



Northern Ireland
Assembly

Committee for Finance

OFFICIAL REPORT (Hansard)

Financial Reporting (Departments and Public
Bodies) Bill: Department of Finance

13 October 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Dr Steve Aiken (Chairperson)
Mr Jim Allister
Mr Pat Catney
Ms Jemma Dolan
Mr Philip McGuigan
Mr Maolíosa McHugh
Mr Matthew O'Toole

Witnesses:

Mr Jeff McGuinness	Department of Finance
Ms Joanne Warnock	Department of Finance

The Chairperson (Dr Aiken): I welcome our good friends Jeff McGuinness and Joanne Warnock. The evidence session will be reported by Hansard. Jeff, do you want to kick-off?

Mr Jeff McGuinness (Department of Finance): Certainly. Thank you for the opportunity to further update the Committee on the legislation and provide a response to some of the queries that were raised during your consideration of the Bill. As always, feel free to stop me at any time and ask any questions that you want.

Responses were received from 23 organisations, many of which indicated their support for the Bill. A number of organisations raised concerns and questions or suggested amendments, on which the Committee has asked the Department to comment. There were eight issues listed in the Committee's correspondence with the Department, and I will take each of them in turn. Those issues are also covered in detail in our written responses.

In relation to the Office of the Attorney General's concerns about being a public body that would be identified in the designation order as a non-departmental public body (NDPB), in the paperwork provided to the Finance Committee on 10 June, the Office of the Attorney General for Northern Ireland was listed as being an independent office supported by TEO, not as an NDPB. The table reflected that the Office of the Attorney General is currently within the boundary of TEO.

Individual bodies will not be named in the Bill. However, as for other bodies within the boundary, it is the intention to include them on the annual designation order to ensure that the order provides a full list of all bodies included within budgets, estimates and accounts. It will not be referred to as an NDPB. The Department feels that there is, therefore, no amendment necessary to the Bill's *[Inaudible owing to poor sound quality]* on that issue.

In its response, Northern Ireland Water indicated that it should not be included in a designation order. As it noted, the Department does not intend to designate NI Water [*Inaudible owing to poor sound quality.*] A solution to achieve alignment between budgets, Estimates and accounts for NI Water will require further work and engagement. It is intended that that be carried out as part of phase 2 of the project.

The Committee requested clarity on whether the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) could be included in a future designation order.

The Chairperson (Dr Aiken): Sorry, Jeff, you broke up slightly there. Let us go back to Northern Ireland Water. You will be aware that substantial amounts of public money, quite rightly of course, have been transferred to Northern Ireland Water, particularly during the COVID period. Indeed, we have heard the Minister for Infrastructure make it clear in the Assembly that she is looking for more funding. You will also be aware that a considerable debate is going on about Northern Ireland Water's unique — that is probably the wrong word — status as a Go-co but not as a Go-co, or whatever it happens to be. Again, you will be fully aware that a lot of discussions at the fiscal council and the Fiscal Commission have been about where Northern Ireland Water sits.

Is it the Department's view that Northern Ireland Water's accounting periods and process on budgets, Estimates and accounts should not be brought in line even though it is not a fully separate body, does not really have mutualised status and is not a Go-co, or is that Northern Ireland Water's opinion, to which the Department has decided to bow rather than trying to bring all our financial reporting in line across the piece?

Mr McGuinness: It is certainly the Department's view rather than Northern Ireland Water's view. Northern Ireland Water is an NDPB for budgeting and public expenditure purposes. For legal and accounting purposes, however, it is a Go-co public corporation. To [*Inaudible owing to poor sound quality*] treat it as a public corporation for budgets, more than 50% of its funding would need to come from sales revenue, so, obviously, further work needs to be implemented to address alignment for phase 2.

The Chairperson (Dr Aiken): OK. Keep going.

Mr McGuinness: I will move on to NILGOSC. NILGOSC administers the local government pension scheme. The committee is classified as an NDPB of the Department for Communities. As such, it should be included in the designation order. In practice, administration costs are offset by income for NILGOSC in DFC's budget, but, as no grant in aid is paid by the Department, nothing is currently reflected in Estimates or accounts. Therefore, under the review of financial process, the element of administration costs and income relating to NILGOSC as an NDPB, which is currently in DFC's budget, should also be included in [*Inaudible owing to poor sound quality.*] That would achieve consistency in what is reflected in budgets, Estimates and accounts. The important point here is that there will be no impact on the treatment of the local government pension scheme, as it will remain outside the departmental boundary. No amendment is necessary.

