 response.

Resource DEL allocations

- Staff costs account for 68% of Departmental spend.
- 72% of the Departmental budget is allocated to NDPBs, with 23% allocated to Agencies and 5% to the Core Department.
- The most significant proportion of funding is allocated to the PSNI; including security funding, the Service will receive over £758m

Capital DEL

- Inescapable pressures of £31.3m have been identified along with £94.7m high priority pressures. In addition, there is a pre-committed pressure of £0.7m.
- The PSNI received the highest capital allocation of almost £60m; the Prison Service will receive just under £17m while the Northern Ireland Courts and Tribunal Service has been allocated nearly £7m.

Covid-19

6. The Committee recognises that the Covid-19 pandemic is likely to have a significant impact on the delivery of services across the justice sector and that this may not be fully realised for some time. The Department has advised that it has regular engagement with the Department of Finance on the Covid-19 costs to the Justice system. The Committee is aware that, at 7 April, the Department had indicated costs of £38.8m to the Department of Finance and Covid-19 funding allocations of £1.9m and £4m were made to the Prison Service and PSNI respectively.

7. The Committee also recognises that the pandemic will have an impact on the Department's income from fees, charges and levies which, in 2019-20 was £70.4m (£10m of which is intra-Departmental charging). Conversely, the Department has advised that there has been a decrease in the volume of new Legal Aid cases and bills submitted for payment, though it is too early to gauge the impact on the Legal Aid fund. **The Committee asks for an update on both these issues at the earliest opportunity.**
8. The Committee believes it is unlikely that all programmes and projects – both resource and capital – that were planned before this crisis began will be able to continue or be initiated as anticipated. This should result in savings to planned expenditure which could be reallocated to meet the urgent Covid-19 resource requirements. **The Committee notes that the Department intends to undertake further work to assess the impact of Covid-19 in the coming weeks and believes this will be critical in providing an accurate picture of the resources available within the Department to manage the crisis and determine whether additional funding is required from the centre.**
9. In recognising that this is a fluid situation, **the Committee expects to be provided with regular updates on the Department's assessment of the resourcing pressures relating to Covid-19 and the steps it has taken to mitigate these pressures.**

Departmental Budget Pressures

10. Leaving aside the Covid-19 pandemic, the Department has advised that it will have to manage £67.3m of inescapable pressures in 2020-21. Of these, £31.8m is for PSNI operational pressures, £17m for inflationary pay and price increases and £1.5m for transformational initiatives. A range of operational pressures, such as costs arising from recent court cases and routine legal aid payments, account for £14.5m while a pressure of £2.5m relating to the non-domestic rating revaluation has been declared. It should be noted, however, that this pressure was

calculated before the announcement of a reduction in non-domestic rates by the Minister of Finance on 31 March 2020.

11. The Committee notes that the amount of the inescapable pressure declared for the PSNI is less than what the Chief Constable advised of in his evidence to the Committee on 13 February 2020, when he advised of a £53m shortfall. While the Department appears to accept the PSNI's higher estimate, it has advised that legacy-related costs are a potentially significant pressure for which additional central funding will be sought. These costs have therefore been removed from the inescapable pressures facing the PSNI.
12. The Committee asked for information on services or activities that could be reduced or cease and the anticipated impact of such changes on the delivery of services or activities, particularly given the assertion that the Resource DEL budget falls short of what is required to maintain current services. In response, the Department advised that spending areas have been asked to assess the impact, including the equality impact, of the budget allocations and these will be provided to the Committee when available.
13. The Department has also listed a range of other significant pressures but has not provided any indication of the likely costs. This includes the following:
 - EU Exit costs
 - Impact of the 'Bear Scotland' case regarding the calculation of overtime pay
 - Legacy (excluding HIU)
 - Compensation Service Payments
 - Legal Aid Large Case Exceptionality

Regrettably, the Department has not provided indicative costs in relation to any of these matters, citing uncertainty regarding timing and scale. The Committee notes that, of those Departments that completed the RaISe template, the Department of Justice is the only Department to leave such pressures uncoded. The Committee believes that some of the information must be known – as noted at paragraph

11 above for example, the PSNI had provided an estimate of legacy-related cost pressures that have been removed its inescapable pressures. Additionally, the Department has stated that the costs are expected to be so significant that they could not be managed within the Department's budget and additional funding will be required from the Executive, which would suggest that it has some indication of what the costs might be.

