

National Assembly for Wales
Finance Committee

Consideration of a proposal to amend the
Welsh Government's Annual Budget Motion

October 2011



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Finance Committee

The Finance Committee's functions include:

- considering and reporting on any report or other document laid before the Assembly by Welsh Ministers or the Commission containing proposals for the use of resources;
- considering and reporting on any other matter relating to or affecting expenditure out of the Welsh Consolidated Fund.

A reference to the use of resources is a reference to their expenditure, consumption or reduction in value and includes expenditure payable out of the Welsh Consolidated Fund and any other expenditure met out of taxes, charges and other sources of revenue.

Powers

The Committee was established on 22 June 2011. Its powers are set out in the National Assembly for Wales's Standing Orders, particularly SO 16. These are available at www.assemblywales.org

Committee Membership



Jocelyn Davies (Chair)
South Wales East
Plaid Cymru



Peter Black
South Wales West
Welsh Liberal Democrats



Christine Chapman
Cynon Valley
Welsh Labour



Paul Davies
Preseli Pembrokeshire
Welsh Conservative Party



Mike Hedges
Swansea East
Welsh Labour



Ann Jones
Vale of Clwyd
Welsh Labour



Julie Morgan
Cardiff North
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Ieuan Wyn Jones
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Chair's foreword

In the current financial climate, it is more critical than ever that the Welsh Government is held to account on its budgetary allocations and plans. I would therefore like to begin this report by welcoming the open and transparent approach with which the Welsh Government has sought to facilitate our scrutiny of its proposal to amend the Annual Budget Motion.

We consider that the Welsh Government's proposals have a number of potential implications with regard to our scrutiny of its financial management practices. We are also conscious that its proposals may have implications for the Direct Funded Bodies (i.e. the National Assembly for Wales Commission, Public Services Ombudsman for Wales (PSOW) and Auditor General for Wales (AGW)). Our consideration of the implications of these proposals is detailed in this report.

I am also grateful to the Minister for Finance for her suggestion that a written protocol be agreed between the Welsh Government and National Assembly for Wales, with the intention of addressing the concerns we raised during our scrutiny of her proposals. The final chapter of this report sets out the principles which we consider should underpin such a protocol.

Finally, I would like to thank all the members of the Finance Committee for their contributions throughout this short inquiry.

The Committee's Recommendations

The Committee's recommendations to the Welsh Government are listed below, in the order that they appear in this Report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions:

Recommendation 1: We recommend that the Welsh Government agrees with the National Assembly for Wales a written protocol which enshrines and enables the principles of:

- Maintaining and improving transparency over the Welsh Government's in- year financial management practices, including:
 - o the laying of two supplementary budgets each year; and
 - o reporting regularly to the Finance Committee on any variations between spending plans detailed in the final budget and the final outturn;
- Maintaining and improving accountability over the Welsh Government's in- year financial management practices;
- Accommodating the requirements of the direct funded bodies with regard to their own in-year financial management

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Background

Who are we?

1. The Finance Committee is a cross party committee of the National Assembly for Wales, made up of Members from all 4 political parties represented at the Assembly.
2. The Committee is not part of the Welsh Government. Rather, the Committee is responsible for reporting on proposals laid before the Assembly by Welsh Ministers relating to the use of resources. The committee can also consider and report on any other matter related to, or affecting, expenditure out of the Welsh Consolidated Fund.

What is the Annual Budget Motion?

3. Section 125(1) of the Government of Wales Act 2006, establishes that:

“For each financial year there is to be moved in the Assembly a motion (referred to in this Act as an “annual Budget motion”) for the purpose of authorising—

(a)the amount of resources which may be used in the financial year by the relevant persons, or pursuant to a relevant enactment, for the services and purposes specified in the motion,

(b)the amount of resources accruing to the relevant persons in the financial year which may be retained by them to be used for the services and purposes so specified (rather than being paid into the Welsh Consolidated Fund), and

(c)the amount which may be paid out of the Welsh Consolidated Fund in the financial year to the relevant persons, or for use pursuant to a relevant enactment, for the services and purposes so specified.”¹

4. Section 125 (3) also establishes that:

“An annual Budget motion must be accompanied by a written statement made by the Welsh Ministers showing—

¹ Government of Wales Act 2006, Chapter 32, Section 125 (1).

