

# NATIONAL ASSEMBLY FOR WALES

## REPORT FROM THE FINANCE COMMITTEE

### Operation of the Budget Process

#### Summary

1. Standing Order 14.2 permits the Finance Committee to “*consider and, where it sees fit, report on:*

*(i) financial information in explanatory memoranda accompanying proposed Assembly Measures;*

*(ii) the timetable for the consideration of budget proposals and budget motions and on the handling of financial business; and*

*(iii) any other matter relating to or affecting the expenditure of the government or other expenditure out of the Welsh Consolidated Fund.”*

2. The Assembly recently approved the annual budget motion which authorised the use of resources for Ministers and others for 2008-09. This was the culmination of a process which started soon after the Summer Recess with the publication of draft budgets for the Assembly Commission, Auditor General and Public Services Ombudsman. The Finance Minister published the draft budget for the Government on 5 November 2007 and this was examined in detail by the Finance Committee during that month. The Finance Committee’s detailed report was tabled on 3 December and this was followed by a plenary debate on the draft budget on 11 December. The final budget motion was laid on 15 January 2008 and was approved in plenary on 22 January.

3. This report takes an initial look at how the budget process as designed under Part 5 of the Government of Wales Act 2006 and Standing Order 27 has operated in practice and makes a number of recommendations for improvement which the Finance Committee hopes will be helpful to the Assembly and the Government.

4. The Finance Committee and the Finance Minister have agreed to develop a protocol on the handling of business. This would cover matters that were too detailed or otherwise not appropriate for inclusion in the Standing Orders. The agreement to establish such a protocol provides an opportunity to consider whether the Standing Orders should be amended in the light of recent experience with a view to ensuring that, together, they provide a framework that is appropriate and acceptable to all concerned.

**The budget scrutiny process was a considerable improvement on that undertaken in previous years despite the timing constraints**

5. The budget process in the 1999-2003 and 2003-2007 Assemblies was designed to enable plenary to “adopt” the budgets proposed by the Finance Minister for what was then a corporate body. There was no Finance Committee and the process took the form of subject committees giving views on spending priorities plus plenary debates on the draft and final budgets.

6. The 2006 Act has changed the process from one of budget “adoption” to one in which Ministers request the Assembly’s “authority for the use of resources”. This authorisation process takes the form of a budget motion of the Assembly, which is introduced by Ministers. The requirement on the Assembly to consider requests for resources made by Ministers gives added emphasis to the need for adequate scrutiny of budget proposals before the formal budget motion is considered in plenary. The establishment of the Finance Committee to scrutinise budgets is thus an important development in assisting the Assembly with its important function of considering and authorising resources.

7. The Finance Committee took detailed evidence from the Finance Minister on two occasions and also from representatives of local government and NHS Wales during the scrutiny of the Government’s draft budget. Other scrutiny committees considered the detail of department elements of that budget and took evidence from various Ministers. The Finance Committee also took further evidence from the Finance Minister after the final budget was published. In addition the Finance Committee also took evidence from the Assembly Commission and the Public Services Ombudsman on their respective budgets.

8. All those giving evidence to the Finance Committee welcomed the opportunity to explain their budgets or give their points of view. The Finance Minister, in opening the plenary debate on the Government’s draft budget, welcomed the Finance Committee’s report and recognised its crucial role in the scrutiny process.

9. Without doubt, therefore, the new framework under the 2006 Act and the new Standing Orders has resulted in a considerable improvement to the scrutiny process compared with previous years. However, the process was complicated and constrained by the fact that the Treasury undertook a Comprehensive Spending Review during 2007 which was late in reporting. The Assembly amended the Standing Orders to accommodate the unavoidable delay in the publication of the Government’s draft budget and ensured that the planned window for scrutiny was not shortened. Despite this, it soon became apparent that the time prescribed by the Standing Orders was tight and the laid down procedure was somewhat inflexible. In a year where the budget had to follow a spending review as well as an election and the establishment of a coalition government with new spending priorities, this shortage of time was particularly acute.

