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Matthew, a chara

COR-1335-2024: FINANCIAL PROVISIONS BILL & FISCAL COUNCIL BILL

At the Executive meeting on 13 June 2024, I sought agreement that I would bring forward two new pieces of legislation to the Assembly - a new Financial Provisions Bill and a Fiscal Council Bill.

The purpose of the Financial Provisions Bill is to bring forward a number of legislative changes that Departments require for routine, non-controversial financial matters. The Fiscal Council Bill will seek to provide the statutory basis for the work of the Fiscal Council.

I am pleased to inform the Committee that the Executive agreed my proposals and as such I am writing to provide the Committee with the attached paper which provides a brief outline of the content of these two Bills. I also attach a copy of the Fiscal Council policy document which was approved by the Executive.

I, and my officials, will keep the Finance Committee updated as necessary and I look forward to working closely with the Committee on these Bills as they progress through the legislative process.

Is mise le meas,

A handwritten signature in black ink, appearing to be 'C. Archibald', written on a light blue rectangular background.

DR CAOIMHE ARCHIBALD MLA
MINISTER OF FINANCE

FINANCIAL PROVISIONS BILL & FISCAL COUNCIL BILL

BACKGROUND PAPER

COMMITTEE FOR FINANCE

21 June 2024

Business Areas: **SUPPLY DIVISION**
 STRATEGIC POLICY & REFORM DIVISION

Issue: **To advise the Committee that the Executive has agreed that DoF bring forward a Financial Provisions Bill and a Fiscal Council Bill.**

Restrictions: **None.**

Action Required: **To note.**

Introduction

1. The purpose of this briefing paper is to inform the Committee of the Executive's agreement that DoF bring forward a Financial Provisions Bill and a Fiscal Council Bill.

Financial Provisions Bill

2. DoF periodically prepare a Financial Provisions Bill on behalf of Departments. The purpose of these Bills is to bring forward a number of legislative changes that Departments require for routine, non-controversial financial matters.
3. Minister Archibald wrote to Executive colleagues on 3 June 2024 advising of her intention to bring forward a Financial Provisions Bill.
4. The Financial Provisions Bill will bring forward new legislation on behalf of 7 Departments, these being DAERA, DFC, DFE, DFI, DE, DoF and TEO, with 17 new legislative provisions being taken forward on a diverse range of issues. A summary table of the proposals is included in Annex A. The DoF provisions within the Bill are as follows:

- Financial Transactions Capital

5. The Executive introduced the NI Investment Fund in 2017 to provide a funding source for the purposes of stimulating the economy and delivering economic growth. DoF has been overseeing this fund. The funding has been made available to the Investment Fund via the Strategic Investment Board (SIB) who are an ALB of TEO.
6. This has been done as SIB have the legal vires to make loans, a power which DoF does not have. While these arrangements have been successful to date, in delivering the objectives of the Fund, the intention when the Fund was initiated was that this would be a temporary arrangement until such times as DoF obtained the necessary powers.
7. It is felt that the Financial Provisions Bill would be a suitable opportunity to provide DoF with the statutory power to issue loans to the Investment Fund. This would improve accountability, regularity and propriety in the use of FTC funding. TEO are in agreement that this power should be provided to DoF.

- Appointment of the NIAO External Auditor

8. The appointment and duties of the Auditor of the Northern Ireland Audit Office are governed by the Audit (Northern Ireland) Order 1987 (the Order), which provides that DoF appoint an external auditor for the NIAO.
9. In essence this requirement means that DoF are required to run procurement exercises to appoint a suitable firm to act as external auditor for the NIAO. However, under an extra statutory provision this appointment is made by DoF on the endorsement of the Audit Committee of the NI Assembly. With the exception of administratively running the auditor procurement competition after appointing the successful firm and advising the Audit Committee accordingly, DoF plays no further role in managing the audit process. NIAO liaise on an operational basis with the appointed firm to ensure that their accounts are audited, while the NI Assembly Audit Committee may require the firm to attend one of their meetings to discuss the NIAO's annual audited accounts.
10. DoF wishes to amend the Audit (Northern Ireland) Order 1987 to transfer the responsibility for the appointment of the external auditor of the NI Audit Office (NIAO) from DoF to the NI Assembly Audit Committee.
11. All parties (DoF, NIAO and the Assembly Audit Committee) have agreed in the past that responsibility for the appointment of the external auditor to the NIAO should be transferred to the Assembly Audit Committee and that the Financial Provisions Bill would be a suitable vehicle to do this through.