(a)the total amount of the payments which they estimate will be made for the financial year under section 118(1),

(b)the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year by Ministers of the Crown and government departments, and

(c)the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year otherwise than by a Minister of the Crown or government department.”

5. As it currently stands, and has been the case since the *Government of Wales Act 2006* came into force, the Welsh Government’s budget motion² sets out the limits for each ambit in terms of expenditure incurred by the Welsh Ministers (Schedule 1) and use of accruing resources by the Welsh Ministers (Schedule 2). These schedules set the limits for expenditure within each ambit. Should there be any expenditure over and above these individual ambit limits, this would be deemed irregular (or unlawful) and the Welsh Government’s accounts would be qualified.

6. There is the opportunity under current arrangements, to move resources between ambits, and this can be done by way of a supplementary budget motion.

7. The Minister for Finance and Leader of the House advised us that:

“The format of the budget motion, on which the Assembly votes, currently sets individual budget control totals for each Major [Main] Expenditure Group (MEG). If the Government were to breach any one of these control totals then the Government’s accounts would be qualified because the expenditure would be deemed irregular and the expenditure could also be unlawful.”³

² For reference, the current structure can be seen in the Welsh Government’s [Final Budget Motion 2011-12](#), February 2011 [accessed 23 September 2011]

³ FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government’s Budget Motion, Paragraph (Para) 2.

What is the Welsh Government's proposal to amend the Annual Budget Motion?

8. The Minister for Finance and Leader of the House explained to us that the Welsh Government wished to revise the Annual Budget Motion in line with changes that had taken place in Scotland:

“which give them greater budget flexibility. The Scottish Finance Bill continues to set individual Ministerial ambits. However there is an overriding clause which creates the flexibility that if any individual portfolio budget were to overspend, it would not result in an ambit breach if the overspend was covered by total resources – ie as long as total expenditure is contained within resources voted to the Scottish Government, there is no ambit breach.”⁴

9. Under the Minister's proposals, although the individual ambit totals will still be shown in Schedules 1 and 2 to the motion, a clause would be inserted which will allow for breaches of the individual ambit limits, as long as the overall total is not breached.

10. We were aware that in December 2009, the Scottish Secretary for Finance and Sustainable Growth (John Swinney MSP) proposed a revised presentation of the Scottish Budget Bill. This involved retaining the individual ambit totals within the Budget Bill, but inserting a clause which provided that individual ambit totals could be exceeded without causing a breach, as long as the overall total is not exceeded.

11. This change did not require agreement from HM Treasury nor amendment to existing legislation, only a rewording of some of the clauses in the Budget Bill itself. The Secretary for Finance consulted with the Office of the Scottish Parliamentary Counsel and the Constitutional and Civil Law Division, both of these bodies confirmed that there was no statutory impediment to the proposals. Audit Scotland were also consulted and were supportive of the proposals. The Scottish Parliament's Finance Committee considered this at their meeting on 15 December 2009,⁵ and again at their meeting on 12

⁴ FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government's Budget Motion, Para 5.

⁵ Scottish Parliament, Finance Committee, [Official Record \[c1738\]](#), 15 December 2009 [accessed 23 September 2011]

January 2010.⁶ The Committee concluded that they were content with the proposals and the revisions took effect in the 2010-11 Budget Bill.

12. There is also a Budgeting Process Agreement between the Scottish Parliament's Finance Committee and Scottish Government,⁷ which sets out an agreed format for the budget documents and agreement on in-year changes to expenditure allocations, including transfers between departmental budgets. This agreement was constructed in 2005 (prior to the changes to the Budget Bill) and is currently under revision.

How did we scrutinise the Welsh Government's proposal to amend the Annual Budget Motion?

13. The Minister for Finance first wrote to us on 5 July 2011, outlining her intention to alter the wording of the 2012-2013 budget motion. In this correspondence, the Minister highlighted concerns around the impact of the current, legally binding ambit totals.

14. Following this correspondence, the Minister provided oral evidence to us on this issue, at our formal meeting of 28 September 2011. The Minister emphasised to us that she was seeking our:

“support to make these changes. I would like to publish the new motion with the draft budget material to give you a chance to comment on the proposal in your report.”

15. We have published this report to outline our early consideration of the Minister's proposals.

⁶ Scottish Parliament, Finance Committee, [RoP \[c1752\]](#), 12 January 2010 [accessed 23 September 2011]

⁷ Scottish Parliament, [The Budgeting Process Agreement Between the Scottish Executive and the Finance Committee](#), 2005 [accessed 23 September 2011]

Our consideration of the potential implications of the Welsh Government's proposals

16. We considered a number of issues in our deliberations on the Minister's proposals. These are outlined in the sub-sections below.

