

Inquiry into a legislative budget process

August 2020



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Inquiry into a legislative budget process

August 2020



About the Committee

The Committee was established on 22 June 2016. Its remit can be found at:
www.senedd.wales/SeneddFinance

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Plaid Cymru

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Welsh Labour



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Mike Hedges MS

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Rhianon Passmore MS

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Nick Ramsay MS

Welsh Conservatives



Mark Reckless MS

Brexit Party

The following Member was also a member of the Committee during this inquiry.



Rhun ap Iorwerth MS

Plaid Cymru

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Chair's foreword

The Wales Act 2014 gave the Senedd powers over stamp duty land tax and landfill tax, the power to vary the rate of income tax in Wales by up to 10 percentage points, as well as providing the Welsh Government with wider short term borrowing powers and new powers to borrow for capital expenditure. At that time, the Senedd and the Welsh Government worked together to create a new budget process which considered the best way to alter the existing budget process to accommodate the new powers.

As six years have now passed, Members wanted to undertake this inquiry to establish whether the Senedd now needs a legislative budget process.

Our evidence gathering for this inquiry commenced with a visit to Scotland, where we held formal sessions with representatives from the Scottish Budget Process Review Group, a group established to review the budget process in Scotland. We have also taken evidence from expert academics in the field of budget processes.

Due to the global pandemic caused by COVID-19, work on this inquiry was halted and our planned evidence with the Minister for Finance was delayed. The Minister has subsequently provided us with written evidence and we have chosen to push ahead and publish this report, which lists a number of conclusions that we believe a future budget process should follow. Taking work forward on a legislative budget process will be a matter for the Sixth Senedd and the next Welsh Government, and we hope this report will serve as a foundation for the continuation of this work in 2021.

The Committee considers that the approach taken in Scotland, whereby experts and stakeholders came together to review the process and agree a way forward, is something that we can learn from in Wales. We would like to see a similar approach adopted in Wales, to ensure that a legislative budget process fully meets the needs of all, whilst maintaining the principles of simplicity, transparency and accountability.

Llyr Gruffydd MS
Chair of the Finance Committee

Conclusions

Conclusion 1. The Finance Committee believes that, as a point of principal, the Senedd needs to exert greater influence over the executive and recommends that there should be annual legislation to pass the Welsh Government budget.

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Conclusion 2. The Committee believes work should be undertaken by an independent group to take forward a legislative budget process, considering questions such as:

- Whether an annual Budget or Finance Bill is better suited for the authorisation of Welsh spending plans and taxation;
- How the Welsh Government's modelling and independent forecasting will be built into the process;
- How and when amendments to a Bill will be made, whilst maintaining the Welsh Government's ability to control its own budget;
- The impact on the Senedd's wider financial scrutiny, such as in-year scrutiny, draft budget and scrutiny of any budget legislation;
- How to improve public engagement and pre-budget scrutiny of annual budgets and also medium term priorities and financial strategy;
- Expectations on the Welsh Government to provide indicative multi-year budgets, particularly for local government and delivery partners.

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Conclusion 10. The Committee recognises that the new legislative budget process will need to be flexible enough to accommodate delays at a UK level, without causing undue pressure on the Senedd's plenary or committee system.
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1. Introduction

1. The Finance Committee commenced this inquiry in June 2019. Following the evidence sessions the Committee considered the evidence gathered in this report and established a number of high level conclusions. The Committee subsequently wrote to the Minister for Finance and Trefnydd (the Minister) to establish the views of the Welsh Government.

2. Unfortunately, due to the COVID-19 pandemic the Minister was unable to respond until May 2020. The Minister's response is attached as an annex to this report.

3. Due to the time that has passed since this inquiry commenced, the ongoing COVID pandemic and the upcoming dissolution of the Fifth Senedd the Committee has decided to publish this report without taking oral evidence from the Minister.

This report contains high level conclusions, which will form part of the Committee's legacy work. The Committee hopes that the Finance Committee of the Sixth Senedd and the relevant Welsh Government Minister will consider the conclusions of this report with a view to considering the legislation underpinning the budget process in Wales.

4. The evidence provided to this inquiry has aided Members in making a number of high level conclusions in the main body of the report. The Committee believes that the operation of the current budget process needs to be evaluated and a comprehensive review of the budget process should be undertaken at the start of the Sixth Senedd.

Conclusion 1. The Finance Committee believes that, as a point of principal, the Senedd needs to exert greater influence over the executive and recommends that there should be annual legislation to pass the Welsh Government budget.

Conclusion 2. The Committee believes work should be undertaken by an independent group to take forward a legislative budget process, considering questions such as:

- Whether an annual Budget or Finance Bill is better suited for the authorisation of Welsh spending plans and taxation;
- How the Welsh Government's modelling and independent forecasting will be built into the process;

- How and when amendments to a Bill will be made, whilst maintaining the Welsh Government's ability to control its own budget;
- The impact on the Senedd's wider financial scrutiny, such as in-year scrutiny, draft budget and scrutiny of any budget legislation;
- How to improve public engagement and pre-budget scrutiny of annual budgets and also medium term priorities and financial strategy;
- Expectations on the Welsh Government to provide indicative multi-year budgets, particularly for local government and delivery partners.

2. Background

5. The devolution of fiscal powers in the [Wales Act 2014](#) means that the Senedd's scrutiny now has to consider not just the Welsh Government spending plans, but how these plans will be financed through taxation and borrowing.
6. The Wales Act 2014 provided the Senedd with competence to alter the budget process (via amending sections 125-126 of [the Government of Wales Act 2006](#) (GoWA 2006)). However, it did not allow any alteration of the wider finance and audit provisions contained in Part 5 of the GoWA 2006. Competence over these wider finance provisions was devolved to the Senedd via the [Wales Act 2017](#).