- Increase limit on advances from Consolidated Fund for contingencies

12. The power to make such advances from the Consolidated Fund is contained in Section 6 of the Financial Provision (Northern Ireland) Order 1998. When this Order was drafted it was intended to deal with situations whereby departments might have sudden unexpected additional expenditure in the event of major events, e.g. foot and mouth disease, or COVID, etc. This is to allow additional expenditure to take place quickly, without there being a delay due to the time it takes for a Budget Bill to be taken through the Assembly. Currently the limit to such an advance is 2% of the authorised supply expenditure from the previous financial year.

13. The proposal is that the Financial Provisions Bill is used to increase the limit to 4%. Increasing the limit is viewed as a sensible measure to provide further security and flexibility to deal with unexpected demands that arise.

Financial Provisions Bill - Next Steps

14. The Executive has now agreed that DoF brings forward a Financial Provisions Bill. My Department will now engage with the Office of Legislative Counsel to begin drafting the new legislative provisions.
15. My officials have engaged with counterparts in the other Departments and asked them to undertake any public consultation, regulatory impact assessments and equality impact assessment over the summer months, if these are required. It is intended that the Bill will be brought to the Assembly in the latter half of 2024.

Fiscal Council Bill:

16. In March 2021, the previous Executive agreed the Terms of Reference to establish the Northern Ireland Fiscal Council. The Council has been operating successfully to date; however, this Bill will underpin the work of the Council on a statutory basis, safeguarding its independence as well as ensuring it access to information, which are both vital to its role. The Bill will also provide detail on its operational matters.
17. The Executive approved the policy for the Bill and the continued engagement with Office of the Legislative Counsel (OLC) to continue drafting on 13th June 2024. The Bill has been included in the Executive's legislative programme for this year.
18. The aim is that drafting will be completed and the Bill introduced prior to the end of this year; however, it is appreciated that the legislative programme must be managed across the Executive as a whole.
19. In addition, there is a need to be mindful of OLC's significant workload since the Executive returned earlier this year.
20. Departmental officials are continuing to engage and cooperate with OLC to ensure that the legislation will be clear, robust and unambiguous.

Annex A: Financial Provisions Bill: List of Proposed Provisions

Department	Provision	Summary	Public Consultation
DAERA	Marine Licensing Amendments	To provide DAERA with greater powers to charge fees for aspects of the Marine Licensing process.	9 July – 31 August 2024
DFC	Housing: Tenancy Fraud	To enable the Housing Executive to carry out tenancy fraud investigations on behalf of the Housing Association sector and charge a Housing Association for the investigation service.	16 July – 9 September 2024
DFE	Financial Assistance	Power to provide financial assistance where it is likely to be in the interest of the economy of Northern Ireland (including grants, loans, guarantees, indemnities and others.	6 July – 1 August 2024
DFE	Fees (related to Tourism Northern Ireland inspections)	Power to exempt or remit certain fees, or to introduce new fees, for Tourism Northern Ireland.	6 July – 1 August 2024
DFE	Mineral and Petroleum Accounts	DFE wish to secure a provision which allows for the mineral and petroleum accounts to be absorbed into the departmental accounts.	6 July – 1 August 2024
DFE	Formation of a Company	To give DFE power to form a company.	6 July – 1 August 2024
DFE	Amend Employment & Training Act (1950)	To bring this section into line with the standard approach to DoF approvals.	6 July – 1 August 2024
DFI	SmartPass Fees	To introduce fees for the application, renewal and replacement for SmartPasses issued under the Concessionary Fares Scheme.	Completed August 2023

