



Northern Ireland
Assembly

Committee for Finance

OFFICIAL REPORT (Hansard)

Financial Reporting (Departments and Public
Bodies) Bill (Northern Ireland): Committee
Deliberations

20 October 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Dr Steve Aiken (Chairperson)
Mr Keith Buchanan (Deputy Chairperson)
Mr Jim Allister
Mr Pat Catney
Ms Jemma Dolan
Mr Philip McGuigan
Mr Maolíosa McHugh
Mr Jim Wells

The Chairperson (Dr Aiken): The Committee received evidence on the Financial Reporting (Departments and Public Bodies) Bill and agreed to write to the Department to seek its views on possible amendments. The Department has responded in writing. It is hoped that the Committee can use this session to decide its position on all possible amendments to the Bill. The relevant papers are in members' packs. I remind members that the session is being reported by Hansard.

The Committee Clerk: Members, just to advise that Matthew O'Toole has delegated his vote to Mr Catney. Apologies for the flurry of papers; there is a ton of stuff. For members who are in the room, we have provided you with a hard copy of the Bill table. For members who are on StarLeaf, it is at page 3 of the tabled items. Again, apologies for there being so much paper. This sets out the clauses of the Bill and the suggested amendments.

As the Department has furnished a written response, it is suggested that the Committee now steps through these possible amendments and informally agrees its position on each one of them. This is only informal, so I am suggesting that no votes are needed at this time. Members can just give me an indication of where they are. When the Committee comes to undertake formal clause-by-clause scrutiny, maybe on 10 November, it will be time to vote then if you so desire. This is just an informal process to give the Clerk an idea of where you are and of how you feel about the need to amend and the nature of the amendments that have been proposed or if any other amendments are required that have not been captured so far.

The Chairperson (Dr Aiken): Thank you very much indeed. There are no comments so far, so we will proceed down the Bill table. You all have your copies in front of you.

Clause 1 amends the Government Resources and Accounts Act (Northern Ireland) 2001, the so-called GRAANI. This would allow the Department to issue directions to other Departments on the preparation of Estimates. It would also allow the Department to designate certain bodies by making secondary legislation, which will come to the Assembly under negative resolution procedure. The Department is required to consult the Treasury in aspects of the designation of bodies. The Estimates shall include

information relating to the designating bodies, and the Northern Ireland Audit Office shall review all relevant financial transactions to ensure that they are in accordance with any relevant authority. Members, are we content that we understand clause 1?

Members indicated assent.

The Chairperson (Dr Aiken): A number of possible amendments have been suggested to this clause. These are numbered 1.1 to 1.6 and are shown in the Bill table.

Amendment 1.1 follows on from a suggestion by the fiscal council that greater clarity is needed in respect of EU funding, net spending and income, also known as accruing resources, including district rates, which do not appear in the Estimates. To address this, and members' concerns that new arrangements for the presentation of accruing resources will lead to no loss of detail and to enhance the current reporting of this information, a possible amendment is suggested. The possible amendment would revise section 8(2) of GRAANI so that greater specificity would be provided in respect of the minute issued under that subsection and which relates to accruing resources in the Estimate. The new wording would be:

"and shall set out the source and quantity of all accruing resources and shall include particularly European Union funding, developer contributions etc. and all such resources in excess of £100k".

The Department has provided its views, which are shown on the table. It opposes the amendment in principle. Do members wish to comment? I support the amendment.

Mr Allister: Where did the £100,000 threshold come from? Why is that the suggestion?

The Committee Clerk: Chairperson, I drafted the amendment. I made up a number. It could have been any number. I thought that £100,000 would certainly pick up the district rates and would generally pick up most European Union funding quanta. It could be another number. I advise members that the Department advised me informally that that is actually quite a small number, and its position is that we should be careful what we wish for because we could get quite a lot of detail there that might be quite difficult to understand.

Mr Allister: That is the point that occurred to me: £100,000, in these terms, is quite small. I am not sure where the balance lies.

Mr McHugh: On the same point, I think that, if anything, the Department is directing the Committee that the amendment is totally unnecessary.

The Chairperson (Dr Aiken): We have appointed an independent fiscal council to be able to ask for specific detail. The fiscal council wishes the amendment to be in. We want to see greater accountability and transparency, which is the whole basis of the Bill in the first place.

