



Committee for Justice

OFFICIAL REPORT (Hansard)

January Monitoring Round and Savings
Delivery Plans: DOJ Briefing

27 February 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Louise Blair	Department of Justice
Mr Glyn Capper	Department of Justice
Ms Lisa Rocks	Department of Justice

The Chairperson: I welcome Glyn Capper, director deputy of finance, Lisa Rocks and Louise Blair from the financial services division in the Department of Justice. As usual, the session will be recorded by Hansard and published in due course. I invite Glyn to brief the Committee, and then we will have some questions.

Mr Glyn Capper (Department of Justice): Good afternoon, and thank you for the opportunity to give you an update on the Department's finances. I plan to cover two separate areas in the briefing: first, an update on our savings delivery plans as at 30 September 2013 and then a summary of our in-year position following the January monitoring round. I will look first at our savings delivery plans. This is the Department's fifth six-monthly update. Following today's briefing, we will publish our savings information on the Department's Internet site. As the Committee will be aware, savings targets for each spending area were factored into our Budget 2010 allocations; that is, budgets for each of the core directorates and their various agencies and arm's-length bodies were reduced by the savings amounts in each of the four Budget 2010 years. As your briefing note points out, the information provided has been prepared by each arm's-length body and, therefore, it is their own and not the Department's interpretation of their progress against the savings plans.

As at the end of September, net savings totalling £47.5 million have been delivered. We forecast delivering total net savings of £85 million by the end of March 2014 against a total in-year savings target of £103 million. Although this will be reported as a shortfall of £18 million, it is important to note that this position takes into account the costs of the Prison Service staff exit scheme. Because more

officers are now due to leave than originally planned, we have incurred more costs this year but will not see the financial benefits until future years when officers leave, which impacts on this year's net position. Excluding the cost of the scheme, we would be on course to meet our gross savings target this year, and we now remain on track to deliver our total savings target of £109 million by March 2015.

As you will see from the updates, some areas have indicated that there may be an impact on front line services. I thought that it would be helpful to say something about the key areas. I have mentioned to the Committee before that officials continue to work closely with the Probation Board to minimise the impact on front line staffing. Over £1 million of additional funding was provided to the Probation Board as part of its final budget settlement to reduce staffing impacts. A further £350,000 was allocated last year, and we have provided an additional £700,000 this year.

The Office of the Police Ombudsman for Northern Ireland's budget will require efficiencies to be made across the office's work. However, the Department also fully funded pressures totalling £5 million over the Budget 2010 period. In effect, the office's budget increases in cash terms. Again, we will continue to work with the office to fund as many of its future pressures as possible through the in-year monitoring process.

Officials also liaise with all spending areas to ensure that savings plans remain on track and that savings targets are delivered. We will continue to work with all the various bodies across the Department to look at ways to protect front line services as much as possible.

I will now turn to our in-year funding position. This has been a challenging financial year for the Department against the backdrop of a large legal aid pressure. The Committee will know from previous updates that, following the January monitoring round, we presented a bid to the Department of Finance and Personnel for just over £25 million. That bid was not met, but, in his paper to the Executive, the Finance Minister stated his intention to monitor the financial position across all Departments over the remaining months of the financial year to ensure that the carry-forward under the Budget exchange scheme is maximised for the block and any unexpected funding surrendered by Departments could be recirculated, including to the DOJ.

Throughout this year, the Department has taken a very proactive stance to manage its pressures. As a result, the position has improved since January monitoring through a combination of reduced pressures and additional savings. It is worth noting that the January monitoring position was based on October's out-turn, so we now have a much fuller picture of this year. For example, the total Prison Service pressure has fallen from £14 million in January to £9 million, £5 million of which is unavoidable with the balance relating to the remaining officers who are due to leave under the exit scheme. A large element of the reduced pressure is due to lower costs of those who have left under the scheme; for example, some costs have been less than expected because of the age profile of officers and the choice by some officers to take a reduced lump sum and an increased pension. The legal aid pressure has also fallen by £4 million, and we will continue to monitor the position with the Legal Services Commission for the remainder of the year.

The Department has continued to press all areas for additional savings and, as a result, a further £3 million has been generated since January, mainly from Compensation Services and the justice delivery directorate. During March, we will continue to press for further savings and reduce pressures as much as possible, with a view to living within our allocated budget. However, we will liaise closely with DFP with a view to securing additional funding, if it becomes available, to allow us to meet some pressures that would otherwise be unfunded.

I hope that that provides you with an overview of our savings delivery plans and in-year financial position. I am happy to take any questions you have.

The Chairperson: Thank you very much, Glyn.

I just want to be clear in my mind about some of the figures. There was a legal aid pressure of £11·1 million in the January monitoring round. Was the bid for £11·1 million?

