



Northern Ireland  
Assembly

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COMMITTEE FOR JUSTICE

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**OFFICIAL REPORT**  
(Hansard)

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**Draft Budget 2011-2015**

25 January 2011

**NORTHERN IRELAND ASSEMBLY**

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**Members present for all or part of the proceedings:**

Lord Morrow (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Lord Browne  
Mr Thomas Buchanan  
Mr Paul Givan  
Mr Alban Maginness  
Mr Conall McDevitt  
Ms Carál Ní Chuilín  
Mr John O'Dowd

**Witnesses:**

Mr Glyn Capper )  
Mr Anthony Harbinson ) Department of Justice  
Mr Sean Lavery )

**The Chairperson (Lord Morrow):**

I welcome Anthony Harbinson, Glyn Capper and Sean Lavery. Perhaps you would like to update the Committee on spending and savings. You can have a maximum of 20 minutes.

**Mr Anthony Harbinson (Department of Justice):**

Good afternoon. Thank you for the opportunity to update the Committee on the Budget 2010 position for the Department of Justice (DOJ). When we met on 11 January, I was able to provide

an update on the Department's draft spending plans.

The Executive's draft Budget proposes that we will continue to remain ring-fenced over the Budget 2010 period. However, that does not mean that our budget is protected. Instead, it means that we will receive the direct Barnett consequential arisings from changes in the funding levels in the Home Office and Ministry of Justice as a result of the UK spending and review settlement for Whitehall Departments.

The DOJ's resource departmental expenditure limit baseline will reduce by 6.2% by the end of the 2014-15 financial year. In cash terms, however, that means a reduction of £82 million or 7.2%. Taking into account the effect of inflation, the real terms impact is significantly greater, and perhaps double that amount. There will be challenges ahead, but we believe that the budget from the Executive allocated to our spending areas in the way that we outlined will allow the Minister's priorities to be taken forward.

As you know, the Minister wanted to share as much detailed information as possible. We published initial details of our draft budget allocations on 23 December 2010, which was the Department of Finance and Personnel (DFP) deadline. We also provided the Committee with detailed resource departmental expenditure limit allocations for each of our spending areas showing their opening baseline, specific pressures that we plan to fund, savings that each area has been asked to deliver by 2014-15 and their overall revised budgets.

On 11 January, I indicated that each of our spending areas was in the process of preparing more detailed savings plans and equality impact assessments. Those have now been received, and by last Friday we were able to send the Committee, and publish on our Internet site, an updated consultation document containing much more detailed savings plans and the outcome of the high-level equality impact assessments.

Considering that over 90% of our budget falls to agencies and arm's-length bodies outside the core Department, the level of detail that we have published — showing details of how nearly 40 separate savings will be delivered across 14 individual spending areas — reflects a willingness to share detailed and useful information so that our stakeholders can understand and consult with us

on our budget plans.

As I said, we have also undertaken a high-level assessment of the impact of each of our proposals on section 75 groups and on good relations, poverty, social inclusion and sustainable development. The assessment showed neutral impact on most groups and some minor positive impacts were identified for capital projects.

Alongside the Budget 2010 process, we will also be giving careful attention to the upcoming Programme for Government, which will outline the Executive's strategic priorities over the 2011-15 period. That provides us with an opportunity to review and refresh the Department's priorities and targets. We will continue to liaise with colleagues in the Office of the First Minister and deputy First Minister as we develop our proposals.

I will also give you some more detailed information on two areas we discussed on 11 January. As you know, the Prison Service savings include consideration of an exit package to enable the staff who want to leave early to do so. That will help to create opportunities to modify the grade mix and the flexibility of the future workforce.

Until the Owers report is finalised and there have been discussions with the Prison Officers' Association (POA), we will not be in a position to determine the exact size, scope and nature of the reform package. However, the Prison Service savings show that, in year 1, we would inject a net £13 million to fund an invest to save programme, from which savings would flow in future years. It is unlikely that any severance costs in the first year will be offset by savings, hence the need to inject that funding, but, by year 4, it is hoped that ongoing savings of around £20 million will be generated. As I said, those plans are still being considered.

You will be aware that the Department has been working closely with the Chief Constable and the Secretary of State to secure the additional security funding that the PSNI has bid for. The total requirement is approximately £245 million. The Executive have agreed to additional funding of £45 million for the Department of Justice over a four-year period, and the Minister has determined that all of that should go to the policing budget. The amount sought from the Treasury reserve is, therefore, £200 million. That will be for the employment of a number of

additional officers, for additional police overtime and for the purchase of equipment, for example, armoured vehicles and a new helicopter.

When we last met, we also discussed civilian armed guards, and I can confirm that the security bid reflects additional officers, not civilian armed guards. Civilian armed guards would require primary legislation, and the Minister would consider any requests made to him that had the backing of the Policing Board.

The Minister has made it clear that his ability to accept that draft Budget is conditional on receiving £200 million additional funding, and we expect to hear an outcome shortly. The case has been presented at the very highest levels and, as we understand it, the Secretary of State has supported that bid.