**The scrutiny of the Government’s draft budget would be aided by a written explanation of its main features and a better linking of the spending plans to policy objectives**

10. The Government’s draft budget took the form of a draft budget motion for 2008-09 which was extended to provide indicative figures for 2009-10 and 2010-

11. In essence this document showed the total resources required to be authorised for each Ministerial portfolio (plus central services and some “Match Funding”) and resource to cash and other reconciliations required by the Standing Orders.

11. The draft budget document was supplemented by a breakdown of the budget for each Main Expenditure Group (MEG). The MEG totals differed from the amounts to be authorised for each portfolio as the former included items that are not part the Government’s accounts and do not therefore form part of the resources to be authorised for use by Ministers (e.g. local authority supported borrowing and capital charges for NHS and other public bodies). It was therefore difficult to relate one document to another.

12. The budget documents contained very little by way of written explanation of how the amounts allocated to each portfolio and the amounts to be held in the contingency reserve had been derived. Furthermore it was not possible to clearly link the Government’s spending plans to its policy objectives.

13. The Finance Committee considers that the draft of the formal budget motion needs to be supplemented by:

- An explanation of the resources being made available by the Treasury in spending review years and any in-year changes in non-spending review years including any proposed use of resources accrued under the Treasury’s End of Year Flexibility regime;
- A commentary on the Finance Minister’s resource allocation to portfolios and contingency reserve;
- A commentary and appropriate breakdown on the spending plans for each portfolio; and
- A clear link between the spending plans and the Government’s policy objectives.

14. In respect of the latter, the Financial Reporting Manual requires the Government’s annual accounts to show the resources used for each objective and it would be appropriate for the budget information to be produced on a comparable basis. However, a necessary prerequisite would be to produce meaningful objectives to which resources can be attributed.

### **Time available for overall scrutiny of the Government’s draft budget**

15. Standing Order 27.4 requires the Finance Committee to report on the Government’s budget within four weeks of it being tabled. Other scrutiny committees may consider the budget and make recommendations to the Finance Committee within two weeks of it being tabled.

16. In order to comply with the Standing Orders, the Finance Committee increased the usual frequency of its meetings from fortnightly to weekly for the four weeks after the Government’s draft budget was tabled on 5 November 2007. These meetings were used to take evidence from the Finance Minister (twice) and from representatives of local government and NHS Wales, and to consider

submissions from other committees and the Finance Committee's own report. The complexity of the budget and the evidence received resulted in the Finance Committee having a further meeting to agree the report.

17. Standing Order 27.1 provides that the Government's draft budget must be tabled by 7 October but the Finance Committee's four week deadline starts from the date the draft budget is tabled. Owing to the delay in publishing the outcome of the 2007 Comprehensive Spending Review, the 7 October deadline was extended to 5 November on a one-off basis. The uncertainty of the date on which the draft budget would be published added to the difficulty in scheduling meetings and calling witnesses – not just for the Finance Committee but also for the other scrutiny committees.

18. The Finance Committee understands the difficulties caused by the late reporting of the 2007 Comprehensive Spending Review. Notwithstanding these particular difficulties, the Committee would like to explore with the Finance Minister the possibility of introducing a separate stage in the budget process in Spending Review Years to enable scrutiny of the settlement and the Welsh Government's spending priorities for the Review period.

19. The Finance Committee also recommends that, for non-spending review years, the Standing Orders should provide for the Committee to report by a fixed date and for the Government to table the draft budget by four weeks before that date. This would enable the Committee to plan and schedule its meetings (including possible requests to the Business Committee for additional meetings) at an earlier stage (and give better notice to witnesses) than would be the case with a start time that depended on when the Government tabled its draft budget. Alternatively, Standing Orders could provide for the Government to make an early announcement of the date on which it will table the draft budget (e.g. by the end of May).

