

Point 3 - Members considered the enclosed response from UUEPC to the Committee's Call for Evidence on the Bill and would request a response from the Department to the issues raised.

UUEPC Comments

- **Clause 2 Main Functions** - There is no specific timeline for publication of reports (e.g., within X working days from publication of Budget or at the very least "within the typical public consultation period"). There should also be a requirement to make supporting data publicly available to aid transparency and wider analysis by researchers, media and the public.

Departmental response –

- The legislation has not specified a timeframe for publication to provide flexibility as this may vary according to the type of report. However, the Bill does state that all reports should be published 'as soon as practicable' and within a legal context this is a binding obligation where the Council should act without undue delay. It is a term used in other legislation such as the Insolvency Order 1989, the NI (Executive Formation etc.) Bill, and the Human Rights Commission – statutory functions.
- Schedule 1, Part 4 also requires the Council to publish a data statement. The current Council do publish data and have established a databank online. They also publish technical reports, providing further details on the use of data.

UUEPC Comments

- **Clause 3 Budget Assessment Reports** - The timeline for reporting is "as soon as practicable after budget publication". This could perhaps be more specific. Also, given precedent in GB, should the NIFC have access to the budget in advance to provide an assessment in timely manner (as per OBR)?

Departmental response –

- As above, the same legal standard applies to the 'as soon as practicable'.
- It would be helpful if it could be clarified the access which OBR have which EPC consider could be replicated for the Fiscal Council.
- In this context, it is important to note that the Budget process here is very different from a UK Budget, both in terms of the extent of the decisions taken i.e. wider fiscal policy, taxation matters etc. and the process itself, where with multi-party Executive (as distinct to a single party government).
- However, under the current arrangements, DoF copy to the Council any commissioning letters that are issued to Departments on Budget and Monitoring exercises, or any ad hoc exercises as they arise. The Council will receive copies of AME forecasts sent to UKG. The Council will also receive any Finance Directors and Dear Accounting Officer letters issued to Departments relating to budget and in year monitoring matters, and any other relevant correspondence pertaining to the budget process. Departments also copy their budget and monitoring

submissions being sent to DoF to the Council as well. DoF endeavours to respond to any ad hoc requests from the Council as quickly as possible.

UUEPC Comments

- **Clause 4 Fiscal Sustainability Reports** - The legislation currently gives the Council flexibility but there is an argument that perhaps every 5 years is too infrequent and could be reduced to 3 years. This reflects recent history with economic shocks, changes in government and a need to align with Spending Reviews. Separately, the non-recommendation rule (in Clause 6) could potentially limit comparative or what-if analysis.

Departmental response –

- It will be a matter for the Council to decide on the best point in which an overall sustainability report should be drafted – should there be circumstances which give rise to this, such as economic shocks, it would be anticipated that the Council would move to do a general sustainability report in that instance. The legislation however provides the flexibility that if it is more ‘steady state’, that a generic sustainability report would only be required every 5 years if it was considered there wasn’t significant changes to report on, with a thematic report then each other year.
- Clause 6 is to ensure that the role of Executive Ministers as policy decision makers is protected.

UUEPC Comments

- **Clause 6 How the Council performs its functions** - Although the Council should consider policy effects but not make recommendations (i.e. that is a political decision), is there a risk this could be interpreted in a way that restricts comparative and what-if/ sensitivity analysis? The desire should be to give explicit support for a menu of options.

Departmental Response –

- The Department believes that Clause 6 provides enough flexibility for the Council, whilst protecting the role of Executive Ministers. As per clause 6(4), the Council can consider the effect of published or proposed policy.

UUEPC Comments

- **Schedule 1 Part 1 (Status; general powers; efficiency)** - The requirement for “efficiency” should apply to all public bodies always and therefore, for balance, it should also be made clear that the Council be given sufficient resources to discharge its functions to an appropriate standard.

Departmental Response –

- The Department agrees all public bodies should be ‘efficient’. The Council will prepare costs and submit them to the Department. These will then be considered and discussed with the Sponsor Branch and included in the Department’s overall estimate presented to the Assembly. The Council will need to request a level of

funding which reflects the resourcing they consider is needed to discharge its functions.

