



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

January Monitoring Round 2022: Department
of Justice

16 December 2021

NORTHERN IRELAND ASSEMBLY

Committee for Justice

January Monitoring Round 2022: Department of Justice

16 December 2021

Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Robin Newton
Mr Peter Weir
Miss Rachel Woods

Witnesses:

Ms Louise Blair	Department of Justice
Ms Deborah Brown	Department of Justice
Ms Andrea Quail	Department of Justice

The Chairperson (Mr Storey): I welcome, from the Department of Justice, Deborah Brown, director of the justice delivery directorate; Andrea Quail, head of financial planning strategy and support; and Louise Blair, from financial planning strategy and support. Deborah, do you want to make a few opening comments about the January monitoring round? After that, we will take questions. Thank you.

Ms Deborah Brown (Department of Justice): Thank you for the opportunity to provide you with an update on the January monitoring round and the draft Budget 2022-25. The January monitoring round is the third and final monitoring round of the year. This year continues to be difficult because of the budget pressures and the uncertainty that has been created by COVID-19. As part of October monitoring, pressures were reduced to £26.7 million, from £28.4 million at the June monitoring round. While pressures increased and decreased across the business areas, the main change was as a result of a £3 million reduction in the Compensation Services bid. The Department of Justice bid to the Department of Finance for £25.4 million, with a remaining £1.3 million being managed by the Department. Allocations of £2 million were agreed by the Executive, which left remaining pressures of £24.7 million.

In the January monitoring round, pressures have been reviewed and reduced further: from £24.7 million to £19.6 million. While the pressures remaining at the October monitoring round have decreased by £13.8 million, significant new pressures, totalling £8.7 million, have emerged as part of the January monitoring round. The most significant of those pressures relates to a PSNI legacy case, which is costing approximately £7.8 million. In relation to the PSNI pressures within that £19.6 million, a bid will be submitted to the Department of Finance in the January monitoring round for £7.5 million for that legacy case. The Department has a small legacy easement that it is able to contribute towards that, which is why the figure has been brought down to £7.5 million.

The Department will also bid for £3.3 million in relation to the EU exit pressure. That funding is for the NI protocol. A bid has been placed with HM Treasury, but, as yet, has not been met, and we continue to liaise with the Department of Finance on that.

The Department will also internally allocate £4.8 million from the funding that is available to meet some of the £19.6 million of pressures, and, as I said, submit that to the Department of Finance. The total pressures will be £14.8 million, which will include the PSNI pressures of £10.8 million that I just outlined, £3.5 million for legal aid, and £400,000 for the Courts and Tribunals Service's deprivation of liberty and review tribunal pressure.

As this is the last opportunity to bid to the Department of Finance for additional funding, should the bids not be met, the Department will need to manage the remaining pressures of £14.8 million. That may involve slowing or stopping some expenditure.

We returned ring-fenced identified easements of £855,000 to the Department of Finance. That was in relation to COVID-19 funding of £805,000 across various business areas and £50,000 for the Office of the Police Ombudsman for historical investigations. That was identified and notified to the Department of Finance as part of a recent exercise that required all Departments to identify and provide easements in advance of the January monitoring round.

Moving to capital, the 2021-22 Budget was allocated in full as part of the opening Budget exercise. As previously notified, easements of £11.8 million were surrendered across a number of business areas in the October monitoring round. The majority of that — £10 million — was for the police college. Further easements of £7.7 million that were identified in the January monitoring round will be surrendered to the Department of Finance, which will bring our total easements this year to £19.5 million.

In the January monitoring round, we will update our ring-fenced resource departmental expenditure limit (DEL), which is the technical budget to cover depreciation and impairments. We have received bids of £3.8 million for ring-fenced resource DEL, of which the Department currently holds £900,000. We will allocate that £900,000, and submit a bid for £2.9 million to the Department of Finance. That will leave the Department with no remaining unallocated ring-fenced resource DEL. Historically, underspends materialise across Departments during the latter part of the financial year. While there are no guarantees, it is expected that funding will be available to meet the £2.9 million bid in the January monitoring round.

We have increased our annually managed expenditure (AME) budget. We will agree the AME movements and bids, which will result in an increase of £136 million. That figure has been revised as part of stage 2 of the January monitoring process to ensure that sufficient cover is within the spring Supplementary Estimates.

Moving to the Budget 2022-25 process, the Chancellor announced the outcome of the multi-annual spending review on 27 October this year, which provides the Executive with funding envelopes for each of the three years of the Budget across the 2022-25 period. The Finance Minister unveiled the Executive's draft Budget for 2022-25 on 10 December. A 12-week consultation period on the proposals set out in the draft Budget commenced on 13 December. The consultation process will give the public the opportunity to have their say and will run until 7 March.