I hope the additional information you have now received highlights that the Minister is keen to provide as much useful information as possible about the DOJ's Budget 2010 proposals, and that the details of our savings plans allow you to understand our budget plans for the next four years more fully. I am happy to take any questions.

**The Chairperson:**

I have a question on the £200 million. At the last meeting, we asked when you would be in a position to confirm whether that bid was successful. I think you said —

**Mr Harbinson:**

Within a few weeks.

**The Chairperson:**

Today you are saying “shortly”. “Shortly” is not a number or a time. The £200 million is fundamental to the whole budget, is it not?

**Mr Harbinson:**

Absolutely.

**The Chairperson:**

If it does not arrive, the whole thing is then up in the air, to put it crudely.

**Mr Harbinson:**

Yes.

**The Chairperson:**

Yet, today we do not know whether that will happen.

**Mr Harbinson:**

We are expecting word any day. That is literally the point that we are at. When I last met you on 11 January, I said that it would be a few weeks, as opposed to a couple of weeks, so it was to be two or three weeks. We have gone through a number of iterations of questions from Whitehall and the Treasury about the specific nature and make-up of our funding, particularly in relation to existing end-year flexibility (EYF). We explained all that, and as far as I am aware, the Secretary of State now fully supports the £200 million bid. We are now just waiting for Treasury approval.

**The Chairperson:**

So, are you just waiting for confirmation?

**Mr Harbinson:**

That is what we are waiting for.

**The Chairperson:**

So, you have strong indications that you are getting it.

**Mr Harbinson:**

Yes, we have.

**The Chairperson:**

So, you are getting the money.

**Mr Harbinson:**

We have the support of the Secretary of State, which is a very strong indication.

**The Chairperson:**

Yes, but are you getting the money or not?

**Mr Harbinson:**

I cannot say until the Treasury approves it.

**The Chairperson:**

That money is fundamental to the whole budget.

**Mr Harbinson:**

Absolutely, and we made that plain to the Treasury.

**The Chairperson:**

But, you do not know whether you are getting it.

**Mr Harbinson:**

We are very hopeful that we are getting it in full from the Treasury. I honestly cannot be more specific than that until the Treasury approves it. The bid is with them and it is up to them to determine when to tell us.

**The Chairperson:**

When were you last talking to the Secretary of State about this?

**Mr Harbinson:**

My understanding is that the Minister was talking to the Secretary of State within the past few days.

**The Chairperson:**

The past few days — Monday?

**Mr Harbinson:**

Monday or Friday, I am not sure which. It might have been Friday.

**The Chairperson:**

What did he say?

**Mr Harbinson:**

That he was supporting the bid and that the bid was being discussed at the highest levels of government.

**The Chairperson:**

So, it is highly likely that you are going to get it.

**Mr Harbinson:**

He was very hopeful.

**The Chairperson:**

He would not say that you were getting it.

**Mr Harbinson:**

He was saying that he supports the bid fully. I cannot be any more specific than that, I am afraid.

**The Chairperson:**

OK.

**Mr McDevitt:**

Chairperson, I share your desire to get a straight answer out of the system at some stage. Mr Harbinson, there is something that is definitely under your control at the moment. Your paper today has figures for the Legal Services Commission (LSC) in year 3 and year 4 of £75.2 million and £75 million. Elsewhere in the paper, you remind us that the baseline against which you are operating for 2012-13 is in fact £79 million. In last week's paper, you gave us a breakdown on



how you proposed to achieve what you describe as savings to deliver of £3.749 million in 2014-15 on that same budget, and £3.399 million in 2013-14. This seems to be an amount of money that has dropped off the edge of the cliff after the Minister made a commitment in a letter on 22 December 2010 that he was going to stand over a £79 million budget. That figure is central to negotiations with the legal profession about the publicly funded legal services. When, out of the blue, did you decide to raid that budget for £4 million?

**Mr Harbinson:**

The Minister always said that the £79 million was the upper limit of that budget. That was the amount that was set by Treasury as part of the devolution process when they increased it for a number of years but then said that they would cut it back to £79 million.

**Mr McDevitt:**

You have been negotiating with the legal profession for about nine months on the basis of a figure of £79 million. Now, in the past two weeks, you have just decided to lose £4 million.

**Mr Glyn Capper (Department of Justice):**

It is important to realise that the savings figure for the Legal Services Commission includes, for example, back office savings of £2 million. So, that sits outside negotiations with the legal profession. A number of elements make up taking that budget from £79 million to £75 million.

**Mr McDevitt:**

OK. Maybe you could give us the breakdown, Mr Capper. Even though you have £79 million, as outlined in the Prime Minister's letter, and it is yours to spend on publicly funded legal services, at what point did you decide, "Actually, no, we are not spending £79 million even though we have been negotiating with the legal profession on that figure for nearly a year. We are going to spend less."? How much less, and what criteria did you apply to come up with those savings?

**Mr Harbinson:**

All our savings proposals have, of course, been based on the outcome of the Budget 2010 process. All budgets and baselines are being reviewed to reflect the money that we have as the

settlement.