Here is the thing, Maoliosa: we are trying to make a system whereby accounts that are presented are much more readily understood. The independent fiscal council, which we have appointed to investigate these things and make recommendations, has made this recommendation. It seems strange to me that the independent fiscal council, which we have asked to improve the process, has asked for this, yet the Department says that it does not want it.

Mr McHugh: It does not say that it does not want it; it says that there is no need for it.

The Chairperson (Dr Aiken): The difference between want and need is —

Mr Allister: *[Inaudible.]*

Mr McHugh: There is a difference: it is not needed; it would be duplication. However, to go on to that final point. The Clerk has acknowledged that it is a figure taken at random. However, you can see from its comment that the Department is saying, "Listen, you are going to create a whole lot of work for yourself", in receipts and everything else. I wonder why we would go down that road.

The Chairperson (Dr Aiken): Are there any other views?

Mr Allister: I think that the principle is right. I suspect that the fiscal council has reason to ask for more details. I am always a bit sceptical when a Department tries to tell you, "You do not really need that; it is not appropriate." If the fiscal council is saying that it would be a good idea, yet the Department does not want to give it, that raises questions in my mind as to why the Department does not want to give it. I am pondering, a wee bit, over the £100,000, but I do not know what the right figure would be.

The Chairperson (Dr Aiken): I am taking opinions from everybody, and I have taken Maolíosa's view. From the other perspective, people are happy with the idea. It is just the figure that we have an issue with, because we do not know what the quantum should be.

Mr K Buchanan: It is the figure. I mean no disrespect —

The Committee Clerk: No, no.

Mr K Buchanan: — to where the figure came from. Is it the right figure?

Mr Allister: Could we ask the fiscal council for a view on the figure?

The Committee Clerk: Chairperson, we certainly can do that. I suggest that you hold your position on 1.1 and then look at 1.3, which might be a neater way of doing something similar. I think that Philip wants in.

The Chairperson (Dr Aiken): Are we content?

The Committee Clerk: I am sorry, Chair, Philip is indicating.

The Chairperson (Dr Aiken): Hi, Philip.

Mr McGuigan: The Clerk suggested leaving it to 1.3. I think that if we are going to ask the Fiscal Commission for its view on the figure, it would be useful to allow it to see the Department's response as well, because that might clear things up.

The Chairperson (Dr Aiken): Yes, but it is the fiscal council, not the commission.

Mr McGuigan: The fiscal council, sorry.

The Chairperson (Dr Aiken): OK.

The Committee Clerk: So the Committee will hold its position on this?

The Chairperson (Dr Aiken): Yes, we will hold our position on that until we get further information. I think that that is the way to make sense of it.

The next item is amendment 1.2. Following comments made by Mr Allister last week:

"in respect of future Budget Bills and whether they would include a limit on accruing resources. Clarity was sought as to whether in the absence of an accruing resources limit, a further tidying up amendment might be needed to the GRAA NI Act in respect of Article 8(1) in order to remove the reference to the limit on accruing resources in the Budget Act."

The Department is responding, indicating that there will be no limit on accruing resources.

The Committee Clerk: Future Budget Acts will be voted on on a net basis, so there will be no limit set on accrued resources.

The Chairperson (Dr Aiken): There will be no limit on accruing resources in future Budget Acts and that a tidying up amendment is not required as GRAANI refers to any limit that might be set by a Budget Act.

Jim, do you want to come in on that?

Mr Allister: Section 8(1) of GRAANI says:

"The Department may, subject to any relevant limit set by a Budget Act"

However, if the Budget Act is not setting any limit, those words become meaningless, yet the Department seems to want to keep them. If they are no longer capable of speaking, and if there are to be no limits, it is tautologous to keep those words. That is the point that I was making: why are we retaining in GRAANI a reference to limits being "set by a Budget Act" when the Budget Acts are not going to set limits? It is not something that I am going to die in a ditch over. However, it seems to be a necessary tidying up that the Department seems reluctant to do.

The Chairperson (Dr Aiken): Are we content not to pursue the suggested amendment?

Members indicated assent.

The Chairperson (Dr Aiken): Amendment 1.3 is more wide-ranging and might remove the requirement in section 8(1) of GRAANI for a minute relating to accruing resources and replace it with an Estimates memorandum, in line with Westminster, which would set out accruing resources in more detail. In other jurisdictions, most notably Westminster, Estimates memorandum are produced in support of the Estimates and supporting tables. The format of the memorandum would be agreed by an annual resolution of the Assembly. The wording suggests a particular level of granularity. The Department has provided its views: it supports the principle of an Estimates memo but opposes an amendment. It also suggests that the Committee should not conflate the minute and the memorandum.