In-year flexibility, enabling better financial management practices

17. The Minister advocated to us that this proposal would allow the Welsh Government "increased flexibility to maximise the Welsh Government's spend in line with its priorities."⁸ In oral evidence the Minister emphasised that this flexibility would:

"ensure that we have better budget management within year in terms of avoiding underspends and being more flexible within MEGs and across MEGs."⁹

18. The Minister also asserted that:

"we ended up in this financial year with only £14 million underspend. However, we could have even avoided that with the flexibility that I am suggesting in this new arrangement, because right through the second half of the last financial year I was pressing Ministers to identify underspends. It means that if you end up towards the end of the financial year with an underspend in one policy area, you have more flexibility to vire that to another policy area where there is a pressure, for example. We have not had that flexibility until now. That is reflected in their being able to account for a switch, which is important in terms of transparency and flexibility, because at the end of the year, if you had an underspend in rural affairs and a pressure in health, you would want to be able to switch across."¹⁰

19. We note the Minister's concerns that under the existing system, fears of breaching a legally binding ambit could result in the Welsh Government adopting a risk-averse approach to budget management, retaining underspends until late in the financial year, with limited

⁸ FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government's Budget Motion, Para 8.

⁹ National Assembly for Wales, Record of Proceedings (RoP), Finance Committee, 28 September 2011, Paragraph (Para) 37

¹⁰ RoP, Finance Committee, 28 September 2011, Para 44

opportunity for redirecting them should they not be recognised in time for inclusion within the second supplementary budget. We also note the Minister's desire for the Welsh Government to be facilitated in adopting effective financial management practice rather than risk-averse behaviour.

20. We consider that the Welsh Government's proposals could indeed enable a more flexible management of finances, facilitating it in addressing emerging priorities and pressures. In this respect, as one of our Members, Julie Morgan AM, commented: "the changes seem eminently sensible."¹¹

Accountability

21. In written evidence, the Minister suggested to us that:

"the key advantage of this change would be to increase transparency and accountability. It would allow budgets to be more clearly structured on a functional basis, rather than on a basis that minimises the risk of an ambit breach."¹²

22. However, one of our Members, Paul Davies AM, asked the Minister:

"on the one hand you are saying that it will increase accountability, but on the other, you do not have to come to the Assembly to make these changes... I appreciate that, as Minister, you still provide us in the Assembly with the same information as before; however, that does not mean that future Ministers and Governments will do that. Do you accept that there will be less accountability in that sense?"¹³

23. The Minister asserted to us that issue of accountability could be addressed through the development of a written protocol, agreed between the Welsh Government and National Assembly for Wales. The Minister commented that:

¹¹ RoP, Finance Committee, 28 September 2011, Para 29

¹² FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government's Budget Motion, Para 7.

¹³ RoP, Finance Committee, 28 September 2011, Para 41 and 49

“It is a serious bit of work. It is partly technical to reflect the accountability routes that should enshrine this for future Ministers and Governments.”¹⁴

24. We welcome the Minister’s proposal to develop a written protocol between the Welsh Government and National Assembly for Wales. Without this protocol, we consider that the Welsh Government’s proposal to amend the budget motion has the potential to decrease the Welsh Government’s accountability to the Assembly. We consider that the maintenance of accountability must be a key principle of a written protocol.

Transparency in the presentation of the Welsh Government’s budget

25. We noted the Minister’s suggestion that her proposals would enable the Welsh Government’s budget to be presented in a more transparent fashion.

26. The Welsh Government’s budget is structured into main expenditure groups (which correspond to ambits). The Minister commented in oral evidence that:

“the current system... provides an incentive to group together small budgets with limited commonality in the interests of managing the risk of breaches. This does not help transparency.”¹⁵

27. For example, the Minister noted that:

“we now have a central services and administration main expenditure group, which includes a range of budget heads, including the First Minister’s budget heads and my budget heads. So, it could be Wales for Africa, or it could be the key strategic spend of the department. It is something that we wish to avoid, because it does not aid transparency. Taking forward the proposal that I have outlined would enable us to do that.”¹⁶

28. However, the Minister also commented that there were currently no plans to split up the Central Services and Administration MEG, as a

