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Matthew O'Toole MLA
Chairperson
Committee for Finance

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Dear Matthew,

Views of the NI Fiscal Council on the Administrative and Financial Provisions Bill

Thank you very much for your letter of 22 July, in which you invited the Fiscal Council to provide a written response to the Finance Committee in respect of the Administrative and Financial Provisions Bill, which is currently in Committee Stage.

I note that the Committee is especially focused on three clauses relating to the NIAO's external auditor, the investment fund and the proposed increase to the 2 per cent limit on Consolidated Fund advances. The Council here makes some comments on the latter two of these and on some other clauses that may be of interest to the Committee.

It would not be appropriate for us to determine whether the new powers proposed for Economy, Education and The Executive Office are the best policy choices. However, our mission of supporting greater transparency and understanding of NI's public finances is relevant to some of the subsidiary provisions. As a result, the Council agrees with the general principles of the Bill which among other things aims to regularise 'black box' expenditure otherwise under the sole authority of the Budget Bill, and to address legislative gaps. The proposed additions to legislative provision and transparency are worthwhile and the focus on enhancing the recovery of costs via charging of fees (for Agriculture, Tourism NI and the Housing Executive) is valuable towards improving the fiscal sustainability of those public services.

The Investment Fund

Clause 1 transfers management of the NI Investment Fund from SIB (which sits under TEO) to Finance. In a similar vein, Economy is to be granted some additional lending powers. These

changes are designed to resolve the temporary solutions where Finance and Economy were obliged to route funding through TEO into SIB (and in the case of Economy – historically set up companies indirectly via InvestNI) due to gaps in the legislative vires of the Executive departments.

The Explanatory and Financial Memorandum notes that “The introduction of this clause will improve accountability, regularity and propriety in the use of funding provided to the Investment Fund”. To this we would add that the new provisions also improve transparency.

The temporary arrangement of routing this funding from both Finance and Economy through TEO and SIB was a practical administrative solution, but this added complications to the flows of finances. We have noted frequently that large internal allocations to TEO can have a disproportionate apparent impact on its year-on-year budget position, due to its relatively small budget envelope.

The Council is supportive of the simplification of these funding pathways which enhances transparency and ease of understanding.

The Committee may wish to probe whether the legislative provisions here and in relation to FTC (see below) are futureproof in relation to any potential solution to the Casement Park funding process.

Increase of the limit to advances from the Consolidated Fund

Clause 18 increases the limit on advances that DoF can make from 2 to 4 per cent.

The Council is on the record as saying that the flexibility in our own mandate has been vital to our ability to adapt to different political and administrative situations. The response to Covid appears to have highlighted that the 2 per cent limit could in certain circumstances legally prevent Finance from taking sensible actions. Given the large proportion of the overall funding for that year that was Covid-related, it seems pragmatic to make provision for future scenarios where similar funding needs might arise in the absence of an Executive.

However, emergency powers like this are not necessarily very transparent, and all the more so in the absence of functioning political administration. We have not always found it easy to piece together information from what is available in the public domain. The Committee might wish to suggest that the Committee itself (if sitting) receive a public briefing on any such advances, or in the absence of the Assembly, that Finance write publicly to the Secretary of State or on their website setting out the detail of the advances.

Other provisions: use of FTC and increases to fees and charges

The Council notes the proposed addition to Economy’s powers in order to allow that department to make FTC loans.

We have highlighted several times that FTC has historically often been underspent due to the difficulty of the Executive (as with the other Devolved Administrations) to use make use of this type of funding. We have recently noted that the UK Government’s new fiscal rules may incentivise greater use of FTC going forward, given that loans and equity shares can now be counted as assets on the balance sheet for the purposes of calculating net borrowing.

Consequently, the Council is supportive of changes in powers that might allow Executive to make better use of FTC funding in future.

Clauses 15-17 include fees and charges. The Council has recently produced a technical paper which relates to this area. In our initial Guide we were unable to estimate with a degree of confidence what proportion of fees and charges were really additional spending power, given that departments often charge each other or other public organisations for services. We have carried out a one-off piece of work to provide a broad estimate of the proportion of charging that is effectively 'circular' within the Executive's budget. Our main finding is that slightly less than 20 per cent of departmental fees and charges came from within the Executive – so four fifths of charges are brought in from outside.

This demonstrates that there is a very significant contribution to the Executive's funding coming from fees and charges. If fees and charges are set at the correct level (i.e. full cost recovery as defined in chapter 6 of Managing Public Money NI) they can have a role to play in the long-run sustainability of the public services they fund. By extension fees and charges contribute to the stability of the Executive's finances.

Sir Robert Chote

Chair of the NI Fiscal Council