I remember from my time in Whitehall that anything produced came in the form of a template, which was a written description of what it was and the financial details of it. That was the process that was followed. It allowed the audit trail and the granularity to be recorded as well. The Department supports the principle of an Estimates memo but opposes an amendment. I think that including an amendment would clarify for other Departments what they must do, rather than what they would like to do. Subject to the views of the Committee, it would be useful to make sure that that amendment is in there. Any thoughts?

Mr Allister: I think that there is correlation between amendments 1.3 and 1.1. Amendment 1.3 is probably the better way of doing it, and something needs to be done. I would like the fiscal council to see what has been suggested at 1.1 and 1.3 and the departmental responses to each and ask it whether it has any refined view on those matters.

Mr McHugh: It is not often that I agree with Mr Allister, but, on this occasion, I do.

Mr Wells: That is very dangerous. It is part of a worrying trend.

The Chairperson (Dr Aiken): I think that we are agreed.

Mr McHugh: I doubt that he will welcome the support. *[Laughter.]*

Mr Allister: I always welcome common sense.

The Chairperson (Dr Aiken): Come on, Jim.

Mr Wells: Do you want to change your mind, Jim?

The Chairperson (Dr Aiken): Focus. Focus.

The Committee Clerk: Just to be clear, members: we will write to the fiscal council about 1.1 and 1.3 and see what it comes back with. If I am sensing the room correctly, you might be minded to support an Estimates memorandum. That is what Westminster has. Instead of pages and pages of tables, you would have a wee bit of writing at the front of each memorandum explaining what the numbers mean. You need an amendment to help the Department to make sure that other Departments play ball.

Putting it in legislation, rather than relying on a memorandum of understanding between Committees and their Departments, will help the Department of Finance to get other Departments to play nicely with their Committees.

The Chairperson (Dr Aiken): Amendment 1.4 is a cleverer version of amendment 1.3. It removes all references to "memorandum" in the minute and simply requires the Estimates to be specified at a particular level of detail. I think that we covered that.

The Committee Clerk: It is a much better worded version. Instead of introducing new memoranda, it would specify in the Estimates the level of information that you have. You might not like that because the Estimates are long enough as it is. Maybe it would be handier to have an individual memorandum for each Department that goes to each Committee, thus reducing the blizzard of paperwork a bit. Does the Committee have a preference, Chairperson?

The Chairperson (Dr Aiken): Are there any thoughts?

Mr Catney: I support anything that makes it easier or handier. That is probably all that I need, anyhow.

The Chairperson (Dr Aiken): Are there any other thoughts?

Mr Allister: This very much ties back into amendment 1.3.

The Chairperson (Dr Aiken): It does.

Some Members: Yes.

Mr Allister: When we communicate with the fiscal council, will we also draw its attention to this and get its view?

The Chairperson (Dr Aiken): Bearing in mind that the whole basis of this is to try to improve openness and transparency and our ability to understand the information brought before us, it would be useful to ask the fiscal council for its view on 1.4 as well to see whether that would be a better way of sweeping that up. Is the Committee content?

Members indicated assent.

The Committee Clerk: It is my fault, as I did not make it clear. When I drafted 1.3, I did the best that I could, based on what members suggested. In its response to 1.3, the Department said that I conflated the minute and the memorandum. It said that the minute covers some other function. In its response, the Department suggested leaving the minute as it is. It said that we could have the memorandum if we want but not to amend in that regard. Does the Committee accept that, or will it wait for feedback from the fiscal council.

The Chairperson (Dr Aiken): Looking around the room, I think that we want to wait for feedback from the fiscal council.

Members indicated assent.

The Chairperson (Dr Aiken): That is the way that we need to do it.

The Committee Clerk: That is good. Thanks, Chair.

The Chairperson (Dr Aiken): Amendment 1.5 deals with the fiscal council. As there will be no fiscal council legislation in this mandate, an amendment has been suggested that would oblige Departments to share fiscal information with the fiscal council. The amendment also seeks to give some authority to the fiscal council. The Clerk advised that such an amendment will not address the many important governance issues that the Committee identified in its report on the fiscal council.