Scrutiny by the Finance Committee

Fourth Assembly

7. In preparation for the devolution of tax powers to the Welsh Government, the Finance Committee of the Fourth Assembly undertook work to consider a future budget process to accommodate these changes. That Committee's report on its [Best Practice Budget Processes Part 2 inquiry](#) recommended that officials from the Welsh Government and the Senedd should work together to develop a new budget process.

8. The Welsh Government's [response](#) to that report did not comment on the issue of whether the process should be legislative or not. There was agreement that there was a need to both "provide adequate time for scrutiny and to provide early certainty to our delivery partners" and the budget process should be "future proofed for any further fiscal devolution".

Fifth Senedd

9. During the Committee's scrutiny of the Welsh Government's draft budget 2017-18, the then Minister for Finance, Mark Drakeford AM stated that:

"As we get additional fiscal responsibilities should the Wales Bill succeed, and should there be partial devolution of income tax, then the job that I do today will be a different job by then, and the need for it to be presented to the Assembly differently and for the Assembly to be

able to scrutinise it differently, I think that's going to be one of the big landmark changes of this Assembly term.”¹

10. On 21 June 2017, a **Budget Process Protocol** between the Assembly and the Welsh Government was approved. The protocol sets out an understanding between the Finance Committee and the Welsh Government on the administrative arrangements for the scrutiny of the annual draft budget and other related budgetary matters. The protocol set out a more detailed budget process but did not include a legislative process for approving the Welsh Government’s budget. The Senedd’s Standing Order provisions in relation to the revised budget scrutiny procedures following the devolution of taxation and borrowing powers in the Wales Act 2014 were also revised to complement the agreed protocol.

Committee inquiry

11. Prior to taking evidence, the Committee held an informal session with Daniel Greenberg (a lawyer specialising in legislation and the legislative process). The Committee agreed that its consideration of the establishment of a legislative budget process would be based on the following principles:

- simplicity;
- transparency; and
- accountability.

12. Whilst the budget process and devolved settlement in Wales is different from most other countries, Scotland has been considering very similar issues through its **Budget Process Review Group (BPRG)**. Therefore, the Committee’s evidence gathering included holding a formal meeting in Edinburgh to learn from the work of the BPRG. The Committee also heard from Dr Joachim Wehner, who was commissioned by the BPRG to provide research and advice on international best practice in budget scrutiny.

Date	Name and Organisation
13 June 2019	David Eiser, Adviser to the Scottish Finance Committee (BPRG member)
13 June 2019	Dr Angela O’Hagan, Glasgow Caledonian University (BPRG member)

¹ Finance Committee, Record of Proceedings, 17 November 2016, paragraph 107

	Prof. Michael Danson, Heriot-Watt University (BPRG member)
13 June 2019	Caroline Gardner, Auditor General for Scotland (BPRG member) Mark Taylor, Audit Director, Audit Scotland
19 September 2019	Joachim Wehner, Senior Lecturer (Associate Professor) in Public Policy at the London School of Economics and Political Science

- 13.** The Auditor General for Scotland also provided written evidence to inform the Committee's inquiry.

3. The Scottish Budget Process Review Group

The BPRG

14. The BPRG was established following a recommendation in the Scottish Finance Committee's legacy paper in March 2016². The subsequent Finance and Constitution Committee and Cabinet Secretary agreed to establish a group to fundamentally review the budget process and bring forward proposals in line with principals of the Financial Issues Advisory Group (FIAG), which informed the original budget process.

15. The BPRG's recommendations were accepted by the Scottish Parliament and Scottish Government and a revised Scottish budget process was agreed.

Membership

16. The BPRG's membership included four Scottish Parliament representatives, four Scottish Government representatives and eight external experts.³

17. David Eiser (Adviser to the Scottish Finance Committee) explained that the eight external expert members of the BPRG were agreed between the Parliament and Government, with his role as fiscal framework adviser being to help the Finance Committee understand the new fiscal framework and the transfer of the new fiscal powers.⁴

18. In terms of the external experts, Dr Angela O'Hagan said:

"...I was brought in because, I assume, of the long-running commitment from the Scottish Government and Scottish Parliament to try to advance equalities analysis, and embed equalities analysis in the budget process. And so, that was considered to be fundamental or a central part of the budget review."⁵

19. Professor Michael Danson told the Committee that his role on the BPRG was "as a generalist, as a representative of objective academic insight that would

² Scottish Finance Committee, Legacy Paper, 6th Report, 2016 (Session 4), page 14

³ Scottish Budget Process Review Group

⁴ Finance Committee, Record of Proceedings, 13 June 2019, paragraphs 5 and 14

⁵ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 103

balance up along with the other experts and officers from the Parliament and Government".⁶

20. The Auditor General for Scotland (AGS), Caroline Garner, said that the aim of the BPRG's membership was:

“...to make sure that it both had access to all of the legal, professional and technical expertise that it needed from people currently responsible for the process, plus a sufficiently large and diverse group of external advisers who could bring their experience, challenge and support to the review of the process.”⁷

21. The AGS emphasised the importance of the BPRG being jointly sponsored by the Cabinet Secretary and the Convener of the Finance Committee, demonstrating “a shared endeavour that both were committed to” and “real leadership”.⁸

Terms of reference

22. David Eiser told the Committee that:

“...both the Parliament and the Government recognised that this substantial transfer of fiscal powers and the new fiscal framework made it extremely clear that there was a need to review the process for parliamentary scrutiny, without prejudice to what the outcomes of that review might be. But there was certainly consensus that the processes for parliamentary scrutiny did need to be reviewed.”⁹

23. Mark Taylor, representing Audit Scotland, explained:

“...there was an understanding of new powers and the volatility, the uncertainty, the complicated nature and the transparency issues that that brought. But, equally, the Parliament as a whole was generally unsatisfied with how the budget process had been operating and there was a recognition it was an opportunity to move things and address some of those issues.”¹⁰

