

COMMITTEE FOR JUSTICE
RESPONSE TO THE COMMITTEE FOR FINANCE
DEPARTMENT OF JUSTICE 2021-22 FINAL BUDGET

Introduction

1. Department of Justice officials attended the Committee for Justice meeting on 29 April 2021 to provide an oral briefing on the Department's final 2021-22 budget allocation. A written briefing was provided in advance of the oral briefing which was considered by the Committee on 22 April. The Committee subsequently requested further information on a wide range of issues which the Department responded to on 28 April.
2. In its consideration of the draft Budget allocation for the Department, the Committee had written to the Northern Ireland Policing Board and the Police Service of Northern Ireland to request their views on the PSNI budget position, given that it accounts for a significant proportion of the Department's budget. The Committee had also requested the written views of the Department's other non-departmental public bodies on the likely implications/pressures arising from their indicative Budget allocation for 2021-22. As the final budget allocations largely reflected those in the draft Budget these views also assisted the Committee's consideration of the final budget position.

Department of Justice Final Budget 2021-22

Non-ringfenced Resource DEL

3. The 2021-22 Draft Budget announced by the Minister of Finance on 18 January included an allocation of £1,125m non-ringfenced resource DEL for the Department of Justice. The following changes have been made to the Department of Justice allocation in the final budget:

- £8.0m for Tackling Paramilitary Activity that had been included in the draft Department of Justice budget has been removed and will be held centrally by the Department of Finance, given that it relates to a cross-departmental programme
 - £7.7m has been allocated for Covid-19 funding
 - £0.6m of technical transfers agreed between departments
4. The resource DEL in the final budget allocation is therefore £0.3m more than was included in the draft Budget. The final Budget position includes the following:
- 2021-22 Baseline Position £1070.8m
 - HMT Security funding £32.2m
 - EU Exit £10.7m
 - Legacy £4.2m
 - Covid 19 £17.7m
 - Technical transfers £0.6m
 - Ministerial Salaries and rounding £0.1m

5. When considering the draft Budget, the Committee was advised that the only new funding in the baseline was £4.2m for Legacy (including £1.7m for the Office of the Police Ombudsman), which represented a less than 0.5% of an uplift in the baseline. It has since been confirmed that an additional £12.3m will be allocated to the Department in-year for PSNI staffing although this could not be included in the final budget for technical reasons.

Capital DEL

6. Aside from a small refinement of £26k by the Department of Finance, the final capital budget of £96.4m remains unchanged from the draft allocation. This is an increase of £8.3m on the 2020-21 capital allocation and the Department believes it is sufficient to meet existing commitments and progress priority projects.

Summary of Key Issues

7. The Committee's consideration of the final Budget has been based on the headline figures for spending areas provided by the Department. In the absence of a more detailed breakdown of those headline figures, the Committee also considered the views of the non-departmental public bodies on their draft budget allocations given that, with the exception of the Probation Board, these remained unchanged in the final budget apart from Covid-19 allocations and technical adjustments.

Inescapable pressures

8. At the time of the draft Budget, the Department had indicated inescapable resource pressures of £55.7m. This included pay and price pressures of £20.8m, PSNI operational pressures of £15.4m and a range of other pressures relating to matters including Legal Aid, Staffing and Victims and Witnesses totalling £19.5m. Officials advised that, following critical examination of those pressures to determine how they could be managed or reduced, including revisiting cost estimates and identifying work that could be slowed down, this was reduced to £20.4m. The main reductions in pressures came from the PSNI, Legal Services Agency and the Northern Ireland Courts and Tribunals Service (NICTS).
9. Of this remaining pressure, £14.5m relates to the Department with £5.9m for the PSNI. Added to this are the PSNI pressures of £5.7m for EU Exit and £1.6m for transformation, which means that the pressures facing the Department total £27.7m, excluding Covid-19 pressures.
10. The Committee sought information from the Department on the public services or programmes that will be reduced or will not be delivered across the sector to ensure that the Department lives within its budget. The Committee also asked whether the Department expects any frontline or essential services to be curtailed. In response, the Department advised that the funding requirements far outweigh its allocation and therefore the extent to which the priorities can be delivered and the impact on frontline services will

depend on how the Department prioritises its budget and on any additional funding that might be forthcoming in-year. The impact of any shortfall will be seen across the justice sector including in policing, prisons, courts and legal aid and would be felt across the community.