**Mr McDevitt:**

Yes, but you have £79 million. That is not a problem; you have that to spend. You have a commitment — I checked it just before I came down here — from the Prime Minister securing that budget. At what point did you decide to raid that for savings, and what criteria did you apply to identify those savings?

**Mr Capper:**

The negotiations with the legal profession are about living within the legal aid budget, which is part of the overall Legal Services Commission's budget. As I said, there are other elements of that budget in which we are looking for savings, for example, back office administration costs.

**Mr McDevitt:**

I accept that. I am sorry for asking the question again, Mr Chairman, but it is quite important. You are reducing the legal aid budget in your latest iteration of your spending plans. What criteria did you apply to arrive at those reductions? How did you arrive at that proposed figure? When did you decide that you were going to do that? The Minister wrote to the legal professions on 22 December and, at that point, he did not talk about savings but repeated the figure of £79 million as being the budget in which they were negotiating.

**Mr Capper:**

Without wanting to repeat myself, the £79 million budget for the Legal Services Commission has a number of elements —

**Mr McDevitt:**

No, I understand. A series of negotiations have been ongoing with the legal professions since devolution. As I am sure you are aware, those negotiations are based on a budget of £79 million. On 22 December, the Minister wrote to the legal professions and reiterated his commitment to negotiate within that budget, not within a reduced budget. However, we do not see a budget of £79 million for publicly funded legal services in the draft spending plans from the Department; we see a budget of £75 million for the whole Legal Services Commission. Again, I understand

that you have heard some back office stuff out of the Legal Services Commission. At what point did you lose up to £4 million, if not more — if I am to follow the rationale of your argument, there is another £2 million, in which case there could be £6 million — specifically from the publicly funded legal services budget? What criteria did you apply to lose that money and when was that decision taken?

**Mr Harbinson:**

The criteria would have been based around the Minister's priorities. We have made it plain that we are trying to achieve the Minister's priorities at all levels. The £79 million is part of the overall DOJ budget. It is then part of the budget that goes to the Northern Ireland Courts and Tribunals Service, which is further split into the legal aid element of that budget for the LSC. Every area has been taking cuts right the way through. The £79 million was set, as you said, as part of the Hillsborough agreement for maximum funding. My understanding is that, throughout the negotiations with the Bar and the Law Society, it has always been indicated that £79 million is the maximum amount of the budget that could be used for publicly funded legal aid services. Each area has been asked to take a cut, and those are the savings that have come up as part of the Budget 2010 process.

**Mr McDevitt:**

So, they have been offered up by Mr Crawford's team?

**Mr Harbinson:**

Yes, through the Northern Ireland Courts and Tribunals Service.

**Mr McDevitt:**

Frankly, I am still very confused. I do not understand how the Minister can write letters saying that he is negotiating around £79 million and Mr Crawford's team can be offering up savings that would undermine that negotiating position. However, maybe that is not a question that you can answer any further.

**Mr Harbinson:**

No. We can get some further detail and write to you.

**Mr McDevitt:**

The specific detail that I would be interested in is the criteria that were applied to seek the reduction, the rationale for the savings and when exactly that decision was taken. I would also be curious to find out where the £4 million to £6 million has gone.

**Mr Harbinson:**

We will find out and come back to you.

**The Chairperson:**

We expected to have that information here today. We recognise the date and where we are with all this. The document states:

“A range of back office and administrative reforms are planned, for example a greater use of IT and case management systems will be deployed to assist staff in the management of cases in a more efficient manner.”

Sometimes, efficiency means redundancy. Does it mean that in this case?

**Mr Harbinson:**

Yes. It can mean that.

**The Chairperson:**

Have you any idea of numbers?

**Mr Harbinson:**

I do not.

**The Chairperson:**

Are we talking about hundreds?

**Mr Harbinson:**

I honestly do not know what they mean in that specific area. A lot of it could mean better workings of the systems that they have. It does not necessarily mean redundancies or reductions

in workforce levels. My understanding is that any reduction in workforce levels across most of the areas that we are dealing with will be met by natural wastage.

**The Chairperson:**

Here we are on the edge of trying to finalise a budget and establishing whether the Committee can make its decision on whether it can support the proposals. We are told that it is not known whether we will get the £200 million. That money is fundamental to the budget, but we cannot have confirmation of whether we are getting it. You could come back here next week and say that you know that we are not getting the money, give us the new position and state the number of redundancies that there will be.

**Mr Harbinson:**

Yes. That would be the exact the position if the Treasury were to come back and refuse it.

**The Chairperson:**

Even if we do get it, you will come back one day and say that there is going to be change.

**Mr Harbinson:**

I am not planning to do that. If we get the money from the Treasury, I am hoping that it will go straight to the PSNI, as indicated. It will be for the Chief Constable to allocate that across the spending priorities.

**The Chairperson:**

The Police Ombudsman's office and the Probation Board indicated that they are likely to face redundancies as a result of the budget proposals. Can you confirm that?

**Mr Harbinson:**

Yes. They have said that that is possible. My understanding is that the ombudsman has also indicated that he will be able to transfer the staff that he would have otherwise lost on his normal funding into the Historical Enquiries Team (HET), because of the additional money that we are putting into the HET. I believe that he now assumes that there will be no redundancies in his area.

