



Northern Ireland
Assembly

Committee for Finance

OFFICIAL REPORT (Hansard)

Financial Reporting (Departments and Public
Bodies) Bill: Clause-by-clause Consideration

10 November 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 Matthew O'Toole
Mr Jim Wells

Witnesses:

Mr Barry Armstrong Department of Finance
Mr Jeff McGuinness Department of Finance

The Chairperson (Dr Aiken): Joining us via StarLeaf are Jeff McGuinness and Barry Armstrong from the Department. The session is being recorded by Hansard. I remind members that we are undertaking formal clause-by-clause scrutiny of the Bill, which is the final part of the Committee Stage and will inform the Committee's report on the Bill. The Committee will proceed through the clauses and I will put the Questions to members formally. Where there are amendments, the Question on the amendment will be put first and followed by the Question on the amended clause.

Clause 1 (Estimates: inclusion of resources used by designated bodies)

The Chairperson (Dr Aiken): Clause 1 amends the Government Resources and Accounts Act (Northern Ireland) 2001, the so-called GRAANI. It would allow the Department to issue directions to other Departments on the preparation of Estimates. It also allows the Department to designate certain bodies by making secondary legislation that will go to the Assembly under negative resolution procedure. The Department is required to consult with Treasury on the designation of bodies. The Estimates shall include information relating to the designated bodies. The Northern Ireland Audit Office shall review all relevant financial transactions to ensure that they are in accordance with any relevant authority. Members, are you content that you understand clause 1?

Members indicated assent.

A number of possible amendments have been suggested to the clause. These are numbered 1.1 to 1.4 and shown in the Bill table. The fiscal council was asked for its commentary. It suggested that the Committee seek the following assurances from the Department that it will: set out all expenditure that is under the sole authority of the Budget Act in a single table in the Estimates; publish its minute on

accruing resources on its website alongside its other Budget publications; improve transparency of the Estimates by showing EU funding with a separate symbol; furnish the fiscal council with the information on the use of sole authority, and any headroom in the Estimates, before publication of the Estimates; and share with the fiscal council the new Estimates memorandum when the Estimates are produced.

Jeff, can you comment on the fiscal council's response and, in particular, on the assurances that it seeks?

Mr Jeff McGuinness (Department of Finance): Certainly, Chair. We had a productive meeting with the fiscal council on transparency and areas where we could improve the transparency of the documents. I will defer to Barry, if he wants to provide anything more. However, from my understanding of that meeting, we are happy for DOF to provide all the necessary assurances, including the black box representation, publishing the minute alongside material on our departmental website, and ensuring that we have appropriate symbols for EU funding in the Estimates documentation.

We will get to the memorandum in a later clause, Chair, but we are more than happy to work with your Committee, other departmental Committees, the Assembly Research and Information Service, the fiscal council and Departments on including a memorandum with the Estimates. We are happy to provide those assurances. We may have to talk a little bit about whether the memorandum will be included in legislation, but we are more than content to accept those recommendations and confirm our commitment to the issues that are set out in the fiscal council's paper.

I will leave it to Barry to say anything else.

Mr Barry Armstrong (Department of Finance): Thanks, Jeff. As Jeff said, when the fiscal council considered this, it met us. We had a very useful session with the fiscal council just so that we could get a clear understanding of what it needs as a user and reader of the Estimates document. As you know, we already provide to the Committee, by way of a briefing paper, the majority of what the fiscal council has set out as needing; for example, a single table setting out all the black box items that are done on the sole authority of the Budget Act, and information on any headroom that is built into the Estimates. However, the fiscal council said, quite rightly, that any user of the Estimates would have a perfectly legitimate expectation of seeing that set out. We undertake to incorporate that into the Estimates document going forward.

Likewise, we can use a symbol to clearly identify any European Union receipts. As you may recall from looking at the Estimates document, some European receipts are very clearly labelled as such; for example, the INTERREG and Peace programmes. However, there are others — the common agricultural policy, for example — that users would not automatically know were European Union receipts, if they were not familiar with them. Again, we are happy to include that in the Estimates document.

The Chairperson (Dr Aiken): OK. Any comments, team?

Mr Allister: Barry, can you confirm that you still plan to list the types of accruing resources in Part I of the Estimates?

Mr Armstrong: Yes. An expenditure ambit and a receipt ambit will be set out in Part I of the Estimates.

Mr Allister: Will that identify the types of accruing resources?

Mr Armstrong: Yes, that is correct.

Mr Allister: When the minute comes along, after the Bill receives Royal Assent, it will contain the same information; yes?