14. Notwithstanding the impact of Covid-19, the Committee is concerned that the lack of information on these matters will make it difficult for the Department to properly plan and manage the pressures it faces. The Committee wishes to see more detailed proposals and estimates on these issues at the earliest opportunity.

EU Exit

15. The Committee notes the Department's assertion that the £10.7m allocation towards EU Exit costs is only a small proportion of the total estimated pressure for 2020-21; however, as noted at paragraph 13 above, an estimate of what those costs might be has not been provided. The Department has advised that its planning for 2019-20 was on the basis of a 'no deal' and are no longer relevant. Financial requirements will be informed as the implications of the EU Exit protocol become clearer.

16. The Committee understands that the Department of Finance will undertake a separate exercise to address remaining EU Exit funding requirements and the Department of Justice has advised that it will work closely with that Department to ensure that necessary funding is secured. The Committee would welcome information on the contingency planning by the Department should the required funding not be made available.

NDNA

17. The Department's written material sets out the following New Decade, New Approach (NDNA) commitments:

- Transformation
- PSNI Officers
- Legacy – Historical Investigation Unit

- Tackling Paramilitarism
- Gillen Serious Sexual Offences
- Committal Reform
- Implementation of CJINI recommendations

18. The Department has not provided any costs in respect of any of these commitments, advising that planning for each is at an early stage. The Committee notes that a number of other Departments have similarly not yet fully costed their NDNA commitments. However, the Committee is of a view that the Department should be in a position to provide estimates for some of these commitments – for example, the costs associated with the increase in the number of police officers. The Department has also advised that it is holding £7.4m centrally, part of which is for Gillen Serious Sexual Offences. While confirmation of forecast costs is pending, the Department must have had an indication of the what the costs could be to inform the amount to be held at the centre.

19. The Committee notes that the Minister of Justice has advised she will not be able to commit to take forward any of the NDNA commitments until the Department has received enough funding to manage its existing inescapable pressures.

Conclusion

20. The Committee has found it very difficult to scrutinise the Department's budget proposals in the absence of estimated costs for a number of issues and a lack of detailed information on funding for the various parts of the Department and NDPBs means assessments of the impact that the budget allocations will have on the delivery of services is also not yet available.

21. The Committee is also concerned that it has not been fully appraised of resource requirements and provided with the requisite detail to enable it to carry out proper scrutiny. For example, while the Department advised the Committee that it had provided details of Covid-19 costs identified across the Justice system to the Department of Finance, it did not give an indication of the scale of those costs, which were not

insignificant at £38.8m, or what they covered. The Committee was provided with the breakdown of costs via Department of Finance correspondence that was forwarded to statutory committees by the Committee for Finance.

22. The information contained in the Department of Finance paper also highlighted costs associated with a proposed Legal Aid interim payment scheme of £0.9 million. This was a direct contradiction of the information contained in the written briefing paper on the scheme which indicated that costs associated with it would be administered from the existing budget allocation for legal aid. The Chief Executive of the Legal Services Agency subsequently confirmed during an oral evidence session on the scheme that indeed there was the potential for additional costs to be incurred.

23. While the Committee appreciates the current impact of Covid-19 and the associated difficulties with anticipating and managing expenditure this makes it all the more necessary for the Department to have costed its proposed work streams and the impact of various scenarios to enable it to react and respond quickly from an informed position.

24. An assessment of the Department's current budgetary position suggests that it has submitted significant resources requests to the Department of Finance in respect of Covid-19 expenditure without evaluating or taking account of the likely reduction in business activity both within the Department and its arms-length bodies to identify what predicted expenditure can be re-profiled or surrendered. The further work planned by the Department over the coming weeks to understand the impact on 'business as usual' will be critical going forward to ensure there is a full and accurate picture of the financial resources required.

25. The Committee understands that the budget and funding allocations going forward may be very different from those envisaged prior to the Covid-19 situation and the challenges and difficulties in managing expenditure across the justice sector should not be underestimated. It is even more important in this scenario that the Department provides

the Committee with a detailed breakdown of funding plans and expenditure information that is as accurate as possible in a timely manner to assist the Committee in assessing the budgetary position and supporting the Department on budgetary matters.