**Other scrutiny committees have a critical role to play in the scrutiny of departmental finances but this should not be an annual event**

20. The time available for scrutiny was also an issue for other committees. Standing Orders currently require them to provide their views to the Finance Committee within two weeks of the draft budget being laid. Most of the other committees commented that the two-week window available for their scrutiny of portfolio budgets was inadequate. As with the Finance Committee, the delayed Comprehensive Spending Review and uncertain start date made it difficult to schedule meetings and call witnesses (mainly the appropriate Minister).

21. The Finance Committee considers that an additional stage to the budget process in Spending Review Years (see paragraph 18 above) together with a date for the tabling of the draft budget that was known well in advance (see paragraph 19 above) would go some way towards addressing their concerns.

22. The Finance Committee also considers that financial scrutiny should be an ongoing process and not an annual event. The other scrutiny committees have a vital role to play in giving their views on spending priorities, examining the detailed budgets for individual portfolios and also looking at how resources are

used during the year. Ideally this would involve quarterly in-year monitoring of how Ministers and officials have used the allocated resources to meet policy objectives and discharge their statutory functions. This in turn should help provide information for considering spending priorities for future years. The Finance Committee would welcome comments on budgetary matters from other scrutiny committees at anytime during the year.

**The protocol could usefully include arrangements for the giving of evidence and the production of information by the Finance Minister**

23. The Finance Minister gave evidence to the Finance Committee twice during its consideration of the draft budget and again after the final budget was published. Members acknowledge that this was a considerable time commitment on the part of the Minister. For the future, the Finance Committee considers that the protocol should include suitable arrangements for the taking of evidence from the Finance Minister but with suitable flexibility to enable variations from the norm if the need arises.

24. After the first evidence session, the Minister agreed to provide the Finance Committee with supplementary information in answer to questions raised. Not all of the information was provided in sufficient time to be of use in subsequent sessions. The Finance Committee is not seeking to criticise or attribute any blame for this – particularly in what was a difficult year – but considers that a timescale for provision of agreed written information could be governed by the protocol.

**Standing Order 27 is not fully in line with the rationale underlying Section 125 of the 2006 Act**

25. Section 125 of the 2006 Act provides the high level framework for the annual budget approval process. As is the case in most parliamentary democracies, responsibility for preparing the budget rests with Government and it is for the Assembly to give statutory approval to the use of resources. This is done by way of a budget motion introduced into the Assembly by Ministers. This arrangement reflects the fact that government functions (powers and duties) are now conferred directly on Ministers. It is for Ministers to decide on the level of resources needed to exercise those functions and to seek authorisation from the Assembly to use those resources.

26. Section 125(a) specifies that the annual budget motion has the effect of authorising the amount of resources for the services and purposes specified in the motion. In effect, the motion sets a “ceiling” or upper limit on the amount of resources that can be used for each service or purpose specified in the motion. Any expenditure incurred that is in excess of those ceilings would be irregular.

27. The Act does not define the “services or purposes” to be specified in the budget motion. That is a matter for the Government to decide having regard to how it wishes to present its budget and account for its spending. In practice, services and purposes have been defined by specifying detailed “ambits” that cover each Ministerial portfolio plus additional ambits for “central administration”, “other Ministerial services” and “match funding”. Therefore, the Assembly is

being asked to authorise a ceiling on the use of resources for each portfolio. Any in-year changes to these portfolio ceilings would need to be authorised by a supplementary budget motion whilst changes within portfolios is a matter for internal Government procedures. The Finance Committee accepts this approach on the assumption that the ambits will be amended as necessary each time there is a change to Ministerial portfolios.

28. The concept of the budget motion setting “ceilings” requested by the Government for each portfolio is important to the understanding of the process. Even if it were possible for the Assembly to increase the amounts requested (which it is not) it would be of little consequence because there is no mechanism by which the Assembly is able to direct Ministers to spend the additional amount. In the post May 2007 world the Assembly cannot instruct the Government in this way – only hold it to account.

29. Standing Orders 27.17 to 27.20 make further provision concerning the annual budget motion. In particular SO 27.20 reflects the rationale set out above by prohibiting the tabling of any amendments. The Finance Committee accepts this provision and would also argue that, given its importance, an outright rejection of the budget motion by the Assembly would be tantamount to a vote of no confidence.