The Chairperson (Dr Aiken): OK.

Mr McGuinness: The next issue is clarity on the Bill's anticipated impact on governance arrangements for North/South bodies. Again, it is important to stress that the Bill will have no impact whatsoever on governance arrangements for North/South bodies. The bodies will continue to be treated as analogous to NDPBs in Northern Ireland and to semi-state bodies in the South. There will be no impact on their governance or control structures.

The Bill's core aim is to allow for changes in Estimates and [*Inaudible owing to poor sound quality*] to bring them into alignment with the Budget presentation. Under the current structure, the Budget shows the Northern proportion of the spend for North/South bodies, while the Estimates and accounts show the cash grant paid to bodies by the Northern Department. Following the changes introduced by the Bill, the spend will be allocated proportionally, and Estimates and accounts will show the Northern share of the bodies' spend rather than the cash grant. That will have no impact on the operation of a body or on how it is jointly funded and the associated approval process. The change will be in how the sponsor Department presents the body's spend.

The Department of Public Expenditure and Reform (DPER) was consulted during the early stages of the project, to advise it of the forthcoming changes to the presentation in the Northern Ireland

publications. DPER did not raise any concerns or queries. The North/South Ministerial Council has also been updated on the project and its impact on North/South bodies.

The Chairperson (Dr Aiken): Jeff, sorry, just a quick question: does that mean that the reporting periods in the North/South bodies will be brought in line with the rest of the bodies in our Departments?

Mr McGuinness: The reporting periods will continue to be on the calendar year. We will do an approximation for the Budget, to ensure that there is approximate alignment on budgets, to our *[Inaudible owing to poor sound quality.]*

The Chairperson (Dr Aiken): Right. OK. Thanks. Go on.

Mr McGuinness: The direction issued by the Department to sponsor Departments in Northern Ireland will only *[Inaudible owing to poor sound quality]* Estimates or accounts of those sponsor Departments. There will be no impact on the Estimates or accounts of Southern sponsor Departments. *[Inaudible owing to poor sound quality.]*

The Chairperson (Dr Aiken): Jeff, apologies. Some members are having difficulty hearing you. Your sound is breaking up a bit.

The Committee Clerk: Maybe, Jeff, you could log off and back on again. I am sorry, members. It will take a couple of minutes. When you come back on again, will you switch off Jabber, if you have it on? We will stand by our beds if that is OK. Sorry, members.

The Chairperson (Dr Aiken): Do you think Hansard can pick it up?

The Committee Clerk: I think that members who are tuning in on Star Leaf could not quite get it. I am struggling a wee bit as well. I am sure that Hansard might be struggling, too. So if there any new and complicated words that you would like to get into Hansard, this is a golden opportunity.

The Chairperson (Dr Aiken): Some of my learned friends can probably do that. And there I was saying how well Star Leaf was working today.

The Committee Clerk: There he is.

The Chairperson (Dr Aiken): Jeff, give us a test count.

Mr McGuinness: Hello, can you hear me OK now?

The Chairperson (Dr Aiken): Yes. Sorry. Keep going, thanks.

Mr McGuinness: Sure. Just moving on to the detail of the consequential amendment *[Inaudible owing to poor sound quality.]* Details of that were sent to the Committee on 30 September. Section 2(1)(c) of the Public Service Ombudsman Act (Northern Ireland) 2016 states:

"The Ombudsman is not subject to the direction or control of a Northern Ireland department".

However, section 2(2)(c) then states that this is subject to:

"the power of the Department of Finance and Personnel to direct the form of accounts the Ombudsman must prepare".

An amendment to the Public Service Ombudsman Act is therefore recommended to insert a similar provision in relation to that *[Inaudible owing to poor sound quality.]* It will not affect the independence of the body —.

The Chairperson (Dr Aiken): I am sorry. Just hold on a second Jeff.