Mr Capper: The net bid to DFP was £11·1 million for legal aid. The commission's pressure at that stage was £16 million. We were able to use some internal savings that we had generated to offset it. The net pressure presented to DFP was £11·1 million.

The Chairperson: That has now fallen by a further £4 million.

Mr Capper: That has fallen by a further £4 million, and we have been able to use some of the additional savings we have generated since January to offset that. At the minute, we have written to the commission and provided it with sufficient funding to take it through to the end of the year, with the caveat that, if we get additional funding from DFP, we will work with the commission to see whether it could use some additional funding.

The Chairperson: So, £7 million is still needed, but it can live within this. Is that what you are saying?

Mr Capper: No. I will go back to the start of the year. We gave £15 million to the commission as part of the June monitoring round. The position at the end of the January monitoring round was £16 million of a pressure, of which £11.1 million was the bid to DFP. Through a reduction in the legal aid pressure, and using some other savings from the Department to put towards legal aid, the commission is now in a position to fund its liabilities through to the end of this financial year. That is not to say that, if we did provide some additional funding, it could not use it, which would be beneficial in taking some pressures out of next year. However, at the minute, the commission has enough funding to see it through to the end of March.

The Chairperson: I am reading between the lines, but are you saying that it could pay out another £7 million but is going to let that roll over to the next financial year?

Mr Capper: We are not even talking about a figure of £7 million. The commission has indicated that if something in the region of £4 million became available, maybe not even as much as that, it may be in a position to use it this year. It is worth noting that the legal aid pressure is demand-led, so it is very hard to put an accurate forecast on the 12-month figure. The way that we have finalised the position with the commission this year is that it has sufficient funding to go through to the end of March. If, as I said, more funding did become available, perhaps something up to £4 million or so, it may be in a position to use that, depending on its payment profiles and so on.

The Chairperson: The £14 million to complete the Prison Service exit scheme is now reduced to £9 million. Is that £5 million reduction purely because a calculation was done? I think that you indicated that the £14 million for the Prison Service had reduced by £5 million.

Mr Capper: About £4 million of that £5 million reduction is due to the fact that, at the start of the year, when the Prison Service forecast its pressure, it was using notional or slightly dated figures. When officers actually come to leave, the Prison Service writes to DFP to get an up-to-date and accurate estimate of the cost of an individual officer, due to time and officers moving into different age bands and so on. As I said, some officers chose to take a reduced lump sum and an increased pension, which shifts some of the pressure from this year. That has reduced the pressure by a net £4 million or so.

The Chairperson: The £9 million pressure that now exists is to allow the remaining 27 or 28 to go. It is not that some have now left out of the last batch; it is just that that is the more accurate figure as to how much it would cost.

Mr Capper: I will just clarify the position around that £9 million and the 28 officers due to leave. You are right; 28 officers have not yet received a letter to say that they can leave, because of funding. Of the £9 million pressure, about £3.7 million of that £9 million relates to the 28 officers. The rest of the £9 million pressure is other exit scheme costs. By other exit scheme costs, I mean the totality of the whole exit scheme, which includes the timing of when officers leave, the timing of when new recruits come in and so on. Some of the differences in those two profiles from the original plans have created a pressure as well, but roughly £3.7 million relates to the 28 officers who are due to leave.

The Chairperson: That remaining amount is part of the headway that the Executive agreed. Are there any indications that there will be something coming?

Mr Capper: We remain hopeful. If we look back at last year, we see that we got some additional funding from the Executive, and that was in March. These things tend to run quite close to the end of the financial year simply because we are waiting hopefully for other Departments to surrender some easements. We remain hopeful. As soon as we hear from DFP, we will be in touch immediately with the Prison Service.

The Chairperson: You touched on the long-term savings that the invest-to-save scheme will generate for the Prison Service. Is there a figure that shows that ultimately, over the course of so many years, the Prison Service will be the net financial beneficiary of the changes?

Mr Capper: Yes, very roughly. If we assume that 520 or so officers will have left — assuming that the 28 go — the savings purely from those officers leaving equate to about £26 million a year. Obviously, other staff have to come in to replace that gap and there are other costs. However, very roughly, the Prison Service should be about £20 million better off as a result of the exit scheme, and the business case for the exit scheme included the payback period. Therefore, that demonstrates that there was value for money in that scheme.

Mr Elliott: Thank you for that. Can you give me some indication of how the £11 million of legal aid was so badly miscalculated? I know that you said that it is very demand-led at a particular time. However, I assume that it could not all be related to that. What percentage is that of the overall legal aid budget?

Mr Capper: With regard to the big change in the legal aid forecast this year, as I said, in June the forecast pressure, after giving £15 million from the Department, was about £27 million; by January, that had come down to about £20 million. So, there is a difference of about £7 million. If your question was about the reason for that difference, if we look at the early one —

Mr Elliott: Sorry; can you explain that difference again? Where is that difference?