DE	DECAP	To allow DE to approve and provide the funding to the Education Authority for the Doctorate in Educational, Child and Adolescent Psychology (DECAP) programme.	Not Required
DE	Government Indemnity Scheme	Transferring responsibility for the administration of the Government Indemnity Scheme from the Department of Education to the Department for Communities.	Not Required
DoF	Appointment of the NIAO External Auditor	To amend the Audit (NI) Order 1987 to transfer the responsibility for the appointment of the external auditor of the NI Audit Office from DoF to the NI Assembly Audit Committee	Not Required
DoF	Financial Transactions Capital (FTC)	To provide DoF and DFE with the legislative authority to issue FTC loans.	Not Required
DoF	Advances from Consolidated Fund	To amend the Financial Provision (NI) Order 1998 thereby increasing the 2% cap to 4%. Thus increasing the amount of the previous years financial provisions that can be advanced to the Executive for contingencies.	Not Required
TEO	Refugee and Asylum Seeker Payments	To give TEO the legal authority for the function of making grants to, or contracting persons to, provide support and integration services for those in NI seeking refuge including (i) refugees (ii) those seeking asylum and (iii) those arriving under a scheme or policy established by the UKG.	Not Required

TEO	Victim and Survivor Support Services grants	To allow TEO to authorise grants to bodies or persons to provide relevant support services for victims and survivors of (i) Historical Institutional Abuse (ii) Mother and Baby Institutions, Magdalene Laundries and Workhouses	Not Required
TEO	Public Appointments - Board Training and Placement Programmes	To give TEO the legislative vires to provide training to potential and existing Board members and placements.	Not Required

FISCAL COUNCIL BILL

**BRINGING TRANSPARENCY AND INDEPENDENT
SCRUTINY TO PUBLIC FINANCES**

POLICY DOCUMENT

Drafted 2022

Revised 2024

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Introduction

1. As a result of the commitment made in the New Decade New Approach¹ document, the NI Fiscal Council was established on a non-statutory basis in March 2021.
2. The Executive agreed to the formation of the NI Fiscal Council on 11 March 2021, including the chair, membership and Terms of Reference². The Minister of Finance announced it to the Assembly on 12 March 2021.
3. The NI Fiscal Council is a permanent body which will bring greater transparency and independent scrutiny to the current and future state of Northern Ireland's public finances. The Council has been established based on the nine broad principles recommended by the Organisation for Economic Co-operation and Development (OECD) for Independent Fiscal Organisations³.
4. In accordance with these principles, and in line with international best practice and similar to other devolved administrations, the Fiscal Council Bill will seek to establish the Council on a statutory basis and provide a legislative framework to underpin the work. The Bill will set out the functions of the Council, safeguard its independence and ensure its access to information. In addition, the Bill will deal with operational matters regarding annual reports, membership, finance and staffing.
5. The purpose of this paper is to set out further background information regarding the Bill and the detail within the proposed legislative framework, including the relevant impact screening documents.

¹ https://assets.publishing.service.gov.uk/government/2020-01-08_a_new_decade_a_new_approach.pdf

² <https://www.nifiscalcouncil.org/publications/initial-terms-reference>

³ <https://read.oecd-ilibrary.org/governance/principles-for-independent-fiscal-institutions>

Work to date

6. The appointments to, and early work of the Fiscal Council were taken forward under the authority of the Budget Act (2021)⁴, consistent with the ambit of the Department of Finance, and in line with its statement of purpose as set down in the Department's Estimate, which is: *"To help the Executive secure the most appropriate and effective use of resources and services for the benefit of the community and deliver quality, cost effective and efficient public services and administration in the department's areas of executive responsibility."*
7. Since the formation of the Fiscal Council, led by Sir Robert Chote as Chair, it has produced 14 reports, assessments and technical papers on budgets, sustainability, relative need and in-year monitoring.
8. In February 2022, the Fiscal Council Stakeholder engagement report outlined the extensive consultations which had taken place with over 30 different stakeholder organisations and individual stakeholders. This facilitated an understanding of the perceived strengths and weaknesses of public finance management, and the reporting and scrutiny in Northern Ireland.
9. When establishing the Council in March 2021, draft Terms of Reference (ToR) were published, which were approved by the Executive and shared with the UK Government, in line with the NDNA commitment.
10. The Council were keen to seek views on the initial ToR, as part of the Fiscal Council's wider consultation with the extensive range of stakeholders. During this consultation, stakeholders were broadly content with the initial version of the ToR and on that basis, the Council indicated that they did not see any need to change the draft ToR.
11. The UK Government originally proposed some amendments to the ToR. Given the Council's position on the ToR, officials engaged with NIO counterparts