Mr O'Toole: It still is a wee bit in and out. It is a bit Norman Collier, if anybody remembers that particular reference. It is a bit —.

The Chairperson (Dr Aiken): Are we having difficulty hearing?

Some Members: Yes.

The Committee Clerk: Jeff, is there somewhere else that you could log on?

Mr McGuinness: I will certainly try, if you give me one minute.

[Proceedings from 2.18 pm until 2.20 pm were not recorded owing to technical difficulties.]

The Committee Clerk: Jeff, could you maybe switch off your camera as well? Apparently, that might help things.

Mr McGuinness: Sure. I have a face for radio. *[Laughter.]*

The Chairperson (Dr Aiken): Yes, we were going to suggest that you throw the Minister out of the conference room. We know that that works. *[Laughter.]*

Mr McGuinness: I decline to comment *[Laughter.]*

The Chairperson (Dr Aiken): Right. Keep going.

Mr McGuinness: OK. The next query that we will consider is the Northern Ireland Audit Office's suggestion that the Bill include a clause prohibiting the designation of a body that is funded from a Consolidated Fund other than the Northern Ireland Consolidated Fund. There is more detail on that in the written response that we provided. However, in summary, the advice from the Office of the Legislative Counsel (OLC) on that matter is that such a clause is not necessary. The purpose of the Bill is to allow the Department to issue directions in relation to the departmental preparation of Estimates. The Bill requires consultation with the Treasury before designating a body, and any cross-funding of particular bodies should be highlighted at that stage. If a body's designation is still thought to be a problem, the Department has the power to revoke its designation for that year. The OLC was of the view that the combination of consultation with Her Majesty's Treasury and the power to revoke designation is sufficient. On that basis, a clause that prohibits the designation of a body funded from a Consolidated Fund other than the Northern Ireland Consolidated Fund was not deemed necessary.

I will now move on to the fiscal council's comments about a lack of transparency with EU funding and the use of net spending. Chair, as you will know all too well, when formulating a Budget, there is often a limited time between the finalisation of overall departmental budgets and their presentation to the Assembly. That limited period does not allow Ministers to make final decisions about income that are based on their budget allocations. Therefore, the budgets are presented on a net basis. Departmental Estimates are provided slightly later in the financial process and allow decisions to be made on income levels and Departments to present financial data that includes income.

The fiscal council made an important point about the transparency of income. Whilst the Estimates documentation sets out accruing resources for each area of a Department, it may be possible to improve that presentation so that the sources are more clearly distinguished. The Department is of the view that that can be examined without recourse to amending the Financial Reporting (Departments and Public Bodies) Bill and is happy to examine that. It is meeting the fiscal council to consider that issue and how best to present information. However, the Department is of the view that an amendment is not needed to the Bill in that regard.

Finally, turning to the Northern Ireland Assembly Commission's —.

The Chairperson (Dr Aiken): Jeff, one of our issues is that the fiscal council has not yet been placed on a statutory basis. The Minister indicated that he wants that to be done. He does not have the time to do that in this session, but the Committee wishes to see it being placed on a statutory basis. We have to have guidance, particularly reporting guidance, that the fiscal council requires to fulfil its role. Are we looking at adding anything to the Bill about the role and the requirement to report directly, as

required by the fiscal council? Is the intention to leave that out? Is there something that we might amend?

Mr McGuinness: It is not our intention to include that in this Bill, which is quite narrow in scope. It may be something that could be brought in as part of the legislation that will underpin the fiscal council. It might be slightly more appropriate to put it there; however, it is the Committee's right to propose to change the Bill as it sees fit.

The Chairperson (Dr Aiken): OK. Thanks, Jeff. And the final one.

Mr McGuinness: Yes. The final one is the Northern Ireland Assembly Commission's suggested amendment to the Bill to apply the same exemptions that relate to the Northern Ireland Audit Office to the Assembly Commission. The Audit Office is exempted from the new power in the Bill for DOF to direct how Estimates are prepared, not because of its independence from departmental control but because there is other legislation in place that governs how it prepares Estimates. The Audit (Northern Ireland) Order 1987 governs the preparation of an Estimate, the preparation of accounts and the scrutiny of accounts by the Audit Office. There is therefore already a similar exemption for Audit Office accounts in section 13 of the Government Resources and Accounts Act (Northern Ireland) 2001, which is affectionately known as GRAANI. There is, however, no additional primary legislation other than GRAANI that governs the preparation of Estimates or resource accounts by the Northern Ireland Assembly Commission.