PSNI

11. The Committee had noted its concern at the information provided by the PSNI and the Policing Board on the measures that may be required for the PSNI to live within its indicative Budget allocation in its earlier consideration of the draft Budget. Instead of working towards the New Decade New Approach commitment to increase the number of police officers to 7,500, it appeared that a reduction of 300 police officers might be required bringing the number down to 6,700. The £12.3m additional funding for PSNI staffing that will be provided in-year is therefore to be welcomed. The Department has advised that £9.8m will enable the PSNI to retain its current numbers and £2.5m of this allocation will be for the recruitment of 100 officers.

12. Funding for the retention and recruitment of officers will enable progress to be made towards meeting the NDNA commitment in this year. However, there will obviously be recurring costs beyond this year which the Department believes should be included in future baselines from 2022-23 onwards. The Finance Minister has advised that future budgets will depend on funding available and it will be for the Executive to agree allocations at that time. Maintaining progress towards and ultimately meeting the NDNA target will therefore be dependent on the necessary resources being made available in the future.

Prison Service

13. The written information provided by the Department indicated that the staffing complement of the Prison Service may need to be reduced in order for it to live within budget. During the oral evidence session on 29 April, officials advised that it is not expected that jobs would be lost but rather that new staff would not be recruited later in the autumn as planned. This may not have an

immediate impact as the Prison Service is currently very close to full complement but the Committee believes it would have an impact over the longer term.

14. Officials advised that it is hoped any shortfall in the Prison Service can be managed through easements; however, plans must be in place should those easements not materialise. Options that the officials suggested may be considered to help the Prison Service live within budget include relocating working out units back into prisons, reducing learning and skills provision or closing down policy units. The Committee is of the view that such approaches will clearly have an impact on rehabilitation which will be negative not only on the prisoners but their families and wider society, as well as prison staff themselves. As the officials advised

“prisons operate most effectively when you have an appropriate number of staff per prisoner and appropriate activities for prisoners to be engaged in. Any reduction in one or the other will have a detrimental impact.”

It is of particular concern to the Committee that the Prison Service could potentially get to this position.

Probation Board

15. The information provided by the Probation Board in respect of its draft Budget was also a real concern for the Committee, with some doubt cast on whether it would be able to fulfil its statutory duties. The Committee has been advised by departmental officials that a number of the pressures identified have been met and that the Probation Board will receive £1.6m for Aspire and ENGAGE programmes from the tackling paramilitarism programme. In addition, its Covid requirements have also been met in full by an allocation of £400,000.
16. The Committee questioned why the final budget allocation for the Probation Board had been reduced by £63k. The Department advised that this related to costs associated with scoping a Mental Health Court, which is a problem-

solving justice initiative that will now not be required in 2021-22. The funding was therefore redistributed in line with requirements for 2021-22 in the Problem Solving Justice 5 Year Strategic Plan.

17. It is not clear to the Committee that all of the Probation Board's requirements have been met. In earlier correspondence to the Committee, the Probation Board advised that, though aware of the additional funding that would be provided for Aspire and ENGAGE, significant inescapable pressures remain in the core budget largely relating to pay which, if not funded, will exacerbate issues in relation to the recruitment and retention of staff which could impact on the ability to resource those projects.
18. The Committee believes that the Probation Board does important work that can save costs in other parts of the system by, for example, preventing reoffending and thus court appearances or prison sentences. The Committee will want to be sure that it is properly funded and that any reduction in service to deliver short-term savings will not lead to costs in the longer term. The issue regarding the disparity in pay scales between social workers in the Probation Board and those in the Health Trusts also needs to be satisfactorily addressed to assist in the recruitment and retention of such staff by the Board.

EU Exit

19. The Department has been allocated £10.7m towards EU Exit from which the funding requirements of the Core Department (£0.6m) and the NICTS (£0.2m) will be met in full. Although £9.8m will be allocated to the PSNI, a shortfall of £5.7m remains against its requirement of £15.5m for EU Exit for 308 officers and staff currently in post. The Committee understands that discussions are ongoing with HM Treasury to secure the balance of funding required for the forthcoming year. The Committee also receives regular updates on the position regarding justice issues relating to EU Exit to identify any on-going issues.

Troubles Permanent Disablement Payment Scheme

20. The Troubles Permanent Disablement Payment Scheme is set to open for applications by 30 June. The Department of Justice is responsible for delivery of the scheme and funding for the implementation arrangements will be provided via the Executive Office. Responsibility for funding the payments also rests with the Executive Office and will not come from the Department of Justice's budget. While welcoming the fact that a date has now been set for applications to be submitted the Committee has been keen to ensure that there are no further undue delays in getting payments to victims so the commitment to funding the scheme is most welcome. There are however still some questions over the source of funding and this is an issue that the Committee will continue to take a close interest in going forward.