⁴ <https://www.legislation.gov.uk/nia/2021/4/contents>

regarding the suggested changes, and it was agreed that, given the impending development of the legislation and the envisaged engagement with the UK Government, it was unnecessary to amend the ToR as published.

12. In addition, the 2014 Stormont House Agreement had previously committed the Executive to “examining a range of taxes ... to consider whether devolution could result in any clear economic or social benefit for Northern Ireland”. In this regard, the Fiscal Commission was established at the same time as the Fiscal Council in March 2021, to carry out a comprehensive review of the case for increasing the fiscal powers available to the Assembly. The Commission reported in May 2022 putting forward recommendations on powers to enhance the Assembly’s fiscal responsibilities. The report sets out 23 recommendations which provide a comprehensive framework for implementing enhanced fiscal devolution. The report sets out the risks and the rewards which devolution can bring, as well as considering some of the fiscal tools that can help manage those risks. It will be for the Executive to consider these recommendations, and this may have implications for the role and functions of the Fiscal Council functions if more powers are devolved.

13. In August 2022, this policy document, setting out the legislative framework for the Bill, was approved by the former Finance Minister. Subsequently, the former Finance Minister circulated this document to the then caretaker Ministerial colleagues and the NIO to seek initial views. A number of comments were received, and these have been incorporated into this document.

Consultation

14. Upon establishment, the chair and members of the Fiscal Council developed a communications and engagement plan to clearly articulate the remit of the Council and engage with relevant stakeholders. This included a range of consultations with the Executive and MLAs, Government officials, economic commentators including the media, business and their representative bodies.

15. The Fiscal Council carried out extensive consultation in three key areas: independence, education and process, however the consultation did not restrict stakeholders to these specific areas. The consultation questions are provided below however the report also summarises other recurring views:

- i. What do you see as the main strengths and weaknesses of current reporting and scrutiny of Northern Ireland's public finances? How might we expand or improve the public finances data that are currently available?*
- ii. How should we assess "the Executive's revenue streams and spending proposals and how these allow the Executive to balance their budget"? When in the year (or during the budget process) would this be most useful?*
- iii. How best can we assess "the sustainability of the Executive's public finances"? How would you interpret sustainability in this context? When would publication of this analysis be most useful?*
- iv. Given the requirement placed on us to assess "the effectiveness of long-term efficiency measures", what sorts of measures should we aim to look at and should we try to quantify their effectiveness?*
- v. Are there any other ways in which you think we could increase public awareness and understanding of the public finances?*
- vi. Do you have any suggestions regarding the long-term structure and role of the Fiscal Council that the Executive and Assembly should take into account when the time comes to prepare its underpinning legislation?*

16. The policy consultation carried out by the Council was extensive and with all relevant stakeholders and given this, no further consultation was required. The conclusions and findings from the stakeholder engagements have been utilised in the consideration and development of the new legislation in order to ensure it reflects these views.
17. The policy also took cognition of other jurisdictions legislation including Scotland, the Office of Budget Responsibility and the Republic of Ireland.

Finance Committee Report

18. In July 2021, the then Assembly Finance Committee produced a report on an Independent Fiscal Council for Northern Ireland⁵. The report is largely framed around the legislative considerations of the Council. The framework for the draft Bill has taken cognitions of this report.

19. Within the report, the Committee gave 26 recommendations around legislative requirements across the 7 areas of function, discretion, powers, independence, competence, credibility and Assembly engagement.