Mr Armstrong: That is correct, yes. That is essentially the same format as at the minute. The accruing resource minute follows the Estimates. After the Assembly has passed the Estimates and the Budget Bill, and that has received Royal Assent, the Department lays the minute, which enacts the decision that the Assembly has taken to pass the Bill.

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

Mr Allister: I have a question on the changes that will be made around accruing resources, but maybe this is not the point to raise it. Is it correct that the limit on accruing resources will no longer be set in the Budget Act?

Mr Armstrong: That is correct. What will be voted in the Budget Act will now be the net total rather than —

Mr Allister: That is a substantial reduction of Assembly control; is it not?

Mr Armstrong: The Assembly will still be voting to pass the Estimates, and the Budget Act will still show the overall net expenditure.

Mr Allister: But the Budget Act will no longer have the limit on the accruing resources; is that right?

Mr Armstrong: That is correct.

Mr Allister: That limit is an element of Assembly control in the passing of the legislation; is it not?

Mr Armstrong: Yes. One of the reasons behind that is that, over the years, when a limit was set on accruing resources and services were being funded by those receipts, it resulted in a significant number of Excess Votes, if the level of services that needed to be delivered was higher, even though receipts were being received to fund those. The fact that the Department had reached the limit of its accruing resources entailed an Excess Vote because the additional receipts instead had to be Consolidated Fund extra receipts (CFERs). One of the purposes of the review of financial processes was to prevent the unnecessary Excess Votes that arose if a level of service that should have been funded by receipts had to be provided but those receipts could not be retained as accruing resources.

Mr Allister: I will take a practical and topical example. The plastic bag levy is an accruing resource; yes?

Mr Armstrong: That is correct.

Mr Allister: So, there will no longer be a limit set on that in the Budget Act; correct?

Mr Armstrong: That is correct.

Mr Allister: Does that mean that that levy can be increased without recourse to the Assembly and legislation?

Mr Armstrong: No, it does not mean that the levy can be increased, because the levy is set in legislation. Now, that example is not Department of Finance legislation. However, it would mean, for example, that, if customers used more plastic bags than the Department had forecast, the Department would be allowed to use those receipts to fund the type of environmental programmes that the levy was set up to deliver and fund, rather than the receipt being handed over as a Consolidated Fund extra receipt.

Mr Allister: Is there any element of loss of Assembly control over that?

Mr Armstrong: I do not believe that it is a loss of control. The Assembly has full sight of the receipt figures. As I explained, they would be set out in the Estimates and the receipt ambit in Part I of the Estimates. The Assembly would have full sight of what those receipts are and what they are being used to fund.

Mr Allister: Except there will no longer be a limit.

Mr Armstrong: It prevents a cliff edge whereby, if demand increases for a service that is being funded predominantly by receipts and the receipts to fund it increase, the Department will be able to retain those receipts to fund the service that it is delivering with them.

Mr Allister: So, is there any —

Mr Armstrong: Certainly, there have been cliff edges where that sort of situation arose. That has meant that the Department had to make any additional receipts CFERs, and it has ended up in Excess Votes that, I would argue, are unnecessary.

The Chairperson (Dr Aiken): Barry, surely the reason for that is that the budgeting process had gone wrong in the first place. If we reach the point of an Excess Vote, surely that is indicative of the wrong budgeting process. Does increasing the levels of accrual not just give a bit of an open chequebook?

Mr Armstrong: Not, I would argue, where there is a demand-led service that is funded, in whole or in part, through receipts from those who receive the service. It allows the Department or arm's-length body (ALB) concerned to continue to deliver the service that users require and fund that with the income that it receives from those who are paying for the service.

Mr McGuinness: For most of these cases, there is other legislation that governs the way in which services are to be funded from receipts. There will be principles in place to set the level so that it is only cost recovery and so on and so forth. There are other safeguards in the system — in the initial legislation — that govern the specific policy that might be covered by the overall receipts base.

Mr Allister: Jeff, is that right when it comes to the plastic bag levy? The Minister is talking about increasing that fivefold, which is, obviously, unrelated to the actual cost of the policy's administration.

Mr Armstrong: The level at which the carrier bag levy is set — whether it is 10p, 20p or 25p — is set in separate legislation. That is not dictated by the Budget Act. What is dictated, as part of the agreement with the Chief Secretary to the Treasury, is that we, in Northern Ireland, can retain receipts from the carrier bag levy if they are to be used to fund environment programmes.