Covid-19

21. The final budget included an allocation of £7.7m against Covid-19 requirements of £25.6m, leaving a resource pressure of £17.9m. Following reconsideration of requirements, this pressure was reduced to £11.6m, with £5.1m of that reduction being transferred to a cross-justice recovery bid which the Department advised was developed at the request of the Criminal Justice Board to increase capacity in the system in a co-ordinated way to support and speed up recovery, with the associated benefits for victims and witnesses.

22. The Committee's scrutiny of Covid-19 expenditure will continue in the coming year. The Committee is aware that the Department received allocations against a number of its bids in the most recent Covid-19 funding exercise announced by the Finance Minister on 20 May, including £10.3m towards the cross-justice recovery bid against a requirement of £16.3m. The Committee understands that much of this recovery bid relates to legal aid and has requested further information from the Department on what else it encompasses.

Legacy

23. The allocation of £4.2m for Legacy that was included in the draft Budget remains unchanged in the final budget. The Department advised that £1.7m will be allocated to the Office of the Police Ombudsman and the remaining funding will go towards the funding pressure for legacy inquests. In its correspondence to the Committee, the Police Ombudsman advised that this will provide the resources it requested in order to increase its investigative capacity to undertake historic investigations pending political agreement on a way forward.

Funding for the implementation of legislation

24. The Committee has a heavy legislative programme and is concerned at the lack of information that is available on the financial implications of the Bills that it is considering and the availability of funding to ensure that necessary and adequate resources are available to ensure the legislation is properly implemented. In written submissions made in response to the Committee's calls for evidence on Bills, both the Minister of Finance and his Permanent Secretary have noted that the financial impact of the legislation has not been fully documented, with the Permanent Secretary stating that

“any financial effects should...be quantified in the EFM so that the full effects of any proposed legislation are understood.”

25. It is the Committee's view that legislation passed by the Assembly requires full implementation and anything less is unacceptable. This is an issue that the Committee will continue to pursue to ensure that there is adequate funding identified and committed so that the legislation can be fully and properly implemented.

Other Issues

26. Members discussed funding requirements and provision for a number of other important issues with officials and will continue to monitor these throughout

the financial year. These include the implementation of the Gillen recommendations, tackling paramilitarism and the potential for increasing revenue through, for example, increased or new court fees.

27. Concerns were also raised about staffing levels and the impact that either reducing staff complement or not filling existing vacancies has on the ability to deliver essential services and the added pressure it puts on existing staff. This applies right across the sector, including the core Department, the PSNI, the Prison Service and all NDPBs.

Conclusion

28. The Committee will continue to focus on the key issues detailed above both as part of its scrutiny within the 2021-22 Budget cycle and in its wider scrutiny of the Department, its Agencies and NDPBs.

29. The Committee would reiterate the importance of not seeking to cut costs for short term gain that may have negative consequences in the longer term which would not just be limited to the justice system but could impact on other parts of the public sector including, for example, the health service as well as wider society. The Committee expects to see appropriate funding committed to initiatives and programmes such as enhanced combination orders, problem-solving justice and restorative justice. Many of these initiatives have the potential to provide savings in the longer term and must be financed if better outcomes, including the draft Programme for Government Outcomes Framework Statement “Everyone feels safe – we all respect the law and each other” are to be achieved.

30. The Committee notes that the Probation Board advised in its written correspondence that it welcomed the confirmation that the Department “will be seeking to manage in-year the inescapable pressures that have been identified and encouraged us to plan on that basis.” The Committee accepts that, while it is not ideal, the main source of funding for a number of programmes and projects across the justice sector will be allocated in-year

because of the nature or source of that funding. In addition, the Committee recognises that flexibility in financial management is required to manage easements and pressures that arise in-year. However, the Committee does not believe that it is appropriate to plan an annual budget on the basis that inescapable pressures could be met in-year as there is a clear risk to programmes and organisations should that funding not be forthcoming.

31. The Committee would also welcome a move to a multi-year budget which would assist in planning ahead. The PSNI needs to be confident, for example, that recurring costs will be met in future years when recruiting new officers in line with the NDNA commitment and this principle applies to all organisations across the justice sector.

32. The Committee recognises the challenging budget position for the Department of Justice which is made even more difficult by the uncertainty brought by the Covid-19 pandemic. Departmental officials have advised that some difficult decisions will have to be faced, considering the pressures the Department faces. The Committee expects there to be ongoing engagement and that it is kept fully informed to help ensure that the Department's budget is maximised and key priority areas are funded to deliver effective outcomes across the Justice sector.