The Committee has been provided with copies of our resource DEL and capital returns to the Department of Finance. You were provided with additional information following the Committee's request on 6 December in relation to the Department's resource DEL bids in the Budget. As you said, Chair, the Department will be back before the Committee in mid-January to provide you with further updates.

I hope that I have provided a suitable overview of what the Department's financial position will be in January and of the outcome from the draft Budget. I thank you for the opportunity to brief you today. We are very much looking forward to hearing the views of the Committee, and we will be happy to take them on board.

The Chairperson (Mr Storey): Thank you, Deborah, for your introduction and for walking us through the process. I do not want us to get sidetracked on the issue of the Budget, other than to say that the situation is very worrying. Today, we heard comments being made by the Policing Board on the possibility of a drop of some 900 officers. Given the large proportion of the Department's budget that

goes to policing, that is, obviously, a grave concern. We will have to return to that issue and try to keep our focus on what we have in front of us today.

That brings me to another pressure that is related to the PSNI: the legacy is not funded. We now have a situation where an unidentified legacy pressure has resulted in £7 million being required. Deborah, are those demands sustainable, given the way in which they have come about, albeit they have come through a court process and the access that people have to the judicial process, which is entirely their right? We are in a situation where we have a demand that the PSNI is required meet, yet it has no resource cover to pay for it.

Ms Brown: You raise a very important point, Chair. The issue of sustainability is a concern across the board, and our concern with the proposed three-year Budget is that there is a massive issue with its sustainability and the implications that it will have for the police and other services across the justice system. It is unfortunate that the case has come at this point in the year, when there is less scope for us to take appropriate action. As you can see, we had to bid for that funding, because we have no scope within the DOJ to manage it ourselves.

The Chairperson (Mr Storey): I will raise another issue before we go to members. The £334,000 that was held by the Department following the June monitoring round had been earmarked for work related to the Gillen review but will now be used to fund other pressures in the Department. Why is that money no longer required, and are there any other easements that have been identified in respect of work connected to the Gillen review recommendations?

Ms Brown: I will let Louise answer that one, Chair.

Ms Louise Blair (Department of Justice): The money that we held for the implementation of the recommendations of the Gillen review was part of the Department's baseline and was identified at the start of this financial year. There have been easements throughout the year that have been held centrally for any Gillen pressures that might arise. Throughout the year, those easements have mainly been in relation to delays in filling posts and being able to take those posts forwards. There has also been a smallish underspend in the costs associated with remote evidence centres. They did not require as much funding as had been expected this year, because they were able to make use of some existing facilities. That money had been held, pending any further requirements for Gillen projects, but, because they have not come forward and the Gillen projects have enough money in the current financial year, that money has been eased.

The Chairperson (Mr Storey): OK, thank you. There is one other point about the capital position that I meant to ask Deborah about. Is there a risk to the £11 million for the police college?

Ms Brown: A business case is being drafted, and in the capital that has been allocated as part of the Budget, we are doing a refresh of our capital requirements and prioritising them. Within that, the police college is one of those that is sitting in one of the higher priority categories. We will be looking at that in more detail, and I am happy to bring back some more information once we have completed our refresh exercise.

The Chairperson (Mr Storey): I appreciate that. Thank you, Deborah. I will go to members.

Mr Weir: Thank you, Deborah and the team, for the information so far. We will come back at a later date to the wider budgetary consideration as we move into 2022, but I echo the Chair's remarks, particularly on the impact on police numbers in particular, which we should remember was the subject of an important New Decade, New Approach (NDNA) commitment.

Turning to the January monitoring round, Deborah, you indicated that, understandably, the Department does not get a great deal of choice in this matter. We are well aware that the monitoring bids that the Department puts in — this is really the last opportunity to put them in this year — are quite often of a considerably greater scale than the funds that are available for the Executive to allocate. On that basis, we do not know how many, if any, of the Department's bids to address those pressures will be met.

Deborah, you indicated that, largely speaking, if the bids of about £14 million were not met — I do not know how many of those direct bids could, ultimately, be put off — the only way to make ends meet would

be, effectively, to look at the existing envelope of money for 2021-22 and begin either stopping particular activities or putting spend on the long finger to at least take it outside this financial year.

This is a two-part question, but you may not be in a position to answer it. What areas might have to be put off this year if the £14 million bid is not met? When you identify what will not be spent, what process do you use to prioritise where delays or cuts have to be made?

Ms Brown: I will break down the £14.8 million bid. On the £7.5 million for the PSNI, we will go to the police to see whether there is any way that they could manage without that and they can come back with proposals. We remain optimistic that the EU exit money funding will come forward from Her Majesty's Treasury, so we can park that. We are holding just over £700,000 just in case, and we will need to look at what the deprivation of liberty pressure is at the time and hopefully seek to manage that.