There is more detail in our written response to the Committee. In our view, a power for DOF to direct the content or form of accounts and Estimates of a body does not relate to controlling the functions of the body, and thus it does not affect the independence of that body. As such, an exclusion from the new power to direct how Estimates are prepared is not necessary for the Assembly Commission. In addition, such an exemption could be misleading, in that it could give the impression that independence would be affected if no such exemption were specified, which is not the case. We are of the view that no amendment is required.

In summary, although the numerous issues raised by the respondents are valid in their own ways, from our assessment of those issues and the advice that we have from the OLC, we conclude that no further amendments are required beyond the consequential amendment that the Committee has already received.

I trust that that provides the Committee with adequate commentary on the issues raised so far. I am happy to take any questions.

The Chairperson (Dr Aiken): Thanks, Jeff. Cheers.

Mr Allister: I have a couple of fairly technical but important enough points.

The new Estimates and the new Budget Bill will not set a limit on accruing resources. Is that right?

Mr McGuinness: An accruing resources amount is included in the Estimates and the Budget Bill.

Mr Allister: They do not set a limit on it, do they?

Mr McGuinness: That is not specifically my area. I will have to make sure and come back to you on that.

Mr Allister: Under new Budget Bills, as I understand it, we will vote net resources. That is after the accruing resources have been deducted. Is that not right?

Mr McGuinness: Yes, but there will be a presentation of the accruing resources in the associated documentation.

Mr Allister: Yes, but the point is that the Estimates in the Bill, as I read it, will not set a limit on the accruing resources.

Mr McGuinness: I will have to get back to you on that just to make that I am right in what I am saying.

Mr Allister: If I am right about that, here is the question. Section 8(1) of GRAANI states:

"The Department may, subject to any relevant limit set by a Budget Act, direct that resources accruing"

etc. If relevant limits are no longer to be set by a Budget Act for accruing resources, do you not need to tidy up the legislation and amend section 8(1) of GRAANI by taking out:

"subject to any relevant limit set by a Budget Act"?

Mr McGuinness: That is something that we can take away and have a look at.

Mr Allister: My second point is this: you are removing the need for a minute of a direction to be laid in the Assembly, which again arises under section 8 of GRAANI, after each Budget Bill that lists the accruing resources that Departments can receive and spend. You are therefore taking away the need for that direction.

Westminster, when it was reforming its finances about 10 years ago, did things like this, but it dealt with them differently, did it not? Westminster replaced the need for a direction with listing types of receipts in the Estimates — in part 1, I think — which meant that Departments could use only the types of receipts listed. Was that not a much more transparent way to do it? Why is Northern Ireland not doing the same thing?

Mr McGuinness: That is bound up with that first issue. We will take that away and have a look at it for you.

Mr Allister: Do you understand the second point that I am making?

Mr McGuinness: Yes.

Mr Allister: You are not removing the need for a minute of a direction to the Assembly. Westminster did remove that, because it put into each Estimate the types of receipts — those were listed — and doing that was obviously much more straightforward and transparent.

Mr McGuinness: We will certainly have a look at that, yes.

Mr Allister: OK. Thanks.

The Chairperson (Dr Aiken): Maolíosa?

Mr McHugh: *[Inaudible.]*

The Committee Clerk: He is on mute.

Mr McHugh: I do not have a question. I had my hand up earlier when I could not hear. That is why my hand was raised.

The Chairperson (Dr Aiken): To confirm, Maolíosa, you have no question.

Mr McHugh: No question.

The Chairperson (Dr Aiken): Do any other members have questions?

Mr O'Toole: It would be worth summarising, Jeff, if you could, the fiscal council's full view on the Financial Reporting Bill. Jim Allister asked a couple of questions about accruing resources, which is an issue that the council raised, but what is its overall view?