Mr Allister: The point that I am really getting at, Barry, is — to take that example — if you have an excessive plastic bag tax and you get to spend all that on green projects, you could be awash with money for that at the very same time as there is desperate need for money for health and education; right?

Mr McGuinness: It is slightly different. We have permission to retain those plastic bag receipts for environment projects only. That is an explicit stipulation from the Chief Secretary to the Treasury. You could increase the plastic bag levy, but you could not then transfer that in any way to health or education.

Mr Allister: Yes, that is the point that I was making.

Mr O'Toole: You have both helpfully given assurances on the five recommendations of the fiscal council. You have given those assurances to the fiscal council, through us, verbally. Will they be written down somewhere?

The Chairperson (Dr Aiken): It will be in Hansard.

Mr O'Toole: In Hansard, yes.

The Committee Clerk: It will be in the Committee's report.

The Chairperson (Dr Aiken): It will be in the Committee's report.

Mr O'Toole: I get that, but, on how the practice will work for officials and how it will be regularised and made standard practice, will it be —

Mr Armstrong: It will be included in the guidance and templates that we provide to Departments to complete their Estimates. You will see the table setting those out. While the black box items are already recorded at the end of each individual Department's Estimates, as part of the introduction to the Estimates, we will include a table that compiles all that information. Likewise, at the moment, when we present the Estimates, we provide the Committee with a table of the headroom in the briefing paper. We will now include a table like that in the introduction to the Estimates as well. When the first

of the new style of Estimates documents appears, you will see it in the introductory sections of the Estimates.

The Chairperson (Dr Aiken): I have another quick question, Jeff and Barry. You have been in discussion with the fiscal council about the issues that we have raised. Is that a change in the memorandum of understanding between the Department and the fiscal council?

Mr McGuinness: No. We do not see it as such, Chair. We see it as undertaking the business that we are there to do: providing the fiscal council with information as and when it is requested, and engaging with it on the financial process. We do not see it as changing the memorandum of understanding at all; we just see it as part and parcel of the work that we are now routinely doing with it.

The Chairperson (Dr Aiken): OK, thanks.

In case anyone is in doubt, I reassure the Committee that, when I bring the Committee report to the Floor, I will ask the Minister for his assurances as well and make sure that we have those. Are we happy to move to the formal vote on this?

Members indicated assent.

The Chairperson (Dr Aiken): Are members content to formally set aside amendments 1.1, 1.2, 1.3 and 1.4, which deal with those issues? We will return to amendment 1.3a presently. Are we agreed?

Members indicated assent.

The Chairperson (Dr Aiken): I now refer members to amendment 1.3a. The Committee instructed the Bill Office to draft an amendment that would provide for greater transparency while not burdening the Estimates with inflexibility and extraneous detail. The amendment captures the benefits of adding an Estimates memorandum for each Department. Annual subordinate legislation would require the Department of Finance to agree the format of the Estimates memorandum with the Finance Committee. Other Statutory Committees could feed in their requirements in respect of their Department's Estimates memorandum. Statutory Committees might even choose to hold take-note debates on their Department's Estimates memorandum. *[Interruption.]* Apologies for that: there was a slight disturbance outside the door.

Mr O'Toole: Someone is interested in the Financial Reporting Bill and accruing resources, presumably.

The Chairperson (Dr Aiken): That is it; the excitement of it. *[Laughter.]* Jeff, did you want to make some comments on amendment 1.3a?

Mr McGuinness: Yes, Chair. From the Department's point of view, anything that supports Assembly Committees in their scrutiny is to be welcomed. We believe that a memorandum is a good idea. The Department shares the fiscal council's view that non-legislative solutions can be more agile and responsive to the needs of individual Committees. Committees currently have the power to request and gather information from Departments, as you know, Chair. DOF would be happy to work with the Committee, the Assembly Research and Information Service and the fiscal council on templates that would provide a relevant level of detail. Those could be commissioned by DOF, alongside our general Estimates commissioning process.

In that context, however, we do not feel that we can support amendment 1.3a. There are a few reasons for that. First, the granularity request is a little bit too restrictive. We feel that, for some Departments, that level of detail is too high, and, for other Departments, it is too low. I will give you a concrete example of one Estimate that you look at: the DOF pensions Estimate. Under amendment 1.3a, a DOF pensions memorandum would have approximately 700 lines of detail on pension payments and approximately 200 lines of detail on pension income. We feel that that kind of one-size-fits-all approach is difficult to put into legislation and may restrict what you are aiming to do.