30. Standing Order 27.1 to 27.6 provide for the consideration of the Government’s draft budget. In particular, SO 27.5 provides that the Finance Committee may recommend changes to the budget provided that the net effect would not increase or decrease the aggregate amount of resources or cash proposed by the Government. It seems this provision was intended to give some credence to the rationale set out above whilst also allowing some greater flexibility to suggest amendments at this earlier stage in the process. The Presiding Officer, in ruling on a point of order, took the view that paragraph 35 of the Finance Committee’s report of 3 December 2007 on the Government’s draft budget breached SO 27.5. This was because it recommended that the Finance Minister reconsidered the Government’s stance on disabled children’s services with a view to making at least £21 million available over the next three years without proposing any offsetting savings from other budget headings.

31. After careful consideration, the Finance Committee considers that SO 27.5 does not adequately reflect the rationale for the budget process as set out above. First, resource ceilings are authorised by the Assembly at portfolio level and therefore any restrictions on proposing changes to the draft budgets should be specified at that level. Allocations within individual portfolios are a matter for Ministers, they do not fall to be authorised by the Assembly and, in the view of the Finance Committee, need not be regulated by Standing Orders.

32. More importantly, the Finance Committee considers that it should be able to draw the Assembly’s attention to any reasonable concerns that it wishes to make. These will include concerns as to whether enough resource is being made available to provide core services and to meet the Government’s strategic objectives and spending pledges. However, the Finance Committee also takes the view that, realistically, it would not be possible to propose changes to a draft budget (at portfolio level) if it was required to specify which portfolios should be

reduced and by how much if others are increased. Only the Government has the wherewithal or inside knowledge to do so. The proper process should be for the Committee and the Assembly more widely to express its views, and for the Government to explain how it has addressed those views when it presents its final budget.

33. Taking account of the above considerations, and to prevent future confusion, the Finance Committee suggests that the simplest solution would be for SO 27.5 to be deleted. If this is accepted the Committee would be agreeable to including a provision within the protocol so that its reports on the Government's draft budgets would not propose specific monetary amendments at portfolio level.

**Consideration should be given to having a draft budget debate in plenary on an unamendable motion to take note of the Finance Committee's report**

34. The first plenary debate on the Government's budget is governed by Standing Order 27.6. The debate takes place on a motion tabled by Ministers to "take note of the draft budget for the Government". In effect, this debate is a forerunner to the debate on the final budget motion and the outcome is, in any event, not binding on Ministers. The Finance Committee considers that it might enhance the Assembly's scrutiny and "holding to account" if the Minister were to make a statement in plenary at the time the draft budget is laid, and for the later debate to be based on a motion to take note of the Committee's report on the draft budget.

**The protocol should provide for information to be given to the Finance Committee on in-year reallocations of resources within departments, outturn against budgets and proposals to enter into significant contingent liabilities**

35. As stated above (paragraph 27), the Assembly authorises resources at portfolio level. Budget changes within portfolios are a matter for the Government's internal procedures. However, in order to enhance transparency and accountability, it would be appropriate for the Finance Minister to inform the Assembly of movements within departmental budgets to the extent that they affect the detail given in the documents supporting the original budget. As a minimum this should be done each time the Government tables a supplementary budget motion or every three months if sooner. The Finance Committee recommends that provision for this should be included in the protocol.

36. The Finance Minister has agreed to provide the Finance Committee with periodic statements of outturn against budget. The arrangements for this could also be included in the protocol.

37. The 2006 Act effectively transferred the function of entering into contingent liabilities (e.g. giving indemnities or guarantees) from the Assembly to Ministers. Provisions relating to these are therefore no longer in the Standing Orders. However, it would be appropriate for the Assembly to have some oversight and scrutiny of any such significant (e.g. in excess of £1 million) contingent liabilities before they are finalised. This is because they have the effect of binding the Assembly into authorising the resources in the event of indemnities maturing or

guarantees being called. The Finance Committee considers that provision for this should also be included in the protocol.

