



**Northern Ireland
Assembly**

Committee for Justice

Room 242

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**From: Christine Darrah
Clerk to the Committee for Justice**

Date: 8 October 2013

**To: Shane McAteer
Clerk to the Committee for Finance and Personnel**

Management of Monies by the Courts Funds Office

I refer to the correspondence from the Committee for Finance and Personnel dated 11 June 2013 regarding how the Courts Funds Office manages monies held under the Court Fund Rules.

The Committee for Justice requested information from the Department of Justice on what consideration had been given to the use of alternative short-term and medium-term investment options for monies held under the Court Fund Rules and whether these would provide a better return compared to the current approach.

The Department's response was considered by the Committee at a recent meeting and it agreed to forward a copy, which is attached, to the Committee for Finance and Personnel for information.

**Christine Darrah
Committee Clerk**

FROM THE OFFICE OF THE JUSTICE MINISTER



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Our ref: SUB/1129/2013

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31 July 2013

Dear Christine

FINANCIAL PROVISIONS BILL

Thank you for your letter of 8 July 2013 regarding the Financial Provisions Bill and how the Court Funds Office (CFO) manages monies held under the Court Funds Rules.

The Committee has requested information on what consideration has been given to the use of alternative short-term and medium-term investment options and whether these would provide a better return compared to the current approach of following the base rate when managing monies held under the Court Funds Rules.

Under legislation [Part VII of the Judicature (Northern Ireland) Act 1978] funds held in court as cash must be transferred to the National Debt Commissioners, whose functions are carried out by the UK Debt Management Office (DMO), an agency of HM Treasury. Therefore, as a result of the legislative position, CFO is

FROM THE OFFICE OF THE JUSTICE MINISTER



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unable to consider the use of short-term or medium-term investment options offered by commercial banks that are available to members of the general public.

DMO offer fixed-term facilities and, in the past, CFO has invested funds in these fixed-term deposit accounts to enhance returns. However, the current returns on these options are not competitive at present.

CFO contracts a stockbroker to provide investment recommendations to the court in respect of individual client funds. In this way, CFO is able to enhance the returns received on some funds by investing in government gilts and shares, if considered appropriate. The type of investments that can be made are restricted by legislation and limited to those which are considered to be low risk.

BARBARA McATAMNEY
DALO



**NORTHERN IRELAND
ASSEMBLY**

COMMITTEE FOR JUSTICE

Barbara McAtamney
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8 July 2013

Dear Barbara

Financial Provisions Bill

At its meeting on 20 June 2013 the Committee for Justice considered correspondence from the Committee for Finance and Personnel regarding the Financial Provisions Bill and how the Courts Fund Office manages monies held under the Court Fund Rules.

The Committee agreed to request information on what consideration has been given to the use of alternative short-term and medium-term investment options and whether these would provide a better return compared to the current approach of following the base rate when managing monies held under the Court Fund Rules.

I enclose a copy of the correspondence from the Committee for Finance and Personnel and the Hansard of the evidence session with Department of Finance and Personnel officials when this issue was raised and would appreciate a response by 5 August 2013.

Yours sincerely

Christine Darrah

**Christine Darrah
Clerk, Committee for Justice**



**Northern Ireland
Assembly**

Committee for Finance and Personnel

Room 419
Parliament Buildings
Tel: 028 9052 1843

From: Shane McAteer, Clerk to the Committee
Date : 11 June 2013
To: Christine Darrah, Clerk to the Committee for Justice
Cc:

Briefing on the Financial Provisions Bill

At its meeting on 5 June, the Committee for Finance and Personnel received briefing from DFP officials on the forthcoming Financial Provisions Bill.

The Courts Fund Office (CFO) has responsibility for the management of some £300 million of funds held in court, the majority of which (£280 million) is held on behalf of minors and patients who are deemed incapable of managing their own affairs.

Under current arrangements CFO applies the rate of interest on monies held as set out under the Court Fund Rules (NI) 1979, which can only be adjusted by way of a statutory rule. As you will be aware, the current process of the introduction of a statutory rule can up to 12 weeks, which results in a different rate of interest payable until the rule has been passed by the Assembly. This can lead to a surplus or deficit, the latter is recoverable from the consolidated fund.

The Bill proposes to remove the requirement for a statutory rule by empowering the department to make provision on the payment of interest by way of a Ministerial Direction.