¹⁴ RoP, Finance Committee, 28 September 2011, Para 50

¹⁵ RoP, Finance Committee, 28 September 2011, Para 8

¹⁶ RoP, Finance Committee, 28 September 2011, Para 17

result of the proposal to amend the Budget Motion. One of our Members, Peter Black AM, asked the Minister:

“I thought that the rationale for this was for you to have greater transparency by having those big MEGs split up so that you can see where all the money is going. If you do not intend to do that, what is the point of the change?”¹⁷

29. A Welsh Government official advised us that

“Part of the reason for having the broad central services administration budget at the moment, which covers many things, is to avoid the sort of problem that the Minister referred to earlier. Ministers may choose to split that MEG into its component parts, but those decisions have not been taken yet.”¹⁸

30. We are concerned that although the Minister presented the proposed changes in the light of “budgets being more clearly structured on a functional basis,”¹⁹ on closer questioning it would appear that the Minister currently has no intention of restructuring budgets in such a manner. We would therefore appreciate being kept informed of any plans to restructure the budget should the proposed changes go ahead.

31. Moving forward, following the introduction of the Minister’s proposals, we are conscious that the retention of specific limits for individual portfolios will appear to have little statutory relevance (given that one or more can be breached if there is an equal or greater underspend in the other portfolios). We do not question the need for portfolio totals for budget management purposes and would certainly wish to continue to see that information along with the all the other supporting information that is provided at the moment. However, we noted that these totals would appear to have little statutory relevance as far as the budget motion is concerned.

32. On a related point, we note that the 3rd Assembly’s Finance Committee took an active interest in the work being undertaken for HM Treasury’s Alignment Project. The *Constitutional Reform and*

¹⁷ RoP, Finance Committee, 28 September 2011, Para 36

¹⁸ RoP, Finance Committee, 28 September 2011, Para 35

¹⁹ FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government’s Budget Motion, Para 7.

Governance Act 2010 inserted Section 126A into the *Government of Wales Act 2006* so that budget motions could, in future, authorise the total resources to be utilised by all bodies within the boundary for the Welsh block budget rather than just that by bodies funded directly from the Welsh Consolidated Fund as is the case at present. This would enable future budget motions to be worded so that the Assembly gives statutory authorisation to the same departmental expenditure lines (DEL) and annually managed expenditure (AME) control totals that the Treasury sets on an administrative basis.

33. We concur with our predecessor committee that this would negate the need for some of the more obscure reconciliations and would help simplify the budget motion and some of the supporting documentation and make it more meaningful. We are aware that further work need to be undertaken – particularly on the related accounting aspects – before Section 126A can be implemented but urge the Minister not to lose sight of this important initiative and to bring forward proposals for implementation as soon as possible.

Transparency over in-year financial movements

34. Under current arrangements, a supplementary budget motion is required in order to move resources between ambits. The proposed changes would remove the need for a supplementary budget in order to switch resources, and so could result in supplementary budgets being presented less often (such as when additional resources are voted by Parliament).

35. We were concerned by this, as supplementary budgets are the main route via which the Finance Committee monitors the in-year financial movements of the Welsh Government.

36. However, the Minister committed to provide:

“the same information to the Assembly and the Committee as I currently do. In practice there will be no change to the handling of the budget. The annual budget motion would proceed as normal. Proposals for changes in-year would not require a Supplementary budget, but in practice I would continue to lay two Supplementary Budgets a year and continue

to provide at least the level of information about budgets that I currently do.”²⁰

37. While we welcomed the Minister’s commitment on this issue, we were concerned that future Ministers for Finance, within the 4th Assembly or beyond, might not share her commitment to transparency. On this issue, the Minister confirmed that she would

“also be happy to codify the commitments that I have made today in a written protocol, if the Finance Committee thinks that that would be helpful.”²¹

38. We consider that the Minister’s proposals could potentially decrease the transparency of the Welsh Government’s in-year financial management practices. We consider that a key principle of a written protocol, agreed between the Welsh Government and National Assembly for Wales, would be to maintain the transparent provision of information on the Welsh Government’s in-year financial management.

The potential impact of the Welsh Government’s proposals for other organisations

39. We were conscious that the Welsh Government’s proposals could have implications for the Direct Funded Bodies (i.e. the National Assembly for Wales Commission, Public Services Ombudsman for Wales (PSOW) and Auditor General for Wales (AGW)).