**The Chairperson:**

At all?

**Mr Harbinson:**

Yes.

**The Chairperson:**

Will there be 17 redundancies in the Police Ombudsman's office in the final two years?

**Mr Harbinson:**

No. My understanding is that he will redeploy staff with the additional money that he is getting to take through the HET.

**The Chairperson:**

What about the Probation Board, with the loss of 60 whole-time equivalent employees by 2014-15? Will that not happen?

**Mr Harbinson:**

Those are the numbers that the Probation Board has indicated that it would have to meet in a worst-case scenario to live within the budget. However, it is still in discussions with us as to how best to avoid such a situation.

**The Chairperson:**

What was the thinking behind singling those two bodies out for the hit? They might feel that they have been hit the hardest. There must be a reason for that decision.

**Mr Harbinson:**

I think that they were the only bodies that were coming back with positive redundancy numbers.

**The Chairperson:**

Were the other bodies that did not come back all right?

**Mr Harbinson:**

No one else was indicating that they would have redundancy numbers in that sense.

**The Chairperson:**

Regardless of whether they get the money?

**Mr Harbinson:**

What money?

**The Chairperson:**

Are we not talking about budgets for all the bodies across the Department?

**Mr Harbinson:**

Sorry. I assumed, wrongly, that you were talking about the £200 million, which is nothing to do with all this.

**The Chairperson:**

I am not.

**Mr Harbinson:**

My apologies.

**Mr McCartney:**

In your opening remarks, you said that 90% of the budget goes to outside agencies. Does the Department, centrally, ask each of the agencies to come up with a percentage of savings?

**Mr Harbinson:**

Yes. Based on the Minister's priorities, we indicate the level of savings that we need to spread around everyone. We then ask everyone to come up with savings plans and how they would meet those targets.

**Mr McCartney:**

Is it as direct as, say, 3% savings?

**Mr Harbinson:**

No. We generally give them a cash amount of saving that they have to make. They look at their budgets to see where they could cut back or provide efficiencies to create that amount of money.

**Mr McCartney:**

Is there a formula for that cash amount? Or, is it a percentage of the budget?

**Mr Harbinson:**

It is a pretty much a percentage of the budget. As I said before, we decided not to take the salami-slicing approach. Everybody got 5%. Based on the Minister's priorities, we allocated that pro rata. In the last set of information that we gave you, we provided the exact percentage for each area and how much each had to make. It was then up to the spending areas to indicate how they would meet those savings.

**Mr McCartney:**

What was the process of coming up with the initial figure? If the Probation Board says that it will lose 60 staff, does someone do an analysis based on that? Does someone consider that losing 60 staff from the Probation Board might have an impact on reoffending, which will have an impact on the number of people going into custody and the projected budget of the Prison Service?

**Mr Harbinson:**

We look for overlaps. Effectively, we set a level of savings for each area. We began by looking at the Minister's priorities, which begin with protecting the PSNI as far as we possibly can. That determined how much money can go there. By default, that determined the level of savings that we needed to spread around the rest of the Department. Then we worked our way back from the next priority and the next. We worked our way through each of the priorities.

**Mr McCartney:**

When a particular area came back with its savings proposal, did you examine it or take it as was



presented?

**Mr Harbinson:**

We began by asking each of the spending areas to indicate what pressures it would have over the next four years. We then asked what level of savings, what pain, they could take. We asked that initially based on a 5% year-on-year cut. We then had a look at both those issues and the areas where we would meet the pressure bids, either for existing or new services. Most of that money went to the PSNI, as I said. We looked at what else we could fund, and at where spending areas had indicated what level of pain they could take in making their 5% year-on-year saving, and then we did a weighting exercise to try to see where we could get the majority of savings with the least amount of pain.

**Mr McCartney:**

Is there something in the process that allows the Department or the Minister to say to the Probation Board, “To lose 60 jobs is unacceptable, so you need to go back and rejig your proposal and come back with savings that do not kick that many jobs out of the system.”? It could be done in much the same way as what happened with the Police Ombudsman’s office. It might be fine for the ombudsman to say that some of the work will be transferred to the HET so that people will not lose their jobs, but the work of the HET and that of the ombudsman have different impacts. Is there anything in the system whereby the Minister can say that he cannot accept 60 people losing their jobs in the Probation Board?

**Mr Harbinson:**

There is. The system works in such a way that these are the savings the Probation Board has offered up. It has said that that is what it thinks it has to do to make that level of cuts. It will then talk to its sponsoring director, Carol Moore in this case, who will outline the Minister’s priorities and the areas we want to keep, and the Probation Board may have to look at a different area. We may look and see whether within Carol’s budget she can find any additional resources to help out the Probation Board. We are still in that consultation period. The board will be making a lot of representation to see whether it can save as many of those jobs as possible and reduce the impact of the cuts as far as it can.

**Mr McCartney:**

You mentioned Carol Moore. Has she any idea of what should come back, so that it matches?