The remaining bid is for the Legal Services Agency (LSA). Historically, the Legal Services Agency has had a baseline that is below our normal demand. The baseline for the fund is £76 million, but normal demand is around £82 million, so we always start off a wee bit behind on that one. This year, of course, we have had the issue with COVID recovery and have seen an increase in demand, because the claims are coming in an awful lot faster than they have done in the past. That is obviously also a symptom of COVID.

You will notice that there were some easements within the Department and that we allocated £2 million to LSA, which allows it to increase its spend. So, its £76 million baseline increased over that period, bringing it back up to £88 million, plus the £2 million that we allocated internally. That brings the LSA over the £90 million mark, which is well above the baseline. However, the demand for legal aid is still very high, so if the £3.5 million bid is not met, we will slow down payments in February and March. That is not ideal, because it will mean an increase in our backlog. That will push pressures into next year, but it is the only way of managing a potential overspend.

I hope that that gives you a flavour of the way in which we have looked at the situation and how we break down the bid.

Mr Weir: I appreciate your point on those areas where there is optimism and those where it depends a little bit more on where the Executive land. Is it fair to say that, if the bids are partially met or, in some cases, not met at all, you will look to the respective heads of unit to deal with that rather than look outside of those bids?

Ms Brown: Yes. Obviously, it would depend on the outcome, and we would probably have to go back to the board. You will see that we started the year with much larger pressures, and those have been managed within the Department. Indeed, quite a lot of those pressures have been managed through the non filling of vacancies. Again, all of that has a significant impact on our service delivery.

Mr Weir: Chair, it may be a little tangential as it is not quite an interest, but I declare that I am a non-practising member of the Bar. I am not due any legal aid, nor have I sought any, but I thought that I should declare that interest as we are talking about the potential for fees to the legal profession to move at a slower pace, depending on what happens in the monitoring round.

Ms Dolan: My questions have been covered, Chair.

The Chairperson (Mr Storey): Thanks, Jemma.

Ms S Bradley: To be fair, some of my questions have been covered. These are the headline figures, and I appreciate the briefing and being brought up to date. However, sometimes there is commentary that runs under the briefing, and that worries me. I appreciate that it is getting close to the operational running of some organisations. There was a reference made to the money that was set aside for work related to the Gillen recommendations and to the inability to appoint people to posts. Is it possible to get a further breakdown of what those statements actually mean so that we have a clearer idea of where the weaknesses are in the system? Whilst it is well and good to see money being reallocated and used for different things, I just do not feel that I have a true picture of what is not there. For example, during the October monitoring round, there was a reference to a significant Together: Building a United Community (T:BUC) project that had not proceeded, and the Committee requested an exact breakdown of that. It is about trying to understand where the holes are in the system. That information may have been given to the Committee, so I apologise if it was: I had intended to raise it

with the Clerk, and I accept that I did not. I do not like the glossing over that there always is because we are very quick to know where the money is going as opposed to where it did not go. Can you provide any information on that?

Ms Brown: To clarify, are your questions in regard to work related to the Gillen recommendations? We can give you some more information on the progress that has been made and on the spend that is planned for the next number of years to address the issues in that area. Do you want information specifically about the implementation of the Gillen recommendations?

Ms S Bradley: Yes. Also, you mentioned that some of the money could not be spent because posts were not being filled. What posts have not been filled? Where are those posts? Are those posts part of the response to the Gillen recommendations? I would like to have an understanding of where those posts are. Did the T:BUC project that I mentioned ever come back online or has it fallen completely off the radar?

Ms Brown: The T:BUC project is still online, and I will bring you some more information on that.

Ms S Bradley: Thank you.

Miss Woods: Apologies if some of my questions have been covered. I am still having some IT issues: I think that I will just start dialling in from Stormont because the internet service will be better there.

I am not asking for specific details, but I noticed in the submission that T:BUC has no end-year flexibility. Why is that? Is that something that is decided by TEO or is it just that there is no end-year flexibility?

Ms Brown: There is no end-year flexibility.

Miss Woods: Is that something that the Department can request or has it just never been looked at?

Ms Brown: There has not been end-year flexibility for quite a number of years. A long time ago, you would sometimes have got some end-year flexibility on capital. However, end-year flexibility no longer exists for us. It does exist for the Northern Ireland block, and that is managed by DOF. As you know, when we come to the end of the financial year, there are amounts that can be carried forward and then reallocated as part of the Budget process. However, there is no end-year flexibility for Departments.

Miss Woods: OK. I just asked out of interest. Thank you for that. The Department is due to commence some of the regulations in the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 in February. Have any money or resources been allocated in the January monitoring round for rolling out those regulations, or for a public awareness campaign on the commencement of those regulations?