UUEPC Comments

- **Schedule 1 Part 2 (Membership and staff)** - No quorate levels have been set for meetings. A Chair plus two members seems low to bring a range of opinion to the Council, perhaps a minimum of Chair plus four members could be considered. The appointment and dismissal of council members rests with the Department of Finance, which raises a potential conflict of interest, as DoF has appointment control over the organisation that is to independently analyse and critique its work. Could appointments be confirmed by the Finance Committee to bring some independence?
- **Schedule 1 Part 3 (Committees and authority to perform functions)** - As above, no quorate levels have been set for meetings.

Departmental Response –

- The quorum, given it is an operational matter, will be set by the Council within their standing orders/operating manual, which is considered more appropriate than specifying in legislation. An example to illustrate this is the NI Act 1998 which states standing orders are required for the Assembly – these standing orders (not in legislation) cover quorums.
- In relation to appointment/dismissals, the Bill sets out clearly how and when these would be appropriate. The Department will not be able to appoint or dismiss outside of this legislation. The Chair and member appointments will also be made in line with the Commissioner for Public Appointments' Code of Practice, which will include an Independent Assessor, allocated by the Commissioner, on the selection panel.

UUEPC Comments

- **Schedule 1 Part 4 (Information and disclosure)** - There are no timelines for DoF (or other departments) to provide data/respond to data requests. Also, no route to escalate reasonable data requests if access is delayed/denied (e.g. could this be reported to the Assembly or Finance Committee?). In addition to a right to request/receive information, there should also be a responsibility for NIFC to make detailed information publicly available to support transparency. Perhaps not possible, but is there a way to legislate for HMT and HMRC to facilitate reasonable information requests?

Departmental response –

- The legislation enables the Council with the right to access all government information required for the purpose of the performance of its functions. Memorandum of Understandings (MoU) were signed between the Council and all Departments and the NIO. These set out the arrangements for the regular exchange of information including information requests and timeframes to be

responded to by Departments. The MoUs will be reviewed once the Council is in statute.

- Should Departments fail to comply with this access to information, this will be escalated within the organisation and to the Departmental Minister, if necessary. Any non-compliance can be raised by the Council to the Permanent Secretary/Minister of Department and then to Executive/Assembly. There will also be Committee scrutiny and the option of the Council taking a judicial review (a well-established process).

UUEPC Comments

- **Schedule 1 Part 5 (Reporting and review of performance)** - The terms of reference of the review and the individual appointed to conduct that review are to be determined by the Council itself. This impacts the independence of the review. Is this a role for the Finance Committee?

Departmental response –

- The OECD principles state that fiscal institutes should develop a mechanism for external evaluation of their work. Therefore, it is right and proper that the Council would draft the Terms of Reference (ToR) for the review, which will be carried out by an external person/body. However, the Bill does state that Council should consult on this ToR and it would be anticipated that that this would include the Department and Finance Committee (either via the Department or directly).

UUEPC Comments

- **Schedule 1 Part 6 (Finance and funding)** - The Council is to be funded by DoF, this could also be seen to impact independence (similar to Schedule 1 Part 2 point above).

Departmental Response –

- The Department has provided more detail on the funding model to the Finance Committee in its correspondence dated 18 September 2025.

UUEPC Comments

- **Schedule 1 Part 7 (Initial membership)** - This approach seems reasonable to ensure continuity at least in the short term, but if appointments are to be confirmed by the Finance Committee (see comment to Schedule 1 Part 2 above), then it may be appropriate for initial members to be similarly confirmed. Separately, there needs to be consideration to the timing of departures and new appointments to ensure significant Council experience is not lost in a short period of time. Perhaps phased appointments with one appointment (and departure) each year over the 5-year term of a chair.

Departmental Response –

- All appointments to date have been notified to the Finance Committee. The Department agrees that phased timings of departures is helpful and is planning for this approach.