**Mr Harbinson:**

Carol is the director of that area and lead policy person for it. She will know what the Minister's priorities are within that range of services. She covers the whole of the criminal justice system, so she has responsibility for the Probation Board, the Youth Justice Agency, the Compensation Agency and a range of other bodies that are funded through them.

**Mr McCartney:**

So, at present the Department is saying that it can accept the loss of 60 probation staff?

**Mr Harbinson:**

No. What we are saying is that that is what the Probation Board has told us that it will have to face if it engages this level of cuts. The Minister, through Carol, will talk to the board to see whether there is a way to reduce that impact.

**Mr McCartney:**

How is that signed off?

**Mr Harbinson:**

It will be eventually signed off in the agreed budget and business plan by the time we get to the end of the internal process.

**Mr McCartney:**

Thank you.

**The Chairperson:**

It has been intimated in the past that the Department would provide funding for hearing loss claims. There was considerable return from the Policing Board and elsewhere about that. Where are we on that issue?

**Mr Harbinson:**

The position is that the Department is asked to meet the first £12 million of hearing loss claims each year, and we seek anything above that from the Treasury as a claim on the reserve. The Treasury has agreed to meet claims for hearing loss.

**The Chairperson:**

So, nothing has changed there.

**Mr Harbinson:**

It remains the same.

**Ms Ní Chuilín:**

It is worrying that we were led to believe that £79 million had been put aside for legal aid, but now that figure has changed. The concern is whether other figures are likely to change, given the fact that the Department or a branch of the justice family might amend figures put out by the Minister while consultation on the draft Budget is ongoing. It does not seem like the best way to promote good practice. Are other parts of the Department and arm's-length bodies likely to experience redundancies? I know that two have been mentioned here, but are there any others?

**Mr Harbinson:**

To the best of my knowledge, through the savings plans —

**Mr Capper:**

Based on the information that we got back from each of the spending areas, the two that we discussed — the Police Ombudsman and the Probation Board — have flagged up the need for redundancies in certain circumstances. The core Department and the arm's-length bodies have said that, as far as possible, they will try to absorb cuts through efficiencies and natural wastage.

**Ms Ní Chuilín:**

So, there will be no compulsory redundancies?

**Mr Capper:**

That is our expectation at the minute.

**Ms Ní Chuilín:**

Are you saying that the 1.5% reduction to the voluntary and community sector budget will not lead to any redundancies?

**Mr Harbinson:**

We met the voluntary sector on 12 January, directly after I last met the Committee. The discussion was hosted by the Northern Ireland Council for Voluntary Action (NICVA), and most people were of the understanding that they could cope within that level of reduction. Certainly, no one was flagging it up. I have to say that the voluntary and community sector would always like more money, and they made the point that they could do more if we gave them more money, but, again, what we can afford is determined by the budget.

**Ms Ní Chuilín:**

How much of the Policing Board savings are related directly to the fact that members of the new policing and community safety partnerships, or whatever they end up being called, will not be paid?

**Mr Harbinson:**

The vast bulk of them.

**Ms Ní Chuilín:**

The vast bulk of them. What is the percentage?

**Mr Capper:**

The Policing Board is still working up its final savings. That is the one area on which I do not have detail, so I apologise for that.

**Mr Harbinson:**

It is one of the biggest areas. Again, we will write to you specifically about that. We can ask that

question, but I did not ask for a breakdown in that manner. However, as far as I am aware, it certainly accounts for the bulk of the savings.

**Ms Ní Chuilín:**

Lastly, I looked at annex B on the PSNI's additional security funding. Under police overtime and districts, from 2011-12 going into 2015, it looks like the figures have been applied pro rata to the districts. How is that worked out? Maybe it is unfair of me to ask, but I wonder whether the overtime figure is based on indicative figures or on actual amounts that have been spent before. I ask because each district does not have the same overtime pressures. How are the figures worked out?

**Mr Harbinson:**

Those are the Chief Constable's figures. I cannot comment in detail on them, but I imagine that it is because certain areas require more overtime than others. Each area is not of an equal size, so I imagine that that accounts for the disproportionality of that figure.

**Ms Ní Chuilín:**

For the years 2012-13 and 2014-15, the three districts are asking for the same amount of money. It is just strange that, bar 2011-12, those estimates are almost uniform.

**Mr Harbinson:**

I am sorry, but I just do not know how the Chief Constable has determined or weighted that. Those are his figures.

**Ms Ní Chuilín:**

OK. Thank you.

**Mr Givan:**

I want to touch on the Legal Services Commission element of the budget. It is indicated that the baseline will be £85 million up to the end of 2012-13, at which point it will be reduced to £79 million. In the negotiations that have been ongoing with the legal profession, has the profession not indicated that it can deliver £79 million in the next financial year?

**Mr Harbinson:**

I am not sure that that is the case. There is a time lag in legal aid of almost two years from the time a change is made until it works itself out and the cases coming through are heard and invoiced. So the answer is no, as far as I am aware, but I may be wrong. I am happy to ask Robert Crawford about that specific point. I think that the profession is saying that it can make the changes but that there is a delay in the impact.