Mr Capper: If we go back to the June monitoring, the commission flagged a pressure — it must have been £42 million — and, as a Department, we allocated £15 million to reduce the pressure to £27 million. Therefore, that was a reduction in pressure simply because we gave extra funding. Between that position and the declared January monitoring position from the commission, the pressure reduced from £27 million to £20 million. To explain that difference of £7 million, we have to go back to the start of the financial year. At the start of the financial year, the commission saw a big increase in the number of cases coming through and an increase in the average cost of those cases. Obviously, it is a demand-led business in many ways. Monthly, the commission has to work out, based on what it has on its desk and by looking at trends and so on, what the whole year's position is. Given the spike in the first few months of the year, the commission extrapolated that out and forecast that the pressure for the whole year would be higher. By the time we got to October, it saw a bit of a dip in that early year spike. So, when it ran that through the model, that pulled the pressure down by the amounts that I talked about. To give some credit to the commission, its demand-led cases come in at different volumes every month and at different settlement amounts, and it is trying to use all that data to predict 12 to 24 months ahead.

Mr Elliott: That is useful. If you do not get that £11 million, how are you going to make it up?

Mr Capper: As I have said, since that £11 million position, there has been an improvement in our overall financial position.

Mr Elliott: It is still a shortfall.

Mr Capper: The commission has sufficient legal aid funding to get it through to the end of the year. As I said to the Chair, if a small amount of additional funding became available, we would work with the commission to see whether it could use it. However, at the minute, the Department has taken the decision not to do some things in other areas that we might otherwise want to do, and so there is enough funding to take the commission through to the end of March.

Mr Elliott: What about the policing budget? Are there any pressures in it that we should see here?

Mr Capper: No. Earlier in the year, the police flagged some pressures. The Department's position on that was that the police budget is, in effect, ring-fenced within the Department's budget, and the police have been able to absorb all of their pressures. We were speaking to them this morning, and the police are predicting a largely break-even position for this year.

Mr A Maginness: Thank you very much. In some ways, my questions have been pre-empted. Let us go back to the reduction in the number of prison staff. There is a considerable saving there. When do you think that the saving will come into effect?

Mr Capper: There will still be a pressure on the Prison Service budget in 2014-15, and some of that is the legacy of the exit scheme washing through the system. The timing of officers leaving and of new recruits coming in, and so on, will have an effect. However, by 2015-16, we should start to see the full impact of the savings. The savings are happening, but we should start to see the full impact of them.

Mr A Maginness: In the same way, in respect of criminal legal aid, there are savings through the amendment to the 2011 settlement.

Mr Capper: That is correct, yes.

Mr A Maginness: I know that the Minister said that there are savings here, but we do not see them now. When do you expect to see the savings come through?

Mr Capper: Are you asking about legal aid?

Mr A Maginness: Criminal legal aid, yes.

Mr Capper: Again, it is a bit like the position with the prison officer exit scheme. Those savings are coming through the system. The time lag of legal aid cases means that it can take, in some cases, a number of years for a case to work its way through the system. If a case in the system started prior to reform, it will be paid out at the previous rates. However, all the new cases, since the introduction of the reforms, are going through the system at the reduced rate. So, those savings are happening. The calculation at the time was that £18 million or £20 million of savings would be delivered from that. Obviously, that was based on the volume of cases at that point. If the volume of cases goes up, some of that saving may be masked, albeit the saving is actually taking effect.

Mr A Maginness: Although it is not apparent from these figures, there are savings being made at the moment and there have been since 2011.

Mr Capper: Yes. I suppose that what we could say is that, were it not for the savings that have already been introduced, the pressure that we saw in legal aid this year would have been higher.

Mr A Maginness: I understood, to some extent, what you explained to Mr Elliott. You talked about a pressure of £27 million at June monitoring. It was actually £42 million, and then you gave the commission £15 million, which reduced it to £27 million. And then you said that you were down to £20 million, which was reduction of £7 million. Looking at the January monitoring outcome, I notice a pressure of £11.1 million in legal aid. Should that not really be a pressure of £20 million, rather than £11.1 million? I know that the Chair has asked you about this.

Mr Capper: The position at January monitoring was that the commission declared a pressure of £20 million. Through the January monitoring process, we had some other savings generated across the Department, and we used those to offset the £20 million; to bring it down to the £11.1 million that was the net position, if you like, declared to DFP. As I said, since then, we have given additional funding to the commission, and that has brought it down to a level at which it is able to make payments through to the end of March. To answer your question: there is a difference between the £20 million and the £11.1 million in your paper because the Department used other savings that it had generated to offset some of the £20 million.