The Committee sought to establish from DFP officials the current arrangements regarding the level of interest payable and some discussion took place on whether alternative short-term and medium-term investment options could provide a better return on the funds held as compared to the current approach.

Given this issue falls outside the remit of the Committee, members agreed to highlight this matter to the Committee for Justice for its consideration.

The Hansard transcript from the evidence session can be found at:

http://www.niassembly.gov.uk/Documents/Official-Reports/Finance_Personnel/2012-2013/130605_FinancialProvisionsBill.pdf

SHANE MCATEER

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Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Financial Provisions Bill: DFP Briefing

5 June 2013

NORTHERN IRELAND ASSEMBLY

Committee for Finance and Personnel

Financial Provisions Bill: DFP Briefing

5 June 2013

Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Ms Megan Fearon
Mr Paul Girvan
Mr David McIlveen
Mr Mitchel McLaughlin
Mr Peter Weir

Witnesses:

Ms Cris Farmer	Department of Finance and Personnel
Ms Fiona Hamill	Department of Finance and Personnel

The Chairperson: Cris and Fiona, you are very welcome. Please feel free to make some opening comments or to give a brief overview of the Bill.

Ms Fiona Hamill (Department of Finance and Personnel): Thanks, Chair. We welcome the opportunity to speak to the Committee about the Financial Provisions Bill. Cris is the senior official who has worked with the Office of the Legislative Counsel (OLC) and the Departments on bringing forward the Bill.

The Financial Provisions Bill is a semi-routine mechanism. The previous two such Bills were passed in 2009 and 2004. It is a mechanism that allows for routine, minor and non-controversial amendments to governing legislation in relation to financial matters. The process is as follows: the Department of Finance and Personnel (DFP) will survey the Departments, the Northern Ireland Audit Office and other bodies to identify any finance-related legislation that needs to be updated or amended, and then will gather those small amendments into a single Bill. Cris and her team work with the OLC to make sure the amendments are of an appropriate, non-controversial nature. As I mentioned, the Assembly previously agreed a Financial Provisions Bill in December 2009.

The Bill before you today addresses six issues. Chair, would you like me to run through all six of those issues in their entirety, or address one at a time to allow members to consider them?

The Chairperson: I think that we would prefer to go through each issue individually so that we can ask questions.

Ms Hamill: The first issue in the Bill is a request by the Department of Agriculture and Rural Development (DARD) to repeal the Development Loans (Agriculture and Fisheries) Act (Northern Ireland) 1968 in its entirety. That Act created a loans facility for agriculture and fisheries. No loans have been issued from the fund since 1979. All amounts owing to the fund have been fully repaid, and there is no further requirement for it, so it is the repeal of an old piece of legislation. The Agriculture Department advises that it now uses other mechanisms, such as grants and other sources, to fund farmers and fisheries as necessary. That is the first issue.

Mr Weir: I would like to raise a general issue, which relates to the six items. I appreciate that the aim is to deal with minor consequential amendments on routine financial matters, but, in making a determination about which items are included in this Bill and which are dealt with elsewhere, what is the process, and how is that decided?

Ms Hamill: It is a question of Cris's team and the OLC considering whether it fits our understanding of the item as consequential and minor. If it is significant, it will probably be referred back to Departments for further consideration internally. In reality, there were no such matters. Departments are used to Financial Provisions Bills, and no matters were brought to our attention this time that we were not able to include. Everything that Departments and the Audit Office wished to be included is in the Bill.

Mr Weir: OK. Thank you.

Ms Hamill: The second issue, also a request from the Agriculture Department, is to amend the Harbours Act (Northern Ireland) 1970 to allow DARD to pay grant-in-aid to the Northern Ireland Fishery Harbour Authority (NIFHA) if necessary.

In 2009, for the first time, the NIFHA experienced an operating deficit. That is because it generates fees on the basis of catches landed, and that can be quite variable and subject to market prices and controls beyond the Fishery Harbour Authority. In that year, it was able to meet the deficit from its own resources, but it raised an issue for DARD. Since then, in subsequent years, it has always broken even or made a surplus, but it has raised the issue and the concern for the Agriculture Department that, in future, it may need a mechanism to support the Fishery Harbour Authority if it should find itself in a position of a sustained deficit over a number of years. This measure is precautionary in nature, and will provide a statutory basis on which DARD could bid for and seek approval to provide grant funding to the Fishery Harbour Authority if it needed to.