20. In addition to the legislative requirements, the then Committee made further comments in their report as follows:

- The current budget processes are unsatisfactory, in terms of the content of documentation currently produced and the timescales in which they are presented to elected representatives.
- The tendency for budget debates to take place after decisions have been made prevents the Assembly from fulfilling its role of scrutiny and challenge. Whilst they acknowledge that delays and timing issues often originate at Westminster or are owing to political disagreements in the Executive, the Committee claim that the above has led to a perception of a lack of transparency and poor governance. The Committee hopes that an independent Fiscal Council for Northern Ireland will address any real or perceived challenges in this area.
- Consideration should be given to the following 7 dimensions of the Fiscal Council for Northern Ireland and that these should be protected in legislation, namely: function, discretion, powers, independence, competence, credibility and Assembly engagement.
- The Committee further recommends that consideration also be given to amendments to the Northern Ireland Act by the UK Government in order to

⁵ <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/finance/reports/report-on-an-independent-fiscal-council-for-northern-ireland/>

require reciprocal co-operation between HM Treasury, DWP and the OBR etc. with the Fiscal Council for Northern Ireland.

21. The Committee proposed that the legislation was brought forward at the earliest opportunity to establish an independent Fiscal Council as a body corporate, with a board appointed via the public appointments process.

Fiscal Council Bill – Draft framework

22. Fiscal Council Bill – framework

This framework sets out the specific legislation required to establish the Fiscal Council on a statutory footing. An operational framework with more detail regarding the processes and systems around implementation of the legislation will be developed in due course.

In the below framework ‘Department’ refers to the Department of Finance and ‘Minister’ refers to Minister of Finance.

Section 1 – Establishment of NI Fiscal Council

The independence and impartiality of the NI Fiscal Council is crucial to its establishment. It is vital that there is a clear separation of the Council from the UK Government, NI Executive and associated Ministers.

Legislation requirements:

1. The legislation will establish the Northern Ireland Fiscal Council as a legal entity as an independent corporate body, namely a Non-Departmental Public Body (NDPB).

Section 2 – Functions of the NI Fiscal Council

A range of potential functions have been considered in relation to the fiscal powers the Fiscal Council will carry out. It is anticipated that the role of the Council will expand over time in line with the expanding nature of Independent Fiscal Institutions elsewhere in the UK and internationally, where their remit has evolved over time.

Legislation requirements:

1. The function of the Fiscal Council will include:

- a. Examine and produce assessments of the Executive Departments' revenue streams⁶ and spending proposals and the extent to which these allow the Executive Departments to balance their competing demands⁷; and
 - b. To examine and produce reports on the sustainability⁸ of the Executive's public finances⁹, including the implications of spending plans and the effectiveness of efficiency¹⁰ measures.
 - c. The Council may comment on Executive efficiency measures and draw comparisons between Executive expenditure decisions or fiscal policies, and those of other jurisdictions.
2. The Council has discretion in performing of its functions.
3. The Chairperson of the Fiscal Council shall, whenever requested in writing by a Committee of the NI Assembly established under the Standing Orders of the Assembly, give evidence to that Committee on their functions or reports.
4. The Council will engage and co-operate with the NI Executive committee, specific Executive Ministers, UK Government Ministers or the NI Assembly in relation to carrying out their functions.
5. The functions of the Fiscal Council cannot be modified without the Minister consulting the Council and stakeholders including the UK Government, as are considered appropriate.

Section 3 – Reports

The Fiscal Council will be responsible for providing reports on how they exercise their functions throughout the financial year (**Section 2**). Advanced access to these reports will be at the discretion of the Council, whilst retaining the confidentiality of their content. The format of the reports will be accessible, where possible, accepting that in some document types, this is not possible.

⁶ The Executive's Budgets focuses on the spending covered by its Departmental Expenditure Limit (DEL): the day-to-day costs of public services, grants and administration, plus capital investment.

⁷ Assessments will be made on departmental performance against its spending targets and meeting fiscal objectives.

⁸ The available funding and future projections of affordability, including the sufficiency of budget to deliver an equivalent quality and quantity of public services to that provided to other jurisdictions.