Mr A Maginness: I do not want to go into the Legal Services Commission in any great detail, but the predictions that it makes do not always seem to be correct. They seem to be quite inaccurate at times. You gave some explanation for that in so far as the commission saw a spike in cases and then anticipated that spike continuing. Is there not a better way of dealing with these anticipated increases or, indeed, decreases? It seems to me that it is almost day by day and week by week rather than some sort of really considered space of time.

Mr Capper: Your point about the historical robustness of the commission's forecasts is probably accurate in that we have seen big fluctuations, sometimes over short periods of time. As a result of that, over the past few months, the Department has set up and is now leading a legal aid forecasting group. That project, which includes a number of areas across the Department that input to the legal aid model, plans to deliver a new legal aid forecasting model at the beginning of the next financial year. The plan is that that should result in a much more accurate model that should remove some of those fluctuations.

Mr A Maginness: To be certain about and to understand this, am I right to say that the Department brought experts in to assist the commission to deal with forecasting?

Mr Capper: It did not necessarily bring experts in, but there are a number of areas across the Department that impact on the legal aid model. The courts, for example, is one, where the volume of activity through courts ultimately hits legal aid. So, the Department is leading a project that brings those various people together. It has also met folks in Scotland and England to look at their legal aid forecasting models. Yes, it has brought in expertise that way, and that project is designed to deliver a much better legal aid model at the start of the next financial year.

Mr A Maginness: Thank you very much. That is very helpful.

Mr McGlone: The Office of the Police Ombudsman has indicated the difficulties that could arise as a result of budget cutback from front-line services. What provision have you made for that not to happen?

Mr Capper: May I ask you to put that question another way, just to make sure that I understand it?

Mr Wells: There were two negatives.

Mr McGlone: Not a problem. The Police Ombudsman's office says that it will have less money and be less able to provide front line services. Therefore, what provision will the Department make to mitigate that or to ensure that that does not happen?

Mr Capper: OK. I go back to the Budget 2010 period, which began in 2011-12 and covered four years. We asked the Police Ombudsman's office, as we did all areas of the Department, to indicate its pressures and what potential savings it could make. As a result of that, in setting the ombudsman's budget for the four-year period, it flagged a pressure of £5 million in relation to the Historical Enquiries Team (HET). That pressure was fully met. Part one of the answer to your question is that the ombudsman's office flagged a pressure and the Department fully met that. Obviously, as with all areas of the Department, there is an in-year monitoring round process for the rest of this Budget period. If pressures are declared, the Department will consider the relative merits of those bids. I suppose that I should say that, in year, the ombudsman's office declared an easement and handed back £200,000. Again, there will be the same process as we approach the next spending review for 2015-16, in that we will assess what the different areas of the Department need.

Mr McGlone: I just want to get this completely clear in my mind. The budgetary requirements will not affect, in any detrimental way, the timeliness and quality of investigations or investigative processes at the Police Ombudsman's office.

Mr Capper: What I can give is an assurance that, over the four-year Budget period that we are now working in, the ombudsman's budget was set on a basis that provided enough funding for its requirements; ie its pressure was fully met. If there are new pressures next year or in 2015-16, we will continue to work with the ombudsman's office to assess those pressures, as we would with any bid from the Department. As things stand, and from looking at the in-year position, all the ombudsman's office requirements were met.

Mr McGlone: So that is a yes, then. You are giving an assurance that the timeliness and quality of investigative processes at the Police Ombudsman's office will not be adversely affected.

Mr Capper: What I can say, from a financial perspective, is that the ombudsman's office bids over this four-year period were met. It actually declared an easement this year. If it declares pressures next year that relate to the sorts of things that you outlined, the Department would, of course, consider those.

Mr McGlone: Thank you.

The probation service highlighted that further pressures are anticipated in future years as a result of the two-year investment from the Department coming to an end, the inability to sell properties and all that stuff. Again, since the Budget for 2011-15 was agreed, its caseloads have increased beyond previous levels experienced. Can you provide a permanent funding solution for the probation service

to make sure that, likewise, front line services are not in any way diminished or reduced, especially given the pressures that it is under?

Mr Capper: As context to all those questions, we are obviously in an environment where budgets are reducing. I think that that applies across all bits of the DOJ and all parts of the public sector. In the context of that statement, again, if you look at the four-year Budget period that we are now working in, you see that the Probation Board was one of the most protected bits of the Department. Like all areas, it did have to make some cuts, but it was one of the most protected bits. We gave it an extra million pounds at the start of the four-year period and an extra £700,000 this year. In respect of future years, the 2015-16 spending review period has not yet kicked off, but, as part of that, I think that the Department will again seek to protect areas such as probation as much it can.

Mr McGlone: Right, OK. Thanks.

The Chairperson: Members have no further questions. Thank you very much for coming to the Committee; we appreciate it.