Mr D Bradley: In the Budget, one of the revenue-raising measures mentioned was £40 million from the Harbour Commissioners, and then it was realised that legislation would be needed in order to release that resource. Obviously, you have not included such legislation in this Bill. I notice from our papers that an arrangement has been arrived at between the commissioners and the Budget review group that the Harbour Commissioners will invest in foreign direct investment (FDI) accommodation. Presumably, that is an in-kind arrangement for the £40 million. Was a decision made to go for an agreement with the commissioners rather than legislation?

Ms Hamill: I am afraid that I cannot speak to that. Those are decisions for the Department for Regional Development (DRD); that is where the Harbour Commissioners sit. This provision relates to the Fishery Harbour Authority, which deals with Portavogie, Kilkeel and Ardglass. Those are two quite distinct —

Mr D Bradley: I realise that; yes.

Ms Hamill: That would have to be a question for the Department for Regional Development.

Mr D Bradley: OK. Thank you.

Ms Hamill: Beyond the briefing you mentioned that they have reached an agreement on FDI, I am afraid that I cannot tell you anything further.

The Chairperson: Dominic, we could write to DRD, via the Committee for Regional Development, to clarify that issue.

Mr D Bradley: That would be helpful.

The Chairperson: Fiona, given that this is catch-all legislation, is it likely that, as the Bill goes through the Assembly, further provisions will be added by DFP or other Departments? How do you see this playing out?

Ms Hamill: Yes. Discussions are under way. Cris will correct me if I am wrong, but there may be a further provision coming in relation to rates.

The Chairperson: What is that exactly?

Ms Cris Farmer (Department of Finance and Personnel): There are two rates amendments coming through, but I do not know the full details just yet. One of those is to do with the rating legislation in respect of rates on vacant properties. I am not 100% clear on the second one. It is with the Office of the Legislative Counsel and is currently in draft.

Mr Weir: On the wider context, this type of Bill comes periodically and provides a catch-all for a number of consequential changes. Presumably, this will go through, and there may not be another similar Bill for three, four or five years. Is there any complication in the interim? There may well be something that is not envisaged today but, a year down the line, would be included in the next Bill. How do you deal with the time lag?

Ms Hamill: If something needs to be done urgently or is required to enable or support other important legislation, it will be brought forward, rather than waiting for the next financial provisions Bill. This is the "housekeeping" Bill.

Mr Weir: Yes. If something comes up, it will be programmed into the next Bill, assuming that this one had already gone through.

Ms Hamill: Yes. We had initially hoped to bring this Bill through a year ago. However, because it did not deal with matters that are as critical as other legislative measures, it took a back seat to allow other legislation to come through first.

The Chairperson: Members, I propose that we write to the Department to clarify those rates issues. Are members content?

Members indicated assent.

Ms Hamill: The next request is from the Department of Justice (DOJ), and relates to expenditure that impacts on the Consolidated Fund. At the moment, the Court Funds Office holds moneys on behalf of several groups of individuals. The two largest groups are those that the courts have judged to be not in a good enough state of mental health to look after their own resources, and children under the age of 18. It also holds some other smaller moneys. It holds just under £300 million, of which £280 million relates either to people with mental health issues or to minors.

The rate of interest paid on the funds that it holds is set by a statutory rule. As you know, the process for statutory rules can take eight to 12 weeks to work its way through. That creates a lag for any changes in interest rates in the fund and interest rates due to people whose funds are being held. If interest rates are dropping, that delay can sometimes work to the advantage of individuals whose moneys are being held. Equally, if interest rates are rising, it can be a disadvantage. The legislation proposes to remove the need for a statutory rule, and instead allow the Department of Justice to make a statement of provision, with DFP approval. That should allow the process to be much quicker and should smooth out those fluctuations in interest rates.

The Chairperson: Fiona, how long has the statutory rule that you are referring to been in place?

Ms Hamill: Since 1979. The Court Funds Rules (Northern Ireland) 1979 requires that adjustments take place by way of statutory rule.

Mr Cree: Bearing in mind how irrelevant the base rate is these days, why is much more use not made of short-term high interest rates as is the case for money debts and things of that nature?

Ms Hamill: Sorry —

Mr Cree: Rather than following slavishly the base rate and the movements that pertain afterwards, short-term high interest rates are available for people who have the ability to move money about. Why is more use not made of that to maximise profit?

Ms Hamill: I understand what you are saying. However, if we took that approach, we would be introducing significant risk to the funds secured on behalf of individuals.

Mr Cree: It should not be a significant risk if it is a short-term investment with guaranteed interest. Money debt is a very simple example.