⁹ 'Block grant' received which has 'Departmental Expenditure Limit' (DEL) to meet Treasury commitments – notably the day-to-day cost of public services and capital investment. Also responsible for 'Annually Managed Expenditure' (AME), and other sources of finance include income from fees and charges, Regional Rates, funding from the EU (some continuing after Brexit) and borrowing.

¹⁰ Efficiency means being able to spend less to achieve the same or greater outputs, or to achieve higher outputs/outcomes, while spending the same amount.

Legislation requirements:

1. The Council will publish all reports without vetting or interference from the Department, Executive or UK Government, however reports can be shared for accuracy checks.
2. The Council may also share materials from their reports in advance of publication, if it requires factual comments on presentation of the information.
3. The Council will lay all reports in the NI Assembly and send a copy to the Department.
4. The Chairperson of the Fiscal Council shall, whenever requested in writing by a Committee of the NI Assembly established under the Standing Orders of the Assembly, give evidence to that Committee on their functions or reports.
5. As an independent body, the Council will be responsible for responding to external queries in its reports and documentation, consulting the relevant Department as necessary. The Council will be subject to the Freedom of Information Act 2000.

Section 4 – Access to Information

The Fiscal Council will require access to timely and accurate information in order to fulfil the requirements of the body. The legislation will provide this guarantee, with Memorandums of Understanding being put in place with Departments for operational efficiency. The Council will request and receive the information directly from the relevant provider. This information will include, but not be limited to, economic and fiscal data, administrative and statistical data, costing assumptions, cost benefit analyses, impact assessments and forecasting. These are examples rather than an exhaustive list. The Council will interact with the NI Assembly and relevant Committees including the Finance Committee where appropriate.

Members of the Council will be required to observe the standard confidentiality rules in relation to policy information and data sharing. The Council will similarly protect all information that is commercial in confidence. The Council will outline parameters of information considered to be confidential which will increase transparency.

Legislation requirements:

1. The Council will have full right of access to all NI Government information within the confines of their functions and for the purpose of the performance of its functions (including any expanded functions which may be legislated for in the future).

2. The Council may report to the NI Assembly any assessments, carried out in line with its functions.
3. The Council may disclose any information to any public body or officeholder for any purpose connected with the exercise of their functions, or for the purpose of enabling or assisting the public body or office-holder to exercise any functions.

Section 5 – Independence and Transparency

One of the key elements of the legislation is to safeguard the independence of the Fiscal Council, so that it cannot be directed, influenced or controlled by an Executive Department, Executive Minister or UK Government. The Council will examine public finances, however it should not comment on policy positions, but rather assess the use of public finance to achieve the goal or objective of its use. This will protect the independence of the Fiscal Council and ensure a clear separation between assessment (which is the role of the Fiscal Council) and policy making (which is the responsibility of the Ministers).

Legislation requirements:

1. The Council will act objectively, transparently and impartially, free from any political perspective.
2. The Council will not be subject to the direction, influence or control of a Minister of a NI Department, the Secretary of State, the UK Government Ministers, or the NI Assembly.
3. It will examine the impact of decisions made by the Executive on the public finances and focus on the sustainability of public finances by considering the Executive's budget decisions.
4. The Council will publish all the documents it produces and clearly set out the methodology and assumptions made.
5. The Council will publish an annual data statement around the quality of information and of any gaps in the data, information or explanations which shall be sent to the Executive.

Section 6 – Annual Report and Review of Performance

The Fiscal Council will need to prepare and publish an annual report on the exercise of its functions during that financial year. Advance access to these reports will be at the discretion of the Council and will retain the confidentiality of their content. The format of these reports

will be accessible, where possible, accepting this may not be possible in some document types.

In line with good practice, the Council will undertake an independent external evaluation of their work on a periodic basis. This will include progress made towards adhering to the OECD principles and recommendations on the further implementation of these principles moving forward. Key stakeholders including the Minister, Executive and Finance Committee should be consulted on the parameters of the evaluation, including the Terms of Reference, as well as its findings.