In terms of yearly regulations, it may not be responsive enough either, Chair. The memorandum for Supplementary Estimates might require a slightly different approach depending on what has happened throughout the year. If you have a memorandum set in legislation for the Main Estimates,

you may want to slightly tweak it as you come to the end of the financial year, depending on what has happened in that financial year.

Finally, legislation and regulations do not allow for a tailored Department-by-Department approach. For all those reasons, while we absolutely support the principle of a memorandum and are more than happy to work with the Committee on a practical, non-legislative solution, we feel that we cannot support the legislative solution or the restrictions that would come from that solution in primary legislation, Chair. I do not know whether Barry wants to add anything to that.

Mr Armstrong: There is probably nothing more to add, Jeff. You have covered all the points that I would have made. I emphasise again that we are very happy to consider the idea of an Estimates memorandum. If it is helpful, we can include that in the guidance that we give to Departments and provide a template to them, which, again, we are happy to have agreed in advance with this Committee. If it is more suitable, we can allow individual Departments to agree templates with their Committees — whichever you are happier with and whichever is more useful for the Assembly as a whole.

The Chairperson (Dr Aiken): Thoughts?

Mr McGuigan: We have been given a pretty plausible explanation of why this amendment will not work and is probably unnecessary, so I take on board the advice that we have heard.

Mr K Buchanan: Chair, I do not think that we want to make the process any more difficult or harder to understand. Talking personally — I do not know about others — we want information and for it to be broken down. We can refer to the Committee Clerk, but the Bill and the explanatory documentation should make life easy and understandable. I am taking on board what I have just heard.

Mr O'Toole: With respect to the officials in question, the civil servants who present Bills always want to keep them as simple as possible, and they are doing their jobs in wanting that. If the Department had wanted this stuff to be in the Bill, it would have put it in the Bill. That is not necessarily the question in front of us, and that is in no way intended to cast aspersions on Barry or Jeff and the very robust evidence that they have given.

The question is this: what is our view, if we want greater clarity, of how robust the alternative approach suggested by the fiscal council is? We have had a relatively high degree of assurance from the Department, and we will have that assurance written in Hansard. It would be helpful for us to seek a written assurance from the Minister or the Department. I will not die in a ditch over our specific amendments as long as we get clarity that some of the issues will be addressed. The fact that the fiscal council has given its view is helpful.

Mr Allister: I do not feel inclined to die in a ditch over it either.

Mr Catney: OK.

Ms Dolan: I am content with whatever is agreed. We do not need to make it any more complicated than it already is.

The Chairperson (Dr Aiken): We will seek a written assurance from the Minister, and, again, I will bring it up during my remarks on the Floor of the Assembly. Are we, therefore, content? No, we are not. I will move on to the next one.

I refer members to amendment 1.5 on page 192 of the meeting pack. That is the fiscal council amendment that would require the Department to share information with that body and would give that body certain powers. The Committee previously indicated informally that it would not pursue that amendment. Jeff, do you want say something about 1.5?

Mr McGuinness: Only in passing, Chair. Legislation is due to come before you at some stage on the establishment of the fiscal council. We are concerned that any amendment here might not quite compromise but certainly restrict the ability of that legislation to accurately present the fiscal council in the way that you want it to. That is why we would not be supportive of that particular amendment.

The Chairperson (Dr Aiken): My only concern is that we have heard for some time that the legislation is being prepared for the fiscal council. Do we know whether it has gone to the drafters yet?

Mr McGuinness: I am not aware of it, Chair, but, again, that is not my side of things. It would be perverse if I were creating the legislation for the independent body that was marking my homework. We can find that out for you.

The Chairperson (Dr Aiken): We will write to the Minister as well. Obviously, one of the reasons why we are doing this is that we are expecting there to be legislation for an independent fiscal council coming down the track, but, as far as we are aware, it is not in the process of even being drafted yet.

OK, team. Are members content to formally set aside amendment 1.5?

Members indicated assent.

The Chairperson (Dr Aiken): The Department has indicated that amendment 1.6 is necessary to include the Northern Ireland Public Services Ombudsman (NIPSO) in the provisions of the Bill. The Department has provided assurances that NIPSO has no objection and that the change will not adversely impact on that organisation's independence. Any comments?

Mr Allister: I take it that that does not impact at all on the Audit Committee's role with the NIPSO?

Mr McGuinness: There is no impact on the Audit Committee's role with NIPSO. This is just how we present the Estimates and how we are able to ask NIPSO for its information for the Estimates.

Question, That the Committee is content with the amendment, put and agreed to.