**Mr Givan:**

As far as I understand it, and as colleagues have suggested, the initial figure was around £79 million. The Department was not sure exactly how that should be structured. The legal profession designed a scheme that would meet those types of savings and that would target those who primarily deal with very high cost cases and protect those within the legal profession who would not be regarded as big earners. Do you know where those negotiations are at the moment?

**Mr Harbinson:**

I do not know specifically. I know that the Minister and Robert Crawford are having ongoing discussions with the Bar Council and the Law Society, but I could not tell you the exact position. When the budgets of £85 million and £79 million were set, they were set as part of the Hillsborough agreement on the basis of what our budget was at that particular time. Our entire budget, including those amounts, would still have been cut by the overall cuts to the Barnett consequentials. So, we would still have had reductions in those budgets anyway as a result of the impact of the negative Barnett consequentials. To maintain the budget at £79 million would have meant taking more money out of somewhere else, if you understand what I am saying.

**Mr A Maginness:**

I do not understand that at all.

**The Chairperson:**

We are going to have to stop there. We can pick up on that when we come back.

*Committee suspended for a Division in the House.*

*On resuming —*

**The Chairperson:**

The Committee has reconvened. We were with Paul Givan when we broke, so we will start with him again.

**Mr Givan:**

I will finish on the point about the legal profession. Negotiations were taking place in good faith, and it appears that the budget was completed without ever being flagged up with those in the legal profession. They had been designing the scheme and felt that they had delivered a scheme that could get through the legal profession and satisfy what was being asked of them. It appears that those goalposts have now moved. Therefore, the Department needs to be wary of that relationship.

I have two other questions. The paper mentions the business case for Magilligan and indicates that there will be options by early 2011. Do you have any idea when we would see those options, and do they include a PFI scheme?

**Mr Harbinson:**

The project team is currently working on developing the options. Yes, one of the options is a PFI scheme; it has to be. I imagine that it could be in a number of forms, such as a PFI that is just a build and a PFI that involves a build-and-run scenario. Therefore, there will be issues because DFP will expect us to go through every possible option. There might be up to 10 or more options.

**Mr Givan:**

What about your capital allocations? Given that DOJ has retained end-year flexibility, what is not spent in a financial year will be able to be carried over. Therefore, you do not have the same risk as other Departments in not meeting your timescales.

**Mr Harbinson:**

Yes.

**Lord Browne:**

Police pay and allowances will be cut by, I think, £17 million, and payroll costs will be reduced by some £40 million over four years. I find it hard to see how that is compatible with the Department's commitment to maintain the current number of police officers, particularly when we know that police pay is a national issue, not a devolved one. Will that not necessarily involve reductions in police numbers?

**Mr Harbinson:**

It does not involve any reduction in the number. A review of police allowances is ongoing in England and Wales at the moment through the Winsor review, and the Minister will look at anything that comes out of that. I know that Scotland has already made a move to tackle a reduction in police allowances.

**Lord Browne:**

Has the Police Federation been consulted during that process?

**Mr Harbinson:**

The Minister is still waiting to see what happens in England and Wales. After that report comes out, we will have a look at it and take it forward. I am sure that the various police bodies will be involved in that.

**Lord Browne:**

My second question is about Desertcreat. The budget shows that the Prison Service will contribute some £10 million in 2014-15 and that the police will contribute £128 million over the four-year period. Are any other funding streams available for that?

**Mr Harbinson:**

We have the extra £30 million that would have come from the Department of Health, Social Services and Public Safety (DHSSPS). The numbers are slightly artificial in that all the money is now the Department's, and it is paying for it. We have notionally allocated so much for the police and so much for the Prison Service, but, technically, the whole capital build will now be



funded by the Department of Justice.

**Lord Browne:**

Has the Health Department changed its position on its funding of the college?

**Mr Harbinson:**

DFP's decision to give us the additional £30 million means that it no longer has to make any capital contribution at all.

**Lord Browne:**

If that development goes forward, has the Department any plans for the Garnerville site? Has that been figured into the budget?

**Mr Harbinson:**

Yes, it has. The police are getting some extra money from the disposal of the Garnerville and Steeple sites and the Prison Service College at Millisle.

**Mr A Maginness:**

Just as the Division Bells rang earlier, Mr Harbinson, you were talking about the Legal Services Commission and the £79 million. You said that it did not really mean £79 million, or words to that effect. Can you explain what —

**Mr Harbinson:**

I am sorry, but I did not quite say it in that way. I will try to explain what I meant.

**Mr A Maginness:**

It certainly appeared to me that that is what you were actually saying. I hope that I have paraphrased you correctly.

**Mr Harbinson:**

When the Hillsborough agreement was being reached, we were in the SR07 spending review period, which runs until the end of March this year. As part of that agreement, additional money

was put into the baseline for the Northern Ireland Courts and Tribunals Service for publically funded legal aid. That increased the baseline budgets from around £65 million to £85 million. The Treasury indicated that it would want to cut that back at a future date towards £79 million, and it put that in train. All that money forms part of the overall DOJ budget. The overall DOJ budget as a result of Budget 2010 and the negative Barnett consequential impacts of cuts to the Home Office and the Ministry of Justice mean that we are going take a 7.2% reduction in our opening baseline budgets. So the baselines that were set and were in place, including the £79 million as part of the overall DOJ baseline, will be cut by 7.2%.