Legislation requirements:

1. The Council must carry out its functions efficiently and cost-effectively.
2. The Council shall prepare and transmit to the Department an annual report on the exercise of its functions and the Council shall lay a copy of that report before the NI Assembly.
3. An independent, external evaluation will be conducted on the performance of the Council every four years.
4. The Council will publish all annual reports without vetting or interference from the Department, Executive or UK Government however reports can be shared for accuracy checks.
5. The Council may also share materials from their reports in advance of publication, if it requires factual comments on presentation of information.
6. As an independent body, the Council will be responsible for responding to external queries to its reports.

Section 7 – Membership and Procedures

It is necessary to put in place arrangements regarding membership and procedures for the operation of the Fiscal Council. The Council will regulate its own quorum and operating procedures aligned with the legislation.

Legislation requirements:

Membership

1. The Fiscal Council will comprise four individuals, including a chair, appointed by the Finance Minister. In legislation to give flexibility it will refer to a membership of between 2 and 4 members (should a member resign etc. the Council can still operate).
2. The chair and members will be appointed using a competitive public appointments process, implemented by the Department, which will maintain the required expertise and independence of the Council, and will be conducted in line with the CPANI Code of Practice.

Initial Members

3. As the Council has already existed on a non-statutory basis, the chair and members will immediately form the statutory Council. The terms and conditions, including length of term, of appointment are carried over¹¹.

Term of Office

4. The chair and members of the Council shall hold office for a maximum period of 5 years but shall be eligible for one re-appointment period.

Resignation and Termination of office

5. A member of the Fiscal Council may resign from office at any time by a letter addressed to the Minister and Department. A member will provide a period of notice of a minimum of one month to bring the appointment to an end. In return the Department of Finance is also required to provide one month's notice to terminate an appointment.
6. A person shall be disqualified from holding and shall cease to hold office as a member of the Fiscal Council if they failed to make the necessary disclosure in relation to conviction for a criminal offence in Northern Ireland or elsewhere in the world; or has been convicted in Northern Ireland or elsewhere after the date of appointment of a criminal offence (whether committed before or after that date); or has become bankrupt, has had a debt relief order made or is the subject of a debt relief restrictions order.
7. The Department may remove the chair or a member from office if satisfied that the member has failed to comply with the terms of appointment; or is otherwise unable or unfit to discharge their functions as a member of the Council.

Disqualification

8. A person is disqualified from being a chair or member of the Fiscal Council if that person is an elected member to a local authority, assembly or parliament, is or has been insolvent

¹¹ <https://www.finance-ni.gov.uk/publications/establishment-fiscal-council-commission-written-ministerial-statement-and-terms-reference>

or a disqualified company director or an employee of a public sector body. This would include equivalent positions or disqualification anywhere else in the world.

9. Furthermore, the Terms and Conditions will ensure Members of the Council will not engage in any political activity or public controversy which would compromise the work of the Council.

Vacancy

10. The Minister may act to appoint another person to act as chair or member of the Fiscal Council in the event of a position being vacant or an anticipated vacancy.

Declaration of interests

11. As part of the Terms and Conditions, all members will declare personal or business interests which may, or may be perceived to, influence their judgement in performing the role as a member of the Fiscal Council. The appointment should not be used to further private interests or those of others. Members should not take part in activities which might conflict with the interests of, or be inconsistent with, their appointment.
12. The Department must be informed in advance of any changes or new circumstances that may impinge upon performance and obligations under the terms and conditions of appointment. Failure to do so may result in dismissal.

Section 8 – Finance, Remuneration and Expenses

It is important that the Fiscal Council has complete independence and is seen as such via its financing structure.

Legislative Requirements:

Accounts and Audit

1. The Fiscal Council will prepare a plan of the use of resources.
2. The cost of the Council as prepared in their estimate, deemed to be reasonable and proportionate, will be met by the Department of Finance for the purposes of carrying out its functions.
3. The Council will keep accounts and publish these.
4. In respect of each financial year, the Council's Accounting Officer shall prepare an annual statement of accounts and submit accounts to the Comptroller and Auditor General for Northern Ireland.