According to the table, the Department opposes the amendment. That surprises me, because we are trying to make sure that the independent fiscal council has the tools that it needs to fulfil its role. I am

sure that the Department will have no difficulty providing information to the fiscal council, but there is a whole panoply of other Departments and arm's-length bodies that it needs to look at and report on. I am a bit surprised by that opposition. We should actively consider anything that we can do to help with better administration. Are there any thoughts on that?

Mr McHugh: Should we be suggesting that before the fiscal council has actually been established?

The Chairperson (Dr Aiken): The fiscal council has been established; it has just not been put on statute.

Mr McHugh: Sorry, but it is for the Department of Finance to make it official on statute, through legislation.

The Chairperson (Dr Aiken): The Finance Minister, the First Minister and the deputy Minister have already referred to the role of the fiscal council. The fiscal council exists. We have been told that it will report on the ongoing Budget process. The fact that it has not been put on statute is immaterial in some respects, because we know that it is already there. We need to give it the tools to do its job. The Minister has indicated that, while he is willing to bring forward legislation to put the fiscal council on a statutory footing, that will not happen in this mandate. This legislation is coming through now, however, and we could give the fiscal council a lot of assistance, which would improve the approach that we are taking.

Mr McHugh: Is it assistance, or, if anything, would we actually be placing an expectation or limitation on its role?

The Chairperson (Dr Aiken): We can ask that question if the Committee is content.

Mr Allister: I have two reservations about this amendment, Chair, both of which the Clerk mentions in his side note. The first is whether the amendment is within the scope of the Bill. Would such an amendment even be feasible? The second is, were we to make such an amendment, might we undermine the case for legislation being needed at all? If we already give the fiscal council the authority to seek and obtain, could people not argue, "Well, you don't really need any legislation because the fiscal council is as it is. It has the powers you've given it"? Might we end up shooting ourselves in the foot over the fiscal council?

The Chairperson (Dr Aiken): A good question. Thoughts?

Mr K Buchanan: I would not disagree with that point. If you read the departmental response, it is possibly better leaving it for the next Bill.

Mr Catney: I agree.

The Chairperson (Dr Aiken): So, we are informally content not to pursue 1.5.

Members indicated assent.

The Committee Clerk: I remind members that we are talking about Committee amendments. There is nothing to stop members submitting these amendments in their own names if they so desire.

The Chairperson (Dr Aiken): Amendment 1.6 has been suggested by the Department and provides for the explicit inclusion of the Northern Ireland Public Services Ombudsman (NIPSO) in the Bill: allowing the Department to issue guidance to that organisation regarding Estimates. The Department argues that this is necessary owing to the provision of the legislation that established NIPSO.

Is the Committee informally content to support 1.6?

Members indicated assent.

The Chairperson (Dr Aiken): Clause 2 amends GRAANI to change the name of the Department to omit "and Personnel". Can we confirm that we understand clause 2?

Members indicated assent.

The Chairperson (Dr Aiken): As no amendments have been proposed, are members informally content to support clause 2 as drafted?

Members indicated assent.

The Chairperson (Dr Aiken): Clause 3 sets a commencement date as the day after Royal Assent. Can I confirm that members understand clause 3?

Members indicated assent.

The Chairperson (Dr Aiken): As no amendments have been proposed, are members informally content to support clause 3 as drafted?

Members indicated assent.

The Chairperson (Dr Aiken): Clause 4 sets out the short title as being the Financial Reporting (Departments and Public Bodies) Act (Northern Ireland) 2021. Are we content that we understand clause 4?

Members indicated assent.

The Chairperson (Dr Aiken): As no amendments have been proposed, are members informally content to support clause 4 as drafted?

Members indicated assent.

The Chairperson (Dr Aiken): A number of other queries have been made or amendments suggested. These are numbered 5.1 to 5.7 in the tabled papers. 5.1 refers to the status of the Office of the Attorney General for Northern Ireland. The Department has provided its view, which indicates that the Office of the Attorney General for Northern Ireland is not a non-departmental public body.

Is the Committee informally content not to pursue any further action in respect of 5.1?

Members indicated assent.

The Chairperson (Dr Aiken): 5.2 refers to the treatment of Northern Ireland Water in the Bill. The Department has provided its view that the status of Northern Ireland Water will be dealt with under phase 2 of the review of financial processes.

Is the Committee informally content not to pursue any further action in respect of 5.2?