**The arrangements for considering the budgets of the Assembly Commission, Auditor General and Ombudsman are acceptable given the current legislative framework**

38. Standing Order 27.8 provides for the Finance Committee's consideration of the draft budget of the Assembly Commission. The issues considered above in respect of the Finance Committee's consideration of the Government's draft budget on flexibility (paragraph 19) and the ability to propose changes to the draft budget (paragraphs 30 to 32) apply also to its consideration of the Commission's budget.

39. Standing Orders 27.9 to 27.12 provide for the approval of the Commission's budget by the Assembly. Under Standing Order 27.17, the Government must then incorporate that approved budget within the annual budget motion which it tables under Section 125 of the 2006 Act. These provisions were designed to respect the Commonwealth Principles on the three Branches of Government (the Latimer House Principles) – specifically that the “parliament's budget should not be capable of amendment by the executive”. The Finance Committee is content with these provisions.

40. The Finance Committee is also content with the provisions for the consideration of the budgets of the Auditor General and Ombudsman who, like the Commission, are independent of Government.

41. The Finance Committee notes that further independent offices are likely to be created in the near future. Legislation is currently being drafted to put the office of Standards Commissioner for Wales on a statutory basis and the Government has indicated that it wishes to replace the Welsh Language Board with a Welsh Language Commissioner. As is currently the case with the Auditor General and the Ombudsman, these new offices are likely to be established as “corporation soles” with no governing board.

42. Whilst the Finance Committee is able to examine the budgets of these office holders (excluding the Auditor General whose budget is a matter for the Audit Committee under the 2006 Act), no formal mechanism exists for appointing the office holders and for examining their corporate plans and governance arrangements. The Finance Committee considers that there may be an increasing need for greater accountability of such officers in future particularly in the light of the recent review of the governance arrangements for the National Audit Office<sup>1</sup>. One such model (but there are others) is the New Zealand “Officers of Parliament Committee” which performs such a role for the officers that are independent of government<sup>2</sup>. Any revised arrangements would need to

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<sup>1</sup> Review of the National Audit Office's Corporate Governance HC 328 14<sup>th</sup> Report of the Public Accounts Commission

<sup>2</sup> Currently these consist of the Controller and Auditor General, Ombudsman and Environment Commissioner.



respect the operational independence of the officers and, in the case of the Auditor General, the statutory relationship with the Audit Committee.

## Recommendations

43. The Finance Committee considers that the proposed protocol should include, amongst other things:

- (i) A list of the minimum documentation that the Government will provide in support of the draft budget motion (paragraph 13 and 14);
- (ii) Arrangements for the taking of evidence from the Finance Minister on the budget (paragraphs 23 and 24);
- (iii) Provision of information in-year reallocations of resources within departments, outturn against budgets and proposals to enter into significant contingent liabilities (paragraphs 36 to 38); and
- (iv) An additional stage to the budget process in Spending Review Years (paragraph 18).

44. The Finance Committee recommends that consideration be given to amending the Standing Orders as follows:

- (i) SOs 27.1 and 27.8 to provide for the Finance Committee to report by a fixed date rather than an elapsed time following the tabling of draft budgets. Alternatively, the Government should be committed to announcing the date on which it will table the budget by the end of May (paragraphs 19 and 39);
- (ii) SOs 27.5, 27.24 and the final sentence of SO 27.8 to be deleted (paragraphs 30 to 33 and 39); and
- (iv) SO 27.6 to be amended so that the plenary debate is based on a motion in respect of the Finance Committee's report on the draft budget (paragraphs 34).

45. The Finance Committee encourages other scrutiny committees to look at the use of resources by the spending departments within their purview regularly throughout the year and not just as a one-off annual event. The Finance Committee would welcome comments on budgetary matters from other scrutiny committees at anytime during the year (paragraph 22).

46. Longer term, the Assembly may wish to give further consideration to the arrangements for the appointment, oversight and governance arrangements for corporations' sole that are independent of Government, particularly if forthcoming legislation increases the number of such offices (paragraph 43).