

PIVOTAL
B R I E F I N G

4 SEPTEMBER 2023

GOVERNING
WITHOUT
GOVERNMENT: THE
CONSEQUENCES

PIVOTAL - THE INDEPENDENT
PUBLIC POLICY THINK TANK FOR
NORTHERN IRELAND

01 INTRODUCTION

The Northern Ireland Executive collapsed in February 2022. Ministers remained in post as caretakers until the end of October. In the ten months since then, civil servants have been left as the only decision makers.

For the last two years, each Northern Ireland department has been set a budget by the Secretary of State and told to provide public services on that basis. However, senior officials face twin challenges, each compounding the other. While their remit has been extended, their extra powers remain both limited and uncertain. At the same time, the amount of funding available is shrinking while the need for public services increases.

Senior civil servants have been told to stay within their funding allocations without making major decisions, yet it is impossible for them to do so without making choices that would normally be taken by a minister. There is a “governance gap”, with no one taking many decisions that are needed.

As a result, Northern Ireland faces an escalating crisis. Public services have been pared back to reduce spending, increasing the social and economic challenges for local people. Despite this, spending this year is likely to be over budget, creating further deficits that could be taken from funding allocations for future years.

The absence of decision-making by politicians impacts now and into the future, through deteriorating public services. The biggest effects are suffered by the most disadvantaged individuals and communities. Moreover, there continues to be a lack of action to deal with Northern Ireland’s longer term policy challenges, many of which have been neglected for years.

As an independent think tank, Pivotal does not take a view on the politics of the current situation. This Briefing does not discuss post-Brexit trading arrangements. Instead, it considers the impact of the ongoing absence of proper government on public services here and looks at some of the effects this has on individuals, communities, businesses and other organisations.

This paper includes information about the current rules around decision-making, an assessment of the Budget position, examples of decisions that have and have not been made, and an analysis of the impact on public services. It finishes with recommendations for the best way forward, regardless of how the political dynamics play out.

02 BACKGROUND TO THE 'GOVERNANCE GAP'

Without any ministers in post after October 2022, the [Northern Ireland \(Executive Formation\) Act 2022](#) provided increased powers for senior officials to act in the public interest. The Northern Ireland Office published [Guidance](#) on how civil servants should make decisions, saying they should stay within budgets, maintain the delivery of public services, follow previous policy direction, prevent future costs and risks, and avoid missing opportunities.

However, the extent of these extra powers remains limited and uncertain. The Guidance said that major decisions, including new policies, programmes or spending commitments, should normally be left for ministers, not civil servants.

The Secretary of State set a [Budget for 2022-23](#) in November 2022 and a [Budget for 2023-24](#) in April 2023, including [deciding the regional rate for 2023-24](#). He moved legislation through Westminster on a small number of other devolved matters, such as [organ donation](#) and the [RSE curriculum](#) – and asked the Northern Ireland Civil Service (NICS) to [research options for revenue raising](#).

The Secretary of State has a legal obligation to call an election in the absence of an Executive. The deadline for this decision [has been postponed](#) until January 2024 and could be delayed again.

Meanwhile, the civil service [continues preparations for an incoming Executive](#), including drafting options for a Programme for Government and for addressing longer-term challenges. This work prioritises the stabilisation and recovery of public services, alongside plans for transformation. The Head of the Civil Service has held a [series of meetings with local political parties](#) about these plans, particularly ongoing budgetary challenges.

There has been strong criticism of the current decision-making structures (see Section 5). Important decisions are not being taken, meaning damage to public services. Civil servants lack democratic accountability. Transparency and scrutiny are largely absent. Some political parties are calling for reform of the institutions given how often they do not function.

Adhering to all the principles in the decision-making Guidance has proved impossible. Officials cannot stay within reduced budgets without making major decisions. In July the Head of the Civil Service [wrote to the Secretary of State](#) saying that civil servants had “reached the limit” of what they could do to manage budget pressures without political decision-making and legal cover, and that an overspend was “now unavoidable”.

Pressure has grown on the Secretary of State to step in on a wider range of policy areas but he has repeatedly refused to do so, saying local decisions should be made by local politicians and urging the restoration of the Executive.

03 AN IMPOSSIBLE BUDGET?

The Secretary of State has set two consecutive one-year budgets for Northern Ireland. When doing so, he expressed disappointment at the lack of local ministers to perform this key role. He also said Northern Ireland's current budgetary problems are rooted in earlier failures, by previous Executives, to strategically reform public services and ensure fiscal sustainability.

The Northern Ireland Fiscal Council's [initial summary of this year's budget](#) said the total resource Departmental Expenditure Limit (DEL) is £14.4 billion, representing a fall of 0.9% in cash terms and a fall of 3.3% in real terms compared with 2022-23.

This falling budget was unprecedented and created immediate problems. The [split of funding between departments](#) gave the Department of Health a 2.7% cash rise, increasing pressures elsewhere. The [Fiscal Council](#) found an £800 million shortfall in overall funding for this year, with particular departmental pressures for Education, Justice and Economy. Its assessment also noted the continuing impact of the 'Barnett squeeze,' meaning the percentage increase in funding is lower in Northern Ireland than in England.

There will be no extra money even if new funding is allocated in England during the year. Any Barnett consequentials [will go towards repaying the £257m overspend from 2022-23](#).

Although this has been described by some as a "punishment budget", the total funding allocation was based on the Barnett formula in the usual way. The Secretary of State then provided headline allocations to each department and asked civil servants to make decisions from there.

The real-world impact on public services is enormous (see Section 4). [Departments have made cuts totalling to around £1 billion](#), but another £1 billion of unfunded commitments remains. One significant issue is the lack of funding for many public sector pay increases, with [multiple pay disputes ongoing](#) and many pay settlements now agreed in the rest of the UK.

Managing this situation has been extremely challenging, if not impossible, thanks to two interlocked problems: no political leadership for decision-making and impossibly tight budgets. Some departments forecast overspending because officials judge that they lack the authority to stop existing programmes. Senior officials have said it is impossible to stay within budget without making political decisions. The Head of the Civil Service has said that [an overspend of Northern Ireland's budget in 2023-24 is "now unavoidable"](#).

In this context, local political parties have been united in calls for a financial package from the UK Government to accompany any return of the Executive, together with a review of the Barnett formula. However, given that the [current premium on spending per head in Northern Ireland is roughly equivalent to estimates of additional need](#), it isn't clear that any change to the Barnett formula would necessarily produce a more generous outcome.

// I wish to emphasise that, like all other Departments, we are in an impossible position of being asked to fulfil conflicting responsibilities. This involves trying to balance our responsibilities to live within the budget we have been given, act in the public interest and safeguard services. Decisions are required that we do not wish to take and that are not in the best interests of the health and social care system.

[Peter May, Permanent Secretary, Department of Health](#) (May 2023)

// In considering the scale and cumulative impact of the proposed cuts, which represent a major change to long standing Ministerial programmes and policies, I am of the view that such a decision should be taken by a Minister, not a Permanent Secretary.

[Mark Browne, Permanent Secretary, Department of Education](#) (June 2023)

04 DEPARTMENTAL OVERVIEW

It is important to stress that these are not recommendations that would be made by officials under normal circumstances. Rather, they are actions required as a consequence of an extremely constrained budget allocation.

Department for the Economy 2023-24 Budget Equality Impact Assessment (June 2023)

Headline spending figures for departments are available from the [Northern Ireland Main Estimates 2023-24](#) although much of the detail of spending plans remains undisclosed. However, some information has been published – including via Equality Impact Assessments put out for consultation – which provides some transparency and allows those outside government to give their views.

Below are summary analyses for Northern Ireland’s main departments. Budget figures are resource DEL. Percentage changes are in cash terms, so do not take inflation into account.

Department of Health

Budget 2023 - 24	Budget change from 2022 - 23
£6.81 billion	2.7%

The Department of Health received more than half of the total budget and by far the biggest percentage cash increase of all departments. Despite significant savings, [a funding gap of £732 million remains](#). The lack of any funding for pay awards is an important issue. Professional bodies have repeatedly provided evidence that [services are at crisis point](#), in both hospital and GP provision. Although [some waiting lists have seen small improvements](#), overall they remain by far the worst in the UK. The Department has warned that a lack of funding means [commitments from its 2021 strategy to tackle waiting lists will not be met](#). The long-standing need for the reconfiguration of health services and proper workforce planning remain, as recommended in several independent reports, but this is near-impossible without political direction or multi-year funding. Some have observed that the “collapse” predicted in the Bengoa report is happening in some services.

Department of Education

Budget 2023 - 24	Budget change from 2022 - 23
£2.58 billion	-2.7%

This departmental budget falls in both cash and real terms, with serious implications for its programmes. A [funding gap of £382 million](#) resulted (14%). Early proposals to make larger cuts were reversed, with the Permanent Secretary saying he lacked the power to stop funding established programmes that addressed disadvantage, like Sure Start, extended schools and youth work. Nevertheless, the funding for holiday hunger payments, Happy Healthy Minds and Engage was ended. These ‘discretionary’ programmes are not statutory responsibilities but are still vital early interventions supporting disadvantaged children and families. Longer term commitments – like the full funding of Fair Start and the development of a childcare strategy – have not been fulfilled. The widespread negative impacts of these decisions were assessed in [a paper from a group of academics](#) in June, which highlighted that “short-term savings will be dwarfed by the costs of poverty, deprivation and mental health issues in the longer run.”

Department of Justice

Budget 2023 - 24	Budget change from 2022 - 23
£1.24 billion	-1.5%

Funding for Department of Justice has fallen over the last five years, while other departments have seen marked increases. These reductions leave little scope for further savings, yet the Department is faced with significant real-terms cuts. Policing makes up around 60% of DoJ’s budget and the Chief Constable has said [the budget this year may become “impossible to manage”](#), highlighting a funding gap of £141 million. Recent catastrophic data breaches have caused a crisis in policing and, while the ultimate costs of these are unclear, they are