5. The Comptroller and Auditor General for Northern Ireland shall examine, certify and report on the statement of accounts submitted.
6. The Fiscal Council shall lay before the NI Assembly a copy of the certified statement of these accounts together with a copy of any report thereon of the Comptroller and Auditor General for Northern Ireland.
7. The Council will publish its accounts to provide transparency of their budget.

Remuneration and Expenses

8. The Council will reimburse the chair, members or the member's employer a daily fee¹², in line with advice from the Department of Finance, out of resources at its disposal.
9. The Council will reimburse reasonable travel expenses incurred in respect of the appointments.

Section 9 – Staff

Legislative Requirements:

1. The Council will put in place a full-time permanent secretariat and support staff who will be recruited/seconded purposely to perform that function, headed by a Chief of Staff who will be appointed by the Fiscal Council.
2. The Chief of Staff for the Fiscal Council will act as Accounting Officer (AO).
3. Terms and conditions of employment shall be in line with the NICS arrangements.
4. Staff will have access to the NICS pension arrangements.
5. As well as supporting the chair and members, the secretariat will have the capacity to undertake its own research and analysis and also contract out specialist pieces of work to external experts where required.

Section 10 – Indemnities and Insurance

Legislative Requirements:

1. Members who have acted honestly, reasonably, in good faith, and without negligence, will be indemnified by the Fiscal Council against any personal civil liability which is incurred in execution or purported execution of their role and will provide the member and/or the employer with support through any such process. The provision of support

¹² <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/fddof0921.pdf>

includes the costs of defending any legal claim arising out of the execution of the Council's work.

Section 11 – Statutory Rules

Legislative Requirements:

1. It is anticipated that the functions of the Council will expand over time in line with the expanding nature of Independent Fiscal Institutions elsewhere in the UK and internationally; and so the legislation will give effect to provide the powers to make subordinate legislation in the form of Statutory Rules (Regulations, Rules, Order and Bye-laws).
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Impact Assessments

23. Given that the Fiscal Council Bill's aim is to place the Council on a statutory footing, it is necessary to consider relevant impact assessments. This ensures that the Bill takes a holistic approach in considering all aspects of equality, human rights, health, environmental and rural impacts.

15.1 Equality Impact Assessment/Section 75 Duty

An Equality and Section 75 Screening Analysis has been carried out to consider the impact of implementation of the legislation. This has been completed, circulated to DOF Equality consultee list and a copy published online. No significant or major impact has been identified. A copy of the screening form can be found: <https://www.finance-ni.gov.uk/publications/ni-fiscal-council-bill>

15.2 Regulatory Impact Assessment

The Northern Ireland Better Regulation Strategy requires all departments to consider a Regulatory Impact Assessment (RIA) as part of their policy development process. It is designed to help with the consideration of potential economic impacts and would therefore be considered with other tools utilised to assess social and environmental impacts on policy development.

A Regulatory impact assessment (RIA) delivers better regulation supporting the government's aim of only regulating when necessary and when it is, to do so in a way that is proportionate to the risk being addressed and to deregulate and simplify wherever possible. Given that the aim of this policy is to bring forward legislation for a new statutory body, it will have no regulatory requirement included and so there is no necessity for a RIA to be carried out. Whilst the work of the Council will provide significant assessment and analysis on fiscal matters, if a new regulatory policy is required, it will be for the Department with statutory responsibility for that area to implement the policy and carry out the necessary RIA.

15.3 Rural Needs Act (NI) 2016

This Act places a duty on government departments to have due regard to rural needs when developing, adopting, implementing or revising policies, strategies

and plans and when designing and delivering public services. No significant or major impact has been identified. A copy of the Rural Needs Impact Assessment can be found: <https://www.finance-ni.gov.uk/publications/ni-fiscal-council-bill>

15.4 Health Impact Assessment

The Strategic Framework for Public Health, Making Life Better 2013-2023 highlights the importance of all Government and public sector policies and strategies taking account of their impact on health and well-being. Given the nature of this legislation, a Health Impact Assessment is not required.