Members indicated assent.

The Chairperson (Dr Aiken): 5.3 refers to the treatment of Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) in the Bill. The Department has provided its view that NILGOSC will be included in the provisions of the Bill, although the financing of the local government pension scheme will remain outside the boundary.

Is the Committee informally content not to pursue any further action in respect of 5.3?

Members indicated assent.

The Chairperson (Dr Aiken): 5.4 refers to the treatment of the North/South bodies in the Bill. The Department clarified that the spending of these bodies would be allocated in two portions — a Northern Ireland portion and a Republic of Ireland portion — and the former would be covered by the provisions of the Bill with no effect on the operation of the North/South body.

Is the Committee informally content not to pursue any further action in respect of 5.4?

Members indicated assent.

The Chairperson (Dr Aiken): 5.5 refers to an amendment put forward by the Northern Ireland Audit Office, including a clause to prohibit designation of a body funded from a Consolidated Fund other than the Northern Ireland Consolidated Fund. The Northern Ireland Audit Office contends that while it is welcome that new section 8A(5) of clause 1 requires the Department of Finance to consult HM Treasury, where it thinks it appropriate, before designating a body, similar legislation in other areas of the UK goes further to include clauses that prohibit the designation of a body funded from another Consolidated Fund. The Department countered that, when it consults Treasury about designation, any double counting issues will be identified, and the Department will revoke a designation if required.

Is the Committee informally content not to pursue any further action on 5.5?

Members indicated assent.

The Chairperson (Dr Aiken): OK. 5.6 refers to an amendment put forward by the Northern Ireland Assembly Commission suggesting that, in new section 8(B)(2) of clause 1, the exemptions relating to the Northern Ireland Audit Office should also apply to the Assembly Commission. It argues that the designation process set out in new section 8A should also be a matter for the Assembly Commission or the Assembly to determine. The Department argues that although it can safely exempt the Northern Ireland Audit Office from the Bill, as other provisions cover the preparation of Northern Ireland Audit Office's accounts and estimates, that is not the case for the Northern Ireland Assembly Commission. Thus it is argued that an exemption for that body is not appropriate or possible.

Any thoughts? OK. Is the Committee informally content not to pursue any further action on 5.6?

Members indicated assent.

The Chairperson (Dr Aiken): 5.7 refers to comments by the Northern Ireland further education colleges (FE) on how the new arrangements will require external audits to be undertaken twice. The Department has confirmed that and undertaken to consider the materiality of any additional costs.

Do members have any thoughts on that? To confirm, this relates to the different reporting periods for further education colleges that mean that they would have to report at the end of the year and at the end of the academic year as well. My understanding is that what the Department says about the materiality of any additional costs means that it will pay for the extra or go to a way of—

The Committee Clerk: I do not think that it has undertaken to pay for it, but its argument is that it is not much.

The Chairperson (Dr Aiken): It is not much.

The Committee Clerk: It would be tens of thousands of pounds, not hundreds of thousands. It will be an extra cost for the FE colleges to meet.

The Chairperson (Dr Aiken): Any thoughts?

Mr Allister: I have some sympathy with the colleges. They will have to repeat what they do, but I suppose that exempting them is tricky as well.

The Chairperson (Dr Aiken): Any other thoughts? [*Pause.*] In that case, is the Committee informally content to not pursue any further action on 5.7, other than to seek clarification in writing? Are we agreed?

Members indicated assent.

The Chairperson (Dr Aiken): Thank you. Do members have any other amendments at this time that they would like to bring forward for the Committee's consideration?

Some Members: No.

The Chairperson (Dr Aiken): Is the Committee content to undertake formal clause-by-clause scrutiny at the meeting on 10 November?

The Committee Clerk: Hopefully, we will have response from the fiscal council by then. We will write to the council today.

The Chairperson (Dr Aiken): Should that meeting be subject to the fiscal council's getting back to us?

The Committee Clerk: I would really like to conclude formal clause-by-clause consideration on this Bill, members. The Committee Stage of the Defamation Bill starts on 3 November, and you do not want to cross the streams and have both Bills running at the same time. It is very bad and should be avoided. Believe me, I will try very hard to get an answer out of the fiscal council before 10 November.

The Chairperson (Dr Aiken): Excellent, thank you very much for that and, indeed, the 'Ghostbusters' analogy. *[Laughter.]*