**Mr A Maginness:**

You said 7.2%.

**Mr Harbinson:**

In cash terms.

**Mr A Maginness:**

The figures that I have show an 11% baseline reduction.

**Mr Harbinson:**

Sorry, which figures?

**Mr Capper:**

I think that Anthony is talking about the overall DOJ budget.

**Mr Harbinson:**

Yes, I am talking about the overall DOJ budget as a whole.

**Mr A Maginness:**

Was any of this ever communicated to the people who were being negotiated with? The fact is that the £79 million did not really represent £79 million as I, as an ordinary person, would expect it to. Really, it was £79 million minus 7%, or, in this instance, 11%.

**Mr Harbinson:**

To the best of my understanding, none of what has been negotiated with the legal profession has changed in terms of the negotiations and the new mechanisms that have been developed for publically funded legal aid.

**Mr A Maginness:**

I just do not understand that answer.

**Mr Harbinson:**

The reform package is about how much people are getting paid per case and how the case is run. We were not changing that. None of that is changing.

**Mr A Maginness:**

The overall target figure was £79 million, and that was agreed. The legal people came up with proposals to meet that target, and the Department seemed to suspend or stop negotiations at that point, despite the fact that that had been achieved. To the best of my knowledge, there has been no communication since. Now the figures seem to indicate that, in fact, £79 million is not £79 million at all.

**Mr Harbinson:**

During the break for the Division, I tried to find out some more detail. My understanding is that there was a communication last week to the Committee explaining the move between the £79 million and the £75 million.

**Mr A Maginness:**

To this Committee? I am not aware of that, but others may be. I just think that, if you negotiate a figure of £79 million or whatever in good faith, that is the figure. If people meet that figure, you regard that as an agreement. There now seems to be a stepping back from this, which indicates to me that the negotiations are not being conducted in good faith. I hope that they are being conducted in good faith, but that certainly does not seem to be the position.

**Mr Harbinson:**

I can assure members that all the DOJ's negotiations with the legal bodies are conducted in good faith. However, there is also a recognition that our budgets have been cut and are reducing as a result of Budget 2010.

**Mr A Maginness:**

That would be fair enough if people were told that the figure of £79 million may have to be pared back because of the Budget. As far as I aware, that has not been indicated. I will leave it there.

**Mr McDevitt:**

Could I ask a supplementary question on that point? The Minister wrote to the legal profession on 22 December to affirm the £79 million figure. On what date did you submit your spending plans to the Department of Finance and Personnel?

**Mr Harbinson:**

23 December.

**Mr McDevitt:**

Therefore, the Minister was able to write that letter saying that £79 million was OK the day before you submitted your spending plans. Would he not have known that he whacked £4 million out of the budget?

**Mr Capper:**

I am not sure of the context of that letter, but the Minister's point may have been that the ongoing negotiations with the legal profession were about a package of reforms to bring legal aid down to a reduced baseline. Those negotiations still stand, and the costs that are being negotiated are part of the total legal aid budget and the Legal Services Commission budget. As Anthony said, the budget falls as a result of Barnett consequentials, and there is a need to make other savings from that budget. Areas such as back-office savings and so on come in at that point. They do not affect the ongoing negotiations on Crown Court remuneration and so on.

**Mr McDevitt:**

I have got that, Mr Capper, and I understand that it is not £4 million but probably more like a £6 million or £7 million saving when you aggregate the proposed reduction to the legal aid budget and the back-office savings. However, I do not understand how the Minister can be allowed to sign a letter on 22 December that says that he is still negotiating within the £79 million if, on 23 December, you submit draft spending plans that clearly cannot honour that commitment.

**Mr Harbinson:**

As I said in response to the earlier questions, we will look at that and will write to the Committee with the detail.

**The Chairperson:**

We are told that there will be no reduction in police numbers as a result of the PSNI budget. However, there will be a reduction of 6.3% in the budget. What will that impact on? Will it impact on front line services?

**Mr Harbinson:**

No.

**The Chairperson:**

How will the saving be found?

**Mr Harbinson:**

The police have outlined a range of areas, including back-office functions and support functions, that they intend to cut to protect front line services. When we get confirmation of the additional £200 million, it will probably lead to an increase in police numbers rather than a reduction.

**The Chairperson:**

The baseline reduction is still 6.3%. To make the front line work in any organisation, back-room staff are needed too, are they not?

**Mr Harbinson:**

They are. However, there is a civilianisation programme running in the police to move uniformed officers out of admin posts and back into front line services and to replace them with cheaper civilian staff. Again, that has a major impact on the cost of back-office support.

**The Chairperson:**

There will no change to front line policing and no reduction in numbers. Therefore, police personnel numbers, although not protected as such, will continue as they were regardless of the 6.3% reduction?

**Mr Harbinson:**

The paper contains a breakdown of how the police will make up their element of those savings.

**The Chairperson:**

So, support service costs fall in year two, rise again in year three and fall again in year four?