40. [Section 126](#)(2) of the *Government of Wales Act 2006* sets out that any variation in the resources, accruing resources or amounts authorised to be drawn from the Welsh Consolidated Fund for these ‘relevant persons’ (as specified in [section 124](#)(3)) requires to be authorised in a supplementary budget motion. Therefore, any change to the required resources of these direct funded bodies is dependent on the Welsh Government moving a supplementary budget motion (which can only be moved by a Welsh Minister).

41. We noted that if the Welsh Government continued to produce two supplementary budgets in any given year, this should not be a problem. However, we were concerned that a situation could arise whereby a direct funded body required a variation to their resources

²⁰ FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government’s Budget Motion, Para 9.

²¹ RoP, Finance Committee, 28 September 2011, Para 10

and the Welsh Government did not plan to put forward a supplementary budget motion.

42. We sought assurance from the Minister that the Welsh Government would accommodate the requirements of the direct funded bodies in this regard, and would maintain open lines of communication with regard to the requirements of these bodies. The Minister advised us that

“discussions have already commenced with the Assembly Commission, the Wales Audit Office... and the Public Services Ombudsman for Wales.”²²

43. We consider that a key principle of the written protocol agreed between the Welsh Government and National Assembly for Wales will be to accommodate the requirements of the direct funded bodies with regard to their own in-year financial management.

The need for clarity on the legal implications of the revised wording of the Annual Budget Motions following the Minister’s proposals

44. In her written paper, the Minister provided us with “an example of what the revised budget motion would look like under these proposals.”²³

45. While we note that this was merely an illustrative example, we were concerned by the legal ramifications of certain terminology in this document.

46. For example, in paragraphs 2A, 2B and 2C, there is a reference to “...service [and][or] purpose...”²⁴ We anticipate the final draft of this revised wording would provide clarity as to whether the motion is intended to refer to:

- “services and purposes” or;
- “services or purposes” or;
- “services and/or purposes.”

²² RoP, Finance Committee, 28 September 2011, Para 64

²³ FIN(4)-03-11, Paper 1, Finance Committee Paper: Proposal to Amend the Welsh Government’s Budget Motion, Para 11.

²⁴ FIN(4)-03-11, Paper 1, Annex A, Finance Committee Paper: Proposal to Amend the Welsh Government’s Budget Motion.

47. Similarly, the same document refers to the Financial Year ending on “31 March 2011,”²⁵ which would clearly be inaccurate for the 2012-2013 draft budget.

²⁵ FIN(4)-03-11, Paper 1, Annex A, Finance Committee Paper: Proposal to Amend the Welsh Government’s Budget Motion, Para 1.

The development of a written protocol

48. As noted in the previous chapter, we asked the Minister whether she would be:

“willing to have an agreement on the written protocol... before another draft supplementary budget is introduced?”²⁶

49. In response, the Minister asserted that “we can get to work on it straight away.”²⁷

50. We consider that embedding such a protocol into the standing orders of the National Assembly for Wales could resolve our concerns about the potential transparency of a budget process that does not strictly require the laying of supplementary budgets.

51. We consider that such a protocol should be agreed before the laying of the next 2011-2012 supplementary budget.

We recommend that the Welsh Government agrees with the National Assembly for Wales a written protocol which enshrines and enables the principles of:

- Maintaining and improving transparency over the Welsh Government’s in year financial management practices, including:**
 - **the laying of two supplementary budgets each year; and**
 - **reporting regularly to the Finance Committee on any variations between spending plans detailed in the final budget and the final outturn;**
- Maintaining and improving accountability over the Welsh Government’s in year financial management practices;**
- Accommodating the requirements of the direct funded bodies with regard to their own in-year financial management**

²⁶ RoP, Finance Committee, 28 September 2011, Para 20

²⁷ RoP, Finance Committee, 28 September 2011, Para 21

Witnesses

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at

<http://senedd.assemblywales.org/mgCommitteeDetails.aspx?ID=229>

28 September 2011

Jane Hutt AM	Minister for Finance
Andrew Jeffreys	Head of Strategic Budgeting
Jo Salway	Head of Budget Policy
Jeff Andrews	Specialist Policy Adviser, Finance

List of written evidence

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at

<http://senedd.assemblywales.org/mgCommitteeDetails.aspx?ID=229>

<i>Organisation</i>	<i>Reference</i>
Minister for Finance, Welsh Government	FIN(4)-03-11, Paper 1