⁶ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 107

⁷ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 222

⁸ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 225

⁹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 29

¹⁰ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 231

24. Dr Angela O'Hagan indicated that, whilst the terms of reference were proposed to the BPRG:

“...there were discussions around what were the principles, and quite a lot of discussion early doors about whether or not to retain and build on the founding principles of the Parliament and the financial issues advisory group principles that were part of all of that process of founding the Parliament in 1999 and 2000. And the financial issues advisory group principles were considered to still be valid and relevant to the work of the review group, and did help frame some of our areas of inquiry.”¹¹

25. Professor Michael Danson said “we started off with quite radical views on the principles” and that “civil servants were very careful at managing that”. He explained that the radical idea was “a much wider conversation in Scotland, Scottish society, as well as within the Parliament”.¹² He continued:

“It became apparent that there was going to be very little time for scrutiny, for wider consultation, not only by committees, but the general public and so on. So, it was that sobering input, both from the Parliament, but also the Government officials, I would suggest, that really brought us back down to having limited suggestions of what might happen in changes.”¹³

26. Dr Angela O'Hagan also cited discussions around the extent of equality and human rights scrutiny in the budget process, supporting the achievement of well-being and equality objectives and participatory budgeting.¹⁴

27. In terms of the degree of consensus, the AGS told the Committee:

“...inevitably there was a bit of low-level tension within the workings and within this setting I think it is not surprising that some of the slightly less ambitious thrust was coming from Scottish Government officials who were aware that they would have to make work whatever was put forward, and of the scale of the additional resources that would be

¹¹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 110

¹² Finance Committee, Record of Proceedings, 13 June 2019, paragraphs 114 and 121

¹³ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 116

¹⁴ Finance Committee, Record of Proceedings, 13 June 2019, paragraphs 123-124

required for some of the issues that we discussed. I think the external advisers had a range of different priorities coming through.”¹⁵

28. The ACS said the BPRG “worked well together in coming up with something that was realistic but still ambitious” and “adequate to meeting the challenges of Scotland’s new fiscal powers”.¹⁶

29. Whilst highlighting the consensual nature of the BPRG’s report, David Eiser acknowledged that there was “some negotiation on wording of aspects of the report” and “slightly different viewpoints around how far the group’s report should go in terms of recommending particular levels of detail to be provided in Government documents and so on”.¹⁷

¹⁵ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 228

¹⁶ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 229

¹⁷ Finance Committee, Record of Proceedings, 13 June 2019, paragraphs 20 and 27

4. Committee findings

The benefits of a legislative budget process

30. The term ‘Budget System Law’ (BSL) is used to describe a range of legal instruments used around the world to codify the rules for formulating, executing, and reporting on an annual budget. In addition, it covers requirements for governments to plan and report on medium-term fiscal policy objectives. A Technical Guidance Note¹⁸ published by the International Monetary Fund (IMF) identifies a number of reasons why countries may adopt a new BSL or modify an existing one. These include:

- To address specific budget-related problems;
- To introduce new budget principles – such as transparency, accountability, fiscal stability/sustainability and budget performance, for example; or
- To strengthen or clarify the authority of the legislature or the executive.

31. In considering the financial controls of the Senedd, the Committee notes that any process should have three different components:

- 1.** The approval of taxes;
- 2.** The approval of the supply of finance to the Welsh Government (and in respect of services charged directly on the Welsh Consolidated Fund); and
- 3.** The approval of public spending as set out in the Welsh Government’s budget proposals.

32. During a scrutiny session on 23 March 2017, the previous Finance Minister, Mark Drakeford AM, gave his initial views on the need for a Finance Bill:

“I think the way that I have been thinking about this, Chair, is a bit like this: the principle of an annual finance Bill is one that I see the case for. I see the day coming when that will be what we will need to do. When exactly that will be, I just feel like we will need to be pragmatic about, and just have a better sense, as things go on, as to whether or not the level of activity that is required on the floor of the Assembly, with the

¹⁸ [Reforming Budget System Laws, International Monetary Fund](#)

modest number of taxes we currently have, amounts to the need for a Bill. The point will come when that will happen, I feel, but I think it's difficult to anticipate exactly when it will be.

I think I heard you say in the Chamber that you thought the committee might have a contribution to make in taking evidence from elsewhere as to how these procedures work. The Assembly would need a different procedure, wouldn't it, for a finance bill? You know, it would have to be a different way of taking legislation through the Assembly. So, I think there's lots to learn here. I tend to share the view of people who say that that is the destination we will get to. How fast we get to it, I think, we will only really come to understand as we see the volume of secondary legislation that the current number of taxes we have generates and whether it would make better sense to consolidate that level of secondary legislation into an annual Bill or whether it is so infrequent that it is still, in a sensible way, best left to the arrangements we have for now as we now have them.^{"¹⁹}

- 33.** With regard to a legislative budget process, the AGS said:

"It's obviously important that the budget, as such an important set of decisions that Parliament is making about Government's proposals, is set in statute in that way, and the debate then is how it's taken forward."²⁰

- 34.** Mark Taylor from Audit Scotland said:

"A legislative process brings a certain overhead in terms of parliamentary procedure and what that means, and again, in Scotland, ...it is a modified legislative process for the budget, which is different from the general legislative process, which really recognises that often these things are time critical."²¹

- 35.** However, Dr Wehner believed how a budget "is approved doesn't matter as much as that it is approved and the way that process offers a meaningful role for Parliament".²² Dr Wehner said:

¹⁹ Finance Committee, Record of Proceedings, 23 March 2017, paragraphs 255-256

²⁰ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 244

²¹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 248

²² Finance Committee, Record of Proceedings, 19 September 2019, paragraph 48

“...changing from a motion-based process to one where you pass legislation that gives statutory footing, through legislation, for the budget doesn’t make that much of a difference. It is true that most legislatures, many legislatures, use an Act or they pass a Bill that becomes the annual budget Act ... Sweden doesn’t, for example. So, the Parliament in Sweden does not approve an annual budget Act. And in many ways, it’s not that important. There is an Executive proposal, and funny enough that’s a Bill. So, the Executive does table a Bill, but then all Parliament does is it takes a series of decisions that relate to that Bill. In the end, the finance committee sums those up in a report, the Speaker signs the report, and that’s it.”²³

Conclusion 3. Whilst powers have been devolved to alter the budget process and wider finance, accounts and audit provisions in Wales, to facilitate a legislative budget process the Committee recognises that legislation will need to be brought forward setting out the rules for spending money, accountability requirements, accountability of officials and auditing arrangements.