Ms Brown: As far as I am aware, there are no specific bids, so they will be covered by their own budgets.

Miss Woods: OK. Thank you. Similarly, the Criminal Justice (Committal Reform) Bill has just passed Final Stage. It usually takes around three months to get Royal Assent, so it might come in at the end of quarter 4. Would it be the same story on funding for committal reform in the Courts and Tribunals Service and the front-loading of the High Court and so on, should that legislation commence before the end of the financial year?

Ms Brown: Again, those are covered in the baseline budgets.

Miss Woods: OK. No problem at all. Thank you. Is the £421,000 in the submission for transformation costs in the Northern Ireland Prison Service part of Prisons 2020 or is that additional money?

Ms Brown: Sorry, I am just trying to find that one, Rachel. Is it a bid that you are referring to?

Miss Woods: It is £421,000 for transformation costs in the Northern Ireland Prison Service. Of course, I cannot find the exact page now. Apologies.

Ms Blair: I think that that may be in future years, rather than in those for the current year.

Miss Woods: It could be, sorry. Everything is going wrong for me with IT today. I have absolutely no issue if I have got that wrong and it is in future-year bids.

Ms Blair: I think that that may be a courts pressure for future years [*Inaudible*] Prison Service.

Miss Woods: OK. No problem at all. I appreciate that we are discussing January monitoring rather than future years, so I have absolutely no problem with that one.

My final issue has, perhaps, already been covered, so apologies if it has. A figure of £4.7 million is available for reallocation internally. Which business areas will that be reallocated to?

Ms Brown: I do have that. Just bear with me two seconds. Paper is not much better, Rachel. [*Laughter.*]

Miss Woods: At least you can load it, and it is not telling you that it is three days ago.

Ms Brown: We are allocating the bulk of that funding — £2 million — towards the LSA. We have explained that there has been an increase in the demand for legal aid. We are also allocating some funding towards dilapidation costs to the Northern Ireland Policing Board (NIPB); there is a little bit of money for the legacy case that I mentioned that is with the police; elements are going to the State Pathologist's Department for Northern Ireland for salaries and to pay for the consultancy that it requires; some funding is going towards some of our internal staff pressures; and £700,000 is going towards legacy-related compensation costs in the Department. That is a broad overview of where that money is going.

Miss Woods: Thank you so much. That is me, Chair.

The Chairperson (Mr Storey): Thank you, Rachel. Can I just check: Sinéad, did you have another question?

Ms S Bradley: No, Chair. Thank you.

The Chairperson (Mr Storey): That is OK.

Mr Beattie: I will try to be brief. You are bidding for £3.3 million for PSNI protocol costs. What is that for?

Ms Brown: That is to fund the 308 officers for the full year. The Department needed £15.5 million: £9.8 million of that was met and another £2 million was provided, which left us with the pressure of £3.7 million. We were able to reallocate some funding internally, which has left £3.3 million. The bid is to cover the cost of the 308 police officers for the protocol.

Mr Beattie: OK. Good enough. Thank you.

The Chairperson (Mr Storey): I have a couple of things to conclude, Deborah. This will test my vision, because I am trying to read from the bid. I think that the Department deliberately makes these things small, so that you cannot read them. As you know, Deborah, I would never be a conspiracy theorist. There is a bid relating to safer communities, modern slavery and human trafficking. I will probably have to move the document further away from me so that I can see it. There is a comment in the bid:

"A pressure of £300k has been identified in relation to support services for victims of modern slavery and human trafficking. This is a demand led service and the Department has a statutory obligation to provide support to victims."

Is that reflective of the fact that demand on those services has dramatically increased over past months and of the requirements of organisations that are there to help those who have been the victims of human trafficking?

Ms Brown: That might have come up as part of our October monitoring round. As you say, it is demand-led. I need to go away and find out for you the increase in the demand compared with the demand in previous rounds and whether the increase is a result of that demand. If you are happy for me to go ahead, I can get you a bit more information on that.

The Chairperson (Mr Storey): OK. Thank you, Deborah.

Finally, it would be helpful — I mentioned it earlier in relation to the issue with the legacy piece — to have some information on how the requirements for the legacy inquests have changed. One case has created a particular challenge, but I mean a general overview of the funding profile for legacy and how that has been handled.

Ms Brown: We will get that to you.

The Chairperson (Mr Storey): OK. Thank you very much. Deborah, it is good to see you again. Thank you for all your help, including that that you gave me in a former life when I was in the then Department for Social Development. That has long since gone; it is now the Department for Communities. Thank you, and thank you to your colleagues for their time. There may be a couple of questions that we have not covered. We will forward them to you in written correspondence.

Ms Brown: That is great. Thank you very much, Chair. Thank you for your time.

The Chairperson (Mr Storey): Thank you very much.