**Mr Harbinson:**

No; those are savings. There will be a saving of £11.1 million in 2011-12 and a saving of £8.5 million in 2012-13.

**The Chairperson:**

And there will be savings of £12.7 million in 2013-14 and £9.9 million in 2014-15.

**Mr McCartney:**

I want clarification on a point. The report outlines redundancies in the Police Ombudsman's office. It contains a very straightforward statement:

“The current plans are based on the need for a total of 17 redundancies in the final two years of Budget 2010.”

However, when the report mentions redundancies in the Probation Board, the language used is different:

“Current savings plans include reducing staffing levels by the equivalent of 60 whole time equivalent employees...through natural wastage and redundancy.”

Is that actually saying that there will be 60 job losses?

**Mr Harbinson:**

The reason that the language is slightly different is that it is the language of the sponsor bodies. My understanding is that it is 60 whole-time equivalents, but that figure might be made up of part-time staff as well. I am not sure. Normally, when we use the term “whole-time equivalent” that is what we mean. My understanding is that the Probation Board meant 60 people.

**Mr McCartney:**

Does natural wastage mean losing staff who are of pensionable age and those on short-term contracts?

**Mr Harbinson:**

Yes, it would include those who get different jobs and move on. For example, a social worker could move back to the Health Service rather than remain in the probation service. We are still working with the Probation Board, and we hope to reduce that number. As far as possible, our aim is to have no compulsory redundancies in the system.

**Mr Buchanan:**

Your report states that:

“A number of initiatives are under consideration to generate additional income.”

The debate today has focused on cuts to the departmental budget, but that statement suggests that there is a change in emphasis. What are those initiatives, and how much additional income are they likely to generate?

**Mr Harbinson:**

Those figures are provided in the income generation column in one of the tables in the paper.

**Mr Capper:**

They increase by approximately £0.5 million each year.

**Mr Buchanan:**

Fair enough, but what are those initiatives? We may have the figures, but what new things will be done to generate that income?

**Mr Harbinson:**

Those initiatives will involve the police charging for services. I do not have the specific detail on what that will involve, but I certainly can ask them what services they feel they could charge for.

**Ms Ní Chuilín:**

That is strange. Has that ever been done before?

**Mr Capper:**

The police currently have an income stream. It is relatively small in the context of their budget and amounts to only a couple of million pounds each year — I do not have the exact figure. The initiatives will look at ways of increasing that figure to supplement the existing income stream.

**Mr Harbinson:**

It will probably involve charging for things like licensing, where the police can charge an admin fee for the services that they administer. I can talk to the sponsor branch to find out what the PSNI had in mind and write to you.

**The Chairperson:**

You have provoked Mr McDevitt again.

**Mr McDevitt:**

He has; I am really sorry about this Chairperson. *[Laughter.]* In other jurisdictions, the police charge sporting organisations for the policing of major sporting events. The police could also, dare I say it, charge marching organisations for policing those events. Are any such proposals on the table?

**Mr Harbinson:**

I do not think that the initiatives would involve those types of activities. Given the level of policing at some of our sporting occasions, the organisations would simply not be able to pay the charges involved.



**Mr McDevitt:**

OK. Thank you.

**The Chairperson:**

You said that there will be no forced redundancies.

**Mr Harbinson:**

I said that there will be no forced redundancies in the PSNI.

**The Chairperson:**

But there could be voluntary redundancies?

**Mr Harbinson:**

No, not among uniformed police officers. I actually see there being an increase in the number of uniformed police officers.

**The Chairperson:**

Have any redundancies been budgeted for and included in your strategy?

**Mr Harbinson:**

The non-uniform side of the PSNI is looking at natural wastage and not filling some civilian posts.

**The Chairperson:**

We are thinking of organisations such as the Probation Board.

**Mr Harbinson:**

Only two organisations have indicated that there would be compulsory redundancies — the Police Ombudsman's office and the Probation Board. The Police Ombudsman's office has now said that, because it will get slightly more money overall than it had before, it will transfer the workforce that worked on one area into the new area. Therefore, there will now be no redundancies. The Probation Board has indicated that there could be up to 60 compulsory

redundancies. We are working with the board, and we want to try to reduce that to the point where natural wastage will cut in and it will not have compulsory redundancies. However, at the moment, that is the only area that is indicating that there could be compulsory redundancies.

**The Chairperson:**

It take it from that reply that no figures have been factored in for that.

**Mr Harbinson:**

No.

**The Chairperson:**

So, we could have a problem.

**Mr Harbinson:**

No, because we do not believe that we will enter into the area of compulsory redundancies. We believe that the savings that we need to make will be made through natural wastage in all other areas. I do not believe that there is a problem that will suddenly jump up and result in a compulsory redundancy scheme.

**The Chairperson:**

We would value a phone call or a text message from you on the £200 million.

**Mr Harbinson:**

I know that the Minister will be in touch with you directly to let you know that information. I am sorry that I cannot give you any more concrete information at the moment.

**Mr McCartney:**

Do not show any preference in the text message, because we all want to be in the news.  
*[Laughter.]*

**The Chairperson:**

You may find out that we all want it for different reasons.

Thank you very much for your attendance.