Mr McGuinness: The fiscal council wants to understand what the overall income coming in from all areas looks like. In the current Estimates, the accruing resources are set out along function lines as

opposed to along lines that show from where the funding comes. We may be able to present that information in a different way to allow people to understand from where that income comes, rather than to where it is going. That is the slight distinction between here and Westminster in how the information is presented at the minute.

The Chairperson (Dr Aiken): Sorry to cut across you, Matthew, but I have a quick question. Jeff, are we not supposed to be doing that in accordance with the OECD reporting process?

Mr McGuinness: We are looking at a number of things under the OECD reporting of budgetary recommendations at the minute. As I said, the issue that we have is that, once a Budget is agreed, there is a very short period before it is presented to the Assembly. That is why it is done on a net basis at the minute. We could look at the timing of that, but we are restricted by the spending review and how the timing of that impacts on our local processes. If we had more time throughout the year and a better-timed spending review, we might be able to look at that more favourably, but, at present, our hands are somewhat tied by that Treasury timetable.

Mr O'Toole: The fiscal council has made a general point about transparency of income. Indeed, I think that the Fiscal Commission is looking at trying to get a much clearer picture of the sources of income that the Executive have. Your position is not that you can do anything about this in the Financial Reporting Bill. You are not seeking or suggesting any amendments to the Bill. Rather, you are saying that you will go away and look at it in general.

Mr McGuinness: Yes. We will look at the presentation of the accruing resources in the Estimates. We have information on income in there, but it is not presented in such a way that the fiscal council can see from where the sources of income come. We will therefore talk to the council and discuss how best we can present the accruing resources so that we are as transparent as possible.

Mr O'Toole: Are we talking about stuff as granular as parking charges and other sources of small charges? For example, I imagine that the Department for Communities gets an income from admissions to museums and arts venues etc. Is that the level of granularity that you will be looking at? I do not necessarily mean by specific venue.

Mr McGuinness: I am not sure that I will get into that level of granularity, but the fiscal council raised issues about EU income. It said that it was not able to see exactly what element of spend on, for instance, roads is related to EU income and what comes from developer contributions or something like that. I suspect that we will look at more general, wider EU income sources and that things such as fees and charges will be wrapped up rather than set out individually in the way in which you suggested.

Mr O'Toole: I was just giving an example of the kinds of fees and charges that exist, but those are the kinds of things about which we have a very limited sense of exactly how much is raised locally and where it is raised. Indeed, Chair, you were talking about that.

If others were to look at making consequential amendments to the Bill, would the Department welcome and be open to discussing and engaging on that kind of thing?

Mr McGuinness: At the minute, we are very much of the view that we can have that kind of transparency without the need to adjust the Bill for it. We think that there is a way through that will satisfy the requirements of the fiscal council and that wider transparency issue without necessarily amending the Bill.

Mr O'Toole: OK. There is, however, always the tension between putting something in legislation and — with respect to you, Jeff, and the Department — taking the Department's word for it. As far as you are aware, would the Department oppose having a legal obligation in there to do it?

Mr McGuinness: I suspect that we would have some concern about the granularity of it and whether we would be able to provide that granularity at Budget or Estimate time. It may impose a legal restriction to which we cannot commit. That is probably the one concern that I would have on that.

The Chairperson (Dr Aiken): I have a quick question that expands slightly on what Matthew was talking about. The fiscal council had concerns about the EU funds that were coming in. It looked at that because it was a reasonably high-profile area but found that it could not work out how funding

was being allocated through the system. Did it take just that one example, or did it look at a wider selection?

Mr McGuinness: I am not aware of how widely the fiscal council has looked at it, Chair, but I suspect that it will be wider than EU income. That is quite a headline issue to look at, but I suspect that the council will be looking to know what income comes from the likes of fees and charges, as opposed what comes from the EU or is provided through some other means. I suspect that, although that is a headline issue, the council is probably more widely concerned about the transparency issue.

The Chairperson (Dr Aiken): OK. No other members have any questions. Jeff and Joanne, as usual, thank you very much. I am sorry, Jeff, that we had comms difficulties and all the rest of it, but we will hopefully see you again soon in person. Thank you very much indeed for giving your answers to the Committee.

Mr McGuinness: Thank you.