The Chairperson (Dr Aiken): Do any members have any other comments in respect of clause 1? I think that members are content.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 2 (Definition of "the Department")

The Chairperson (Dr Aiken): Clause 2 amends the GRAANI to change the name of the Department from DFP to the Department of Finance. Do we all understand clause 2?

Mr Allister: Surely that must have happened at the time of the transfer of functions orders. Why is that happening only now?

The Chairperson (Dr Aiken): It is a bit like the fact that we left out the reservoirs legislation between Departments. It just slipped through.

Mr Allister: What do the officials say about that?

Mr McGuinness: My understanding is that the legislation at the time allowed all the existing legislation to be read whereby the Department of Finance and Personnel could be replaced by the Department of Finance. However, this was just an opportunity for us to clarify in GRAANI that, when it talks about the Department, it refers to the Department of Finance. It is just an opportunity for us to be able to clarify.

The Chairperson (Dr Aiken): Right, members; do we understand clause 2?

Members indicated assent.

The Chairperson (Dr Aiken): No amendment has been proposed.

Question, That the Committee is content with clause 2, put and agreed to.

Clause 3 (Commencement)

The Chairperson (Dr Aiken): Clause 3 sets the commencement date as the day after Royal Assent. Do members understand clause 3?

Members indicated assent.

The Chairperson (Dr Aiken): No amendment has been proposed.

Question, That the Committee is content with clause 3, put and agreed to.

The Chairperson (Dr Aiken): A number of other amendments — 5.1 to 5.7 — have been suggested. They include the clarification of the status of the office of the Attorney General for Northern Ireland; the treatment of Northern Ireland Water, the Northern Ireland Local Government Officers' Superannuation Committee and the Northern Ireland Assembly Commission; the treatment of North/South bodies; the designation of bodies to more than one Consolidated Fund; and additional costs for further education colleges.

Jeff, what is your view on the further education colleges and the extra set of accounts that they are going to have to do every year at £30,000 each? Do you not think that that is a significant material cost?

Mr McGuinness: In the context of their budget, it is not regarded as a material cost. However, it is one of those things where we have provided information on possibly the worst-case scenario, Chair. We are hopeful that those costs will be lower than what we have provided as a maximum outlay. It is a slightly unintended consequence of additional information being sought and additional audit being required on the difference of the financial year ends for those areas. We have had a look at that, and we have double-checked again, Chair, with the Department of Education in case that might impact on schools. That Department awaits confirmation from the Audit Office on a solution for schools that will avoid those costs for them. We are hopeful that the actual costs for FE colleges of getting that additional information will be lower than we have outlined.

The Chairperson (Dr Aiken): Jeff, we were talking about FE colleges. Does it apply to schools as well?

Mr McGuinness: We double-checked the situation with schools, Chair, simply because they have the same financial year-end date, but there will not be any costs associated with them.

The Chairperson (Dr Aiken): OK. Members, are there any comments?

Mr Allister: Whatever the level, there will be costs for FE colleges because of the duplication. Yes?

Mr McGuinness: Yes, that is correct. There will be some level of cost involved there.

The Chairperson (Dr Aiken): OK.

Mr Allister: Is it essential to require them to duplicate?

Mr McGuinness: The issue is that the Audit Office says that any more than three months' difference between financial year ends requires some assurance that there are no changes in materiality. The duplication is therefore essential and required. It is just a question of how much it might cost to do it.

The Chairperson (Dr Aiken): OK. As there are no other outstanding queries or concerns for the officials on this, are members content to formally set aside amendments 5.1 to 5.7?

Members indicated assent.

Clause 4 (Short title)

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

Members indicated assent.

The Chairperson (Dr Aiken): No amendment has been proposed.

Question, That the Committee is content with clause 4, put and agreed to.

Long Title

The Chairperson (Dr Aiken): The long title is given as:

"A Bill to Amend the law relating to the preparation of estimates and accounts of departments and certain non-departmental public bodies; and for connected purposes."

Question, That the Committee is content with the long title, put and agreed to.

The Chairperson (Dr Aiken): That concludes the Committee Stage for the Financial Reporting (Departments and Public Bodies) Bill. Thank you, Jeff; thank you, Barry. We will talk to you again soon.

Mr McGuinness: Thank you.

Mr Armstrong: Thank you.

The Chairperson (Dr Aiken): Are we content for the Committee Clerk to return with a report on the Committee Stage of the Financial Reporting (Departments and Public Bodies) Bill for the Committee's approval?

Members indicated assent.