Conclusion 4. The Committee believes that a legislative budget process will better reflect the maturity of the Senedd and the principle of equitable balance of control between the legislature and the executive. Making these changes will strengthen the role of both the Welsh Government and the Senedd following the devolution of fiscal powers.

Conclusion 5. The Committee believes that the legislative budget process must ensure that the principles of simplicity, transparency and accountability are at the heart of its development.

A Budget Bill or a Finance Bill

36. The Committee notes that a legislative budget process could be implemented by legislating for an annual Budget Bill, or a more comprehensive annual Finance Bill. Both approaches would mean that there would be a need for a legislative phase in terms of passing the final budget.

37. The Committee considered that an annual Budget Bill would authorise expenditure while tax proposals would be agreed by tax resolutions, although detailed within the budget documentation. Where there is a dependency between the budget and the tax, such as the Welsh Rate of Income Tax, the tax resolution would need to be passed before a Budget Bill was passed. This process

²³ Finance Committee, Record of Proceedings, 19 September 2019, paragraph 42

would be very similar to the current process, whereby the annual budget is authorised by a budget motion and tax rates are agreed by resolution.

38. A more comprehensive Finance Bill could encompass all tax setting decisions, as is the case in Westminster. However, there are a number of complexities regarding both the timing of taxation changes and the interaction with the Westminster budget and tax setting timetable. Therefore, there is a need for a more detailed investigation of these issues and there are considerable risks that this approach may not allow for adequate scrutiny of taxation and spending decisions prior to the start of the financial year.

39. The Committee notes that moving to an annual Budget Bill would require adjustments in timescales to allow for legislative stages. These would need to be set out in Standing Orders and timescales would also need to ensure that the Bill received Royal Assent before the start of each financial year.

40. A Finance Bill would also need to consider how current and potential future taxes would link in with the legislative approach in terms of timings, and whether there would be any unintended consequences of such an approach.

41. When discussing a Finance Bill, the AGS said:

“...the way that the Scottish budget has shifted is that it’s a rounded look at income and expenditure and budgeting for income and expenditure and, yes, the detailed process around each of those elements is important, but what the process is trying to do is look at that overall look and that overall sense of what the funding envelope is based on current policy, how that might change, how the spending priorities might change, but looking at that together. And a finance Bill may help that and may tidy up some of the various ways of doing it, but at the heart of the group’s recommendations was that sense about, ‘Let’s look at the whole picture.’”²⁴

42. In considering a Budget Bill or a Finance Bill, Dr Wehner said there were different options around an all-encompassing Bill or separate Bills for spending and taxation²⁵. He continued to detail issues with tax expenditure:

“...the basic problem is this: that you can spend money on the expenditure side, but you can also spend it on the revenue side if you give people a tax break, and it’s functionally equivalent to giving people

²⁴ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 286

²⁵ Finance Committee, Record of Proceedings, 19 September 2019, paragraph 84

money. So, one thing you definitely want to make sure is that taxes and spending receive the same level of scrutiny. What very often happens with tax expenditures—special breaks for this particular industry or for hotels or something like that—is some very targeted tax reliefs and tax expenditures, essentially, get less scrutiny. They maybe get looked at once when the finance Bill gets approved, but they don't get annually re-looked at in the same way that public spending gets looked at. So, again, I think it's more, 'Is effective scrutiny achieved?', 'Is parliamentary authority safeguarded?' And that can be done through Acts; it can be done possibly in other ways.”²⁶

43. The Minister stated that a move to a Bill covering taxation and spending plans “would need careful consideration and with clear evidence as to additional benefits this would bring”.

44. The Minister also highlighted that the Welsh Government is exploring the case for a Bill in Year 1 of the Sixth Senedd to provide Welsh Ministers with powers to make changes to Welsh Tax Acts at very short notice. The Minister subsequently issued a consultation on this proposal in July 2020.²⁷

Conclusion 6. The Committee believes that consideration needs to be given as to how tax resolutions will fit into a legislative budget process, such as whether all tax resolutions will be voted on at the same time as a Budget Bill or only where tax revenue is significant enough for the budget to be dependent on this revenue, e.g. income tax.

Conclusion 7. The Committee believes that further consideration is needed to establish whether a Budget Bill or a Finance Bill is better suited for the authorisation of Welsh spending plans and taxation.

The treatment of amendments

45. In developing a legislative budget process, there will be a need to consider whether, when and how amendments to a Bill can be made. The Committee recognises that it would be beneficial to both the Senedd and the Welsh Government to have scrutiny and recommendations on changes to spending and financing plans earlier rather than later in the process.

²⁶ Finance Committee, Record of Proceedings, 19 September 2019, paragraph 85

²⁷ [Welsh Government, Tax Devolution in Wales – Enabling changes to the Welsh Tax Acts, 16 July 2020](#)

46. David Eiser referred to amending a legislative budget, stating:

“...the group’s view was that although opposition Members should not be able to lodge amendments at Stages 2 and 3, what was really important was that Parliament should have the ability to influence the formulation of the budget in those earlier stages, and although the FIAG proposals envisaged that that would and should happen, that hadn’t been happening in reality as well as it could have been happening, and that was why the group made recommendations about how the process of budget scrutiny should change before we got to that final legislative process—so, the idea that the Government publishes a mid-term financial strategy that sets out its broad priorities over a five-year period, and that’s published in May, and that, in effect, marks the start of the parliamentary scrutiny process, with the idea being that Parliament is influencing the formulation of the budget, but that there are, perhaps, too many risks in the notion that the Parliament influences the budget proposals right at that final stage.”²⁸

47. David Eiser stated that, rather than amending towards the final stage of the process, the approach in Scotland is a:

“...strategic year-round approach...committees publishing pre-budget reports in October. The Government, when it publishes its budget in December, has to say how it’s responded to those committee reports in its budget. Prior to the Stage 1 budget Bill, the Conveners of the subject committees have a debate in Plenary. So, the theory is that it’s more sensible to address those kinds of issues, taking that more strategic and long-term view, rather than to wait until right at the end of the process.”²⁹

48. Amendments at the Bill stage in Scotland have been limited to the Scottish Government and have been “comparatively rare”. The AGS outlined the process for amending Budget Bills in Scotland:

“Only the Government can propose amendments to the Bill. Committees and individual members can express their views on revenue and spending proposals through reasoned amendments to the Scottish Government’s motion on the general principles of the Budget Bill at stage one. There was no change to the existing

²⁸ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 40

²⁹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 42

procedure that only Ministers can lodge amendments to the Budget Bill at stages two and three. The BPRG carefully considered other options and concluded that this approach provides the right balance between meaningful parliamentary influence in setting the budget and overall Government control of the public finances.”³⁰

49. The Commonwealth Parliamentary Association’s Benchmark 6.2.2 states “the legislature shall have the right to override and executive veto.”³¹

50. Whilst the AGS said it was important not to leave the “Government in the position where it loses control of the budget entirely”.³²

51. The Minister considered that the current process in Wales “allows for the same level of scrutiny and scope to make amendments as the Scottish Government process without the need for a full legislative process”.

Conclusion 8. The Committee believes that further consideration should be given to how a legislative budget process can be subject to amendment by both the Senedd and the Welsh Government, whilst maintaining the Welsh Government’s ability to control its own budget.

Other issues that need to be considered

Flexibility

52. The Committee recognises that public finances at a devolved level are not stable, with frequent UK-level fiscal events. From the Conservative/Liberal Democrat Government’s 2010 Emergency Budget and subsequent Spending Review 2010 up to and including the UK Budget March 2020, there were a total of 22 fiscal events. Since the March Budget, there have also been frequent announcements of funding consequentials for the Welsh Government with little or no forward notice. At each fiscal event the Welsh funding can be altered, which makes planning for budgeting complicated. In 2019 and 2020 this has been particularly difficult as the Welsh Government has not had sight of funding figures before summer recess, or a date for the UK Budget. This has meant that the Welsh Government has had to delay its own budget.

53. Despite devolution, the UK system remains highly centralised. Whilst the Fiscal Frameworks in Scotland and Wales have lessened the control over the

³⁰ Written evidence: Auditor General for Scotland

³¹ CPA Recommended Benchmarks for Democratic Legislatures

³² Finance Committee, Record of Proceedings, 13 June 2019, paragraph 252

devolved administrations, the UK Treasury retains considerable control over the way the Welsh Government is able to budget.

54. David Eiser recognised the need for flexibility and stated his role was to:

“...input to the work of the budget process review group in terms of thinking about what these new powers and this new fiscal framework meant in terms of when bits of information would be available to the Parliament and to the Government and the implication of that for, in particular, the timing of particular budget events.”³³

55. David Eiser detailed that, in considering budget process changes, one of the main issues was timing, as prior to the Scotland Act there was a longer time for Parliamentary scrutiny.³⁴ He continued:

“The [Scottish] Government’s view was that that was fine when the budget was largely a spending budget... But when you have a substantial transfer of fiscal powers, that situation changes a bit, because the autumn statement could then have much more marked consequences, potentially, for the Scottish budget, because UK fiscal forecasts change and, of course, through this complicated fiscal framework process that we now have, changes in UK fiscal forecasts can affect the Scottish budget via changes to the block grant adjustment.”³⁵

56. Professor Michael Danson said that a budget process:

“...should be taking a much longer time horizon to look at multi-annual budgeting ... it’s really just the bits on the top that are debated and discussed in the public sphere in the Parliament. So, to accept that and to get committees, as well as the Members themselves and the Government and so on, to take a much longer term view, would then impact back on what the actual annual process is about—so, to scrutinise more, to anticipate what the budget’s going to be, rather than reacting, because there’s so little time available.”³⁶

57. In terms of flexibility, Mark Taylor representing Audit Scotland said:

³³ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 7

³⁴ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 16

³⁵ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 17

³⁶ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 152

"What the budget process has done is try to design a process to respond to that to be able to understand that flexibility, and to take a much more strategic approach to not, necessarily, spot the individual numbers coming, but to give a sense of how the wind's blowing, the direction of travel, and what that's likely to mean for choices that need to be made by Parliament and Government going forward, and take that more strategic look at how money's being spent, what we're getting for our money, what's working and what's not working, and that to be the basis of budget scrutiny that's carried out."³⁷

- 58.** Dr Wehner recognised the benefits of the current approach to budget scrutiny in Wales:

"...in Scotland, there always seemed to be a hesitation to get going with the budget process before the autumn statement had been tabled. And that introduced some uncertainty into the process, which isn't really desirable, and I think what you have, what I understand is the practice here, is a better approach, where you say, 'We have our timetable, but then we also build in some flexibility to respond to any developments that may materialise in the autumn statement'."³⁸

- 59.** The Minister highlighted that in Wales the aim is to publish a draft budget in the Autumn, which can be scrutinised before Christmas recess, providing earlier funding certainty for delivery partners.

Conclusion 9. The Committee considers that Audit Wales is a stakeholder of special significance in the context of the budget process and, in establishing a legislative budget process, particular consideration must be given to how the process will dovetail with the Audit Wales' processes, , but without confusing the separate processes of approving public expenditure and monitoring accounts.

Conclusion 10. The Committee recognises that the new legislative budget process will need to be flexible enough to accommodate delays at a UK level, without causing undue pressure on the Senedd's plenary or committee system.