Ms Hamill: We can certainly raise that as a separate issue with the Department of Justice in respect of how the courts fund is managed. However, I would have to look at the other regulations around —

Mr Cree: It seems rather staid. It is slavishly following an old system. In these days of comparatively low interest rates, you have to make the most of any investment. Therefore, you need flexibility.

Mr Weir: I appreciate Leslie's point. As it is the DOJ that administers that, would it be worthwhile sending a note to the Justice Committee so that it can hold the Department to account? To be fair to the departmental officials, this is a bit outside their remit.

Mr Cree: I just wondered whether it had been thought of.

Ms Hamill: No, not directly. DFP looks after the Consolidated Fund moneys, but we transfer those to Treasury to be put onto the market. We do not speculate or invest, short term, on our own balances. However, I am happy to see what the DOJ says and get back to you.

Mr Cree: OK. Thanks.

Ms Hamill: The next request is from the Department for Social Development (DSD) to amend article 88 of the Housing (Northern Ireland) Order 1981. At the moment, the Housing Executive is able to sell small parcels of land that it no longer has use for. These are very small bits of land and are normally sold to individuals to extend or develop gardens, extensions, garages or informal space. In 2010-11, the Northern Ireland Housing Executive sold 108 small areas of land at an average price of £1,470. However, for each piece of land sold, the administration and transaction costs were in the region of £2,400. The amendment proposes that the Housing Executive will be able not only to sell the land, but recover the administration costs that go with that transaction. That will allow the Housing Executive to properly apply its policy of land disposal of undeveloped land that is not required for social housing purposes.

Mr Girvan: I want to raise something that may have to go back to the Social Development Committee. It is associated with the £2,000-odd administrative cost. Most of that would probably be associated with the bureaucracy of the Housing Executive. Any of you who have had to deal with its land and property development in Londonderry will know that it is an absolute nightmare. Could we have a breakdown to establish whether the cost represents value for money? I appreciate that you may have to request that from DSD. I ask because it is definitely the most inefficient transfer system that I have ever encountered. You could do 20 transactions in the private sector in the time it takes the Housing Executive to do one. I have serious concerns about how that is run. I appreciate the costs of the small land areas. Did you say it was £1,470?

Ms Hamill: Yes; the average price per transaction is £1,470.

Mr Girvan: And the administration costs?

Ms Hamill: They are £2,500.

Mr Girvan: That does not make sense to anyone; you would be far better just giving it to them.

Mr Cree: Not quite. *[Laughter.]*

Mr Girvan: It really is a nonsense. Are we just working to keep these people employed up there, shuffling papers round a desk? That is what I am starting to think. A request to take a serious look into that should be referred to the Social Development Committee.

Mr Cree: To be fair, it also illustrates the purpose of having these Financial Provisions Bills. You can review situations like that and bring them into a more realistic realm.

Ms Hamill: Yes. If you are going to introduce an ability to transfer those costs, the costs that are transferred should be reasonable.

The next amendment was at the request of the Northern Ireland Audit Office, and it is simply to change the terminology used in part of the Audit and Accountability (Northern Ireland) Order 2003. It would amend the definition of "relevant" NHS bodies. Following the reorganisation of the health bodies in Northern Ireland, the definition needs to be amended so that the Comptroller and Auditor General continues to retain the level of data-matching powers that he had. This amendment just ensures that.

The final proposal in the Bill allows the DOJ to catch up on outstanding issues following the devolution of policing and justice. Because it is a statutory body, the DOJ needs statutory authority to issue funds to any bodies. At the moment, the Police Rehabilitation and Retraining Trust and the Northern Ireland Police Fund do not have a statutory footing under the Police (Northern Ireland) Act 2000. Therefore, it could be irregular for the Department of Justice to provide funding to them. Historically, funding would have been provided to those bodies by the Northern Ireland Office, which, as a Crown agent, did not require the same statutory authority to provide that funding. This is, again, a situation where it is proposed to amend the legislation to correct a position that has slipped out of sync.

Mr Cree: May I check that those are both registered charities?

Ms Hamill: I will have to get confirmation of that for you. I assume that they are but I will have to confirm that.

As I said at the outset, we consider these to be minor changes and routine amendments to departmental responsibilities. I trust that that provides you with a reasonable summary of the Bill.

The Chairperson: Are members content?

Members indicated assent.

The Chairperson: Fiona and Cris, thank you very much.