Conclusion 11. The Committee also believes that consideration must be given to how budget scrutiny fits into wider financial scrutiny in the Senedd, and what is considered at various stages, such as in-year scrutiny, the Draft Budget and Bill scrutiny processes. The development of timetabled scrutiny of the Welsh

³⁷ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 240

³⁸ Finance Committee, Record of Proceedings, 19 September 2019, paragraph 19

Government's mid-term planning and pre-budget scrutiny in Plenary can be used to improve the quality of, and participation in, the budget scrutiny process.

Conclusion 12. The Committee believes that consideration should be given as to what expectations are placed on the Welsh Government to provide indicative multi-year budgets, particularly for local government and delivery partners, in light of the constraints from UK Spending Reviews.

Conclusion 13. The Committee recognises that as part of moving to a legislative budget process consideration will need to be given to the associated timescales, the impact of legislative stages, how Standing Orders are updated and ensuring sufficient time for effective scrutiny.

Alignment of financial datasets

60. The Best Practice Budget Processes (Part 1) report recommended that an alignment process be undertaken:

Conclusion 13. The Committee recommends that an 'alignment exercise' should be carried out, similar to the one at Westminster, to ensure that Welsh Government accounts uses the same boundary for the budget presented to the Assembly as that used by the Treasury for control of public expenditure. It would also be necessary for the Welsh Government to prepare its accounts on the same basis. This would also be a useful first step towards the production of a whole of government of Wales account. (Conclusion from the Best Practice Budget Processes (Part 1) report)

61. The lack of alignment necessitates a complex reconciliation is attached to the budget motion that is not easy to understand. Looking from the perspective of budget legislation, the importance of this alignment process should not be understated or forgotten when designing the future process.

Conclusion 14. The Committee recognises the incremental progress made by the Welsh Government in developing this alignment exercise over recent years and believes it is important that this work is continued to aid transparency and engagement with the both budget and accounts documentation.

Forecasting

62. In the Best Practice Budget Process (Part 2) report, the Finance Committee of the Fourth Assembly recommended:

Recommendation 7: The Committee recommends the Welsh Government considers further the advantages and disadvantages of establishing a fiscal commission for Wales having regard to the arrangements in place for Scotland and the Netherlands and share its analysis with the Committee. (*Recommendation from the Best Practice Budget Process (Part 2) report*)

63. The Fiscal Framework required the Welsh Government to put in place arrangements for the independent production of tax revenue forecasts for devolved taxes. In the short term, while these arrangements were being put in place, Bangor University provided independent scrutiny and assurance of the Welsh Government's tax forecasts. A [memorandum of understanding \(MoU\)](#) between Welsh Government and the Office of Budget Responsibility (OBR) was published in April 2019 that enables the OBR to produce independent forecasts of devolved Welsh tax revenues going forward.

64. The Committee recognises that, whilst expertise in economic modelling in Wales is being established, there remains a requirement for this to be outsourced to ensure confidence in the Welsh Government's budgeting.

Conclusion 15. The Committee believes that fiscal devolution has made the budget more dependent on both the performance of the Welsh economy and the accuracy of forecasts, as these are key to aiding budget planning and minimising fiscal risks.

Conclusion 16. The Committee has welcomed the publication of taxation and borrowing plans and forecasts at the time of the outline budget and the commitment to update these forecasts in-year and reporting on outturn. The Committee recognises that consideration will need to be given to how and when Welsh Government modelling and independent forecasting would feed into a legislative budget process.

Impact of budget timings on funded organisations

65. Both the Welsh Government and the Finance Committee have highlighted the importance of early funding certainty for NHS, local government and other delivery partners, such as the third sector. As such, the Committee recognises that a legislative budget process would need to consider when certainty of funding can be given to NHS, local government and delivery partners.

66. In the Scottish context David Eiser detailed:

“...local government is very keen that it has finalisation of its funding settlements earlier and, indeed, is very keen that the Government more regularly sets out multi-year budgets. The Government’s argument, certainly in recent years, is that the level of uncertainty around its finance position is such that it can’t give firm commitments beyond the one-year period, and, of course, its argument is that it can’t finalise individual local authorities’ budgets until the budget has been finalised.”³⁹

67. Professor Michael Danson recognised the need for budgets to be confirmed “for the sake of the NHS and local authorities having their own budgets confirmed”⁴⁰.

Conclusion 17. The Committee recognises the need for certainty for the NHS and local government. However, further consideration must be given to balancing the competing priorities of providing meaningful forecasting, tax, borrowing and budget allocations that are not impacted upon by subsequent UK fiscal decisions and the early identification of stakeholders’ budgets.

Public engagement

68. During the Fourth Assembly, and following the implementation of new budget procedures, the Committee has been keen to engage the public in budget scrutiny.

69. In considering a legislative budget process, the Committee firmly believes that public engagement should be at the forefront of any new process, and considered:

- How any input from the public would be managed and by who, and the differing engagement roles of the Senedd and the Welsh Government
- What stage would be most appropriate for meaningful public input
- What information would be needed by the public, and how feedback from the public would be utilised.

³⁹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 68

⁴⁰ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 122

70. In discussing the BPRG, David Eiser recognised that a key consideration is “how to involve or engage wider civic society or other public organisations in this process”.⁴¹

71. Professor Michael Danson explained that the BPRG found:

“...there was actually very little time over the annual process, between budgets and so on, for the degree of scrutiny, general conversation out there, of going out to the general public, civic society and others, to be involved in setting the current year’s budget, tweaking it and so on.”⁴²

72. Dr Angela O’Hagan talked about how public engagement had been considered by the BPRG:

“I do recall, at one point, when we were talking about participation and transparency and openness—so, again, returning to the founding principles of the Parliament, but also in terms of the Financial Issues Advisory Group principles, which include providing the opportunity for the public to have the opportunity to put their views to subject committees as well as individual MSPs, et cetera—. And there was discussion about public engagement and the whole question of how open is the budget process in Scotland. And it has been a very open process in lots of ways, but it’s also hidden in plain sight, how open and accessible that process is. And so, there’s still, I think, a weakness and some areas of improvement needed in terms of delivering on those founding principles around openness.”⁴³

73. Dr Angela O’Hagan continued:

“Participatory budgeting, if it is to be more than transactional, needs to be about more than, ‘Well, here’s £50 for some craft supplies for a local women’s or carers’ group’, for example. And that’s the kind of example that we were finding in the very early days. If it’s to move into a transference of power and resources—that’s about a different relationship between the citizen and the state, which moves us into a transformation of that relationship and where power lies, and so we get into discourse and the realities in practice of what we mean by community empowerment and local governance. And that’s about a renegotiation of those relationships, wholesale. And participatory

⁴¹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 34

⁴² Finance Committee, Record of Proceedings, 13 June 2019, paragraph 121

⁴³ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 124

budgeting has also revealed itself to have all the elements of structural inequalities, exclusive and non-exclusive participation, as any other form of governance.”⁴⁴

74. The Committee requested that a debate was held in plenary to discuss strategic priorities of Welsh Government Spending in advance of the 2020-21 draft budget being published and made a recommendation in the report on the [Scrutiny of the Welsh Government Draft Budget 2020-2021](#) that “a debate on spending priorities could be factored into the budget timetable, to provide an opportunity for the Assembly to influence budget priorities and allocations earlier in the process”.⁴⁵

75. The Welsh Government responded to this recommendation:

“We are committed to supporting meaningful and effective scrutiny of our budget proposals. This is demonstrated by the steps we have taken in recent years, including the move to a two-stage budget process which provides for eight weeks of scrutiny. In response to the calls made by the Finance Committee during scrutiny of the First Supplementary Budget 2019-20 for the Government to provide an early statement on spending priorities, the Minister for Finance and Trefnydd made an Oral Statement in plenary in July setting out the future outlook for public spending in Wales. We also welcomed the Finance Committee’s debate on the Government’s spending priorities in September. We are open to exploring with the Senedd Business and Finance Committees how a debate on spending priorities could be factored into the budget timetable.”⁴⁶

76. Subsequently the Committee wrote to the Business Committee and the Minister to request a debate on the Welsh Government’s spending priorities prior to summer recess 2021-22. The Business Committee agreed to the request and stated “there was unanimous support for this type of debate being held annually.”⁴⁷ The debate took place on the 15 July 2020.

77. The Committee welcomes the commitment shown by the Minister and the Business Committee and hopes that these pre-budget spending priorities

⁴⁴ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 138

⁴⁵ [Scrutiny of the Welsh Government Draft Budget 2020-2021](#)

⁴⁶ [Response from the Welsh Government - Finance Committee’s Recommendations on the draft Budget 2020-21](#)

⁴⁷ [Letter from Business Committee - 4 June 2020](#)

debates can continue, utilising the results of any public participation undertaken prior to the debate.

Conclusion 18. The Committee believes that recent work by the Committee (and the Welsh Government) to engage the public, both in scrutiny before and after the budget is laid, should be strengthened. Consideration also needs to be given to how and when to facilitate public participation in budget scrutiny. A legislative budget process would need to enable meaningful public participation, at both strategy setting and detailed scrutiny stages.

Conclusion 19. The Committee believes that the budget protocol should be updated to include a timetabled pre-budget debate prior to summer recess each year. This will afford the Senedd the opportunity to influence the planning and priority setting of the Welsh Government's budget.

Next steps

78. In terms of next steps for the Senedd, Dr Wehner said:

“You have to say what it is you want from the budgetary process as a legislative body, and if you say, ‘We want to become more activist, we want to have more of a role, we want to scrutinise more’, then it’s easier to say, or it’s relatively easy to say, ‘Here are the four, five, six things that you might look at in order to achieve that’, but, in the abstract, it’s actually a question that is beyond what I should be saying, because that’s your role, to say, ‘This is the role we envisage for the legislature’.”⁴⁸

79. David Eiser advised the Committee that, if Wales considered replicating the Scottish approach, “a joint sharing of what the purpose of the group is and the terms of reference of the group is critical”. He also suggested that consideration should be given to “how to involve or engage wider civic society or other public organisations in the process” and balancing “transparency and not prejudicing outcomes”.⁴⁹

80. In terms of the group’s membership, Professor Michael Danson reflected on the importance of including external professionals who understand the process and the value of those who provided evidence, such as HMRC and those with experience of the New Zealand models of participatory budgeting.⁵⁰

⁴⁸ Finance Committee, Record of Proceedings, 19 September 2019, paragraph 13

⁴⁹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 34

⁵⁰ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 147

81. Dr Angela O'Hagan told the Committee that, if Wales were to consider a review group, she would encourage a distinct equalities perspective as well as representation from public agencies responsible for “discharging that finance and achieving the outcomes that are set”.⁵¹

82. In responding to the Committee, The Minister said that:

“Taking forward further developments to the budget process would require a significant amount of engagement and collaboration over the coming months, at a time when we are facing unprecedented challenges as a result of the coronavirus pandemic. We would also need to be satisfied of the benefits of moving to a different approach relatively soon after we moved to the current process.”⁵²

Conclusion 20. The Committee believes that the shared, joint approach in Scotland has worked well and believes a similar approach is required in Wales to make recommendations on how to modify the budget process to reflect the current devolution settlement and how this could sit within the legislative budget process.

⁵¹ Finance Committee, Record of Proceedings, 13 June 2019, paragraph 148

⁵² Written evidence: Welsh Government

Annex – Written evidence: Welsh Government

Inquiry into a legislative budget process

Introduction

The Welsh Government has worked closely with the Finance Committee over many years to improve the budget process, increase transparency and to support robust scrutiny.

Since devolution, the budget has been approved through a budget motion. With the devolution of tax powers, this represented a significant milestone in the fiscal journey for Wales and placed an even greater emphasis on the budget process.

In recognition of the additional fiscal responsibilities, we welcomed the Finance Committee's previous inquiry into Best Practice Budget Process. As a result of this work a new process was agreed between the Senedd Cymru ("the Senedd") and the Welsh Government in 2017.

We also welcome the Committee's current inquiry which provides an opportunity to reflect on the changes to the budget process over the course of this administration and the suitability of the current arrangements.

Current budget process

The new budget process was agreed between the Welsh Government and the Senedd in 2017. Key features of the new process include:

- a 2-stage process to aid scrutiny and improve transparency, with stage 1 setting out the main fiscal building blocks and strategic spending plans and stage 2 providing more detailed portfolio budget information;
- an increase in the period for scrutiny from 5 weeks up to 8 weeks; and
- a protocol setting out the principles underpinning the budget process, including a mechanism for agreeing revisions to the process in recognition that external factors can impact on the timeline for the production of the Welsh Government's budget.

The above changes were first introduced in the 2017 Budget. Since then, we have faced a number of uncertainties, such as the UK's exit from the EU and more frequent UK elections, which have impacted on UK fiscal events and hence the timing of the Welsh Government's annual budget. However, the budget protocol has provided sufficient flexibility in the process to accommodate these exceptional circumstances without unduly compromising the scrutiny arrangements.

Improving transparency of our budget proposals has also been at the heart of developments in recent years to include a greater level of detail and supporting information at both stages of the draft budget. Working with the Committee, this work has acknowledged the complexity of the information we are presenting at various points of the cycle and the variety of purposes for which stakeholders use the information.

To support robust scrutiny, the Welsh Government now publishes a suite of additional documents as part of the budget package, including:

- the Chief Economist's Report - providing an analysis of recent economic performance in the UK and Wales and economic and fiscal prospects in the short and long-term.
- a Welsh Tax Policy Report and annual tax policy work plan - providing an update on the delivery of the Welsh Government's strategic tax objectives and analysis to inform the development of tax policy.
- 'Welsh Tax Outlook' – the Office for Budget Responsibility's independent assessment of our tax proposals
- MEG Budget Expenditure Level tables - a lower level of budget information than previously published.

Comparison with Scotland

We note the Committee's consideration of the Scottish legislative budget process. While there are clear distinctions between approaches in Scotland and Wales, there are some important similarities that exist between both processes.

- *Opportunity for amendments to be tabled* - The current Welsh Budget process provides for the Senedd to propose amendments following the laying of the draft budget and before the Welsh Government publishes its firm spending plans. This effectively provides a similar mechanism to the Scottish process which allows the laying of amendments to the budget bill at stage 1.
- *Period for scrutiny* - The introduction of the 2 stage budget process in Wales now 'normally' allows for a period of up to 8 weeks for scrutiny. Within Scotland their standing orders set out that normally the Budget (noting that they no longer produce a draft budget) will be published no more than 3 weeks after publication of the UK budget and the budget bill will be introduced one week later. Although the timings are not fixed, in a normal year the Scottish budget is published shortly before Christmas, with the scrutiny being conducted in January and the budget bill passed in February. This means in a normal year, there is a longer period for scrutiny in Wales than in Scotland.

An important consideration is the timing of the budget publication. As described above, in a normal year the Scottish Budget is published shortly before Christmas. In Wales, we have always sought to publish our budget proposals in the early autumn in order to complete the process before the Christmas recess and to provide early funding certainty for delivery partners. In this context, we welcomed the Finance Committee's recommendation as part of scrutiny of the draft budget 2019-2020 that the Welsh Government continues with its current practice of publishing its draft budget in the autumn regardless of the timing of the UK Budget.

Taking these considerations together, the process in Wales allows for the same level of scrutiny and scope to make amendments as the Scottish Government process without the need for a full legislative process.

Pre-Budget engagement

In line with our commitment to improve transparency and understanding of the Welsh Government's spending priorities, we have looked to maximise the opportunities in recent years to increase engagement and scrutiny prior to publication of our draft

budget. This has included engagement with a range of stakeholders, including the Budget Advisory Group for Equality, the Welsh Local Government Association and directly-funded bodies.

In addition, and following discussions with the Finance Committee, we have agreed to build on the steps we took last year and to hold a debate in Plenary before the summer recess, focusing on strategic issues.

Multi-year budgets

It is always our ambition to provide multi-year settlements whenever possible. However, our ability to provide longer-term funding certainty is dependent on the UK Government's budget cycle and not related to our own budget process.

Combined tax and spending legislation

We note that the Committee is considering the case for a single legislative vehicle covering both taxation and spending plans. It is generally understood that budget legislation is a method specifically for approving overall spending limits and tends to be a simplified legislative procedure that limits non-government amendments. Budget legislation tends to use an accelerated timescale to ensure approval before the start of the financial year.

An important consideration is whether introducing other elements such as taxation as part of the same legislative vehicle as is used to approve spending limits would require normal scrutiny and amendment procedures. This could compromise the approval of spending plans before the start of the financial year and could impact on the ability to provide funding certainty to partners and stakeholders. Any proposal to move to a single legislative vehicle would therefore need careful consideration and with clear evidence as to additional benefits this would bring.

It also remains the case that Welsh Government currently has limited powers over taxation. On the basis of our current tax powers the need for, and benefits of, annual tax legislation is not clear. However, we acknowledge the importance of being able to make swift changes to tax legislation in certain circumstances. In this context, we are exploring the case for a Bill for Year 1 of the next Senedd that will provide Welsh Ministers with powers to make changes to the Welsh Tax Acts at very short notice. We look forward to working collaboratively with the Finance Committee to bring this legislation forward and are currently planning to go out to consultation in July.

Conclusion

Taking forward further developments to the budget process would require a significant amount of engagement and collaboration over the coming months, at a time when we are facing unprecedented challenges as a result of the coronavirus pandemic. We would also need to be satisfied of the benefits of moving to a different approach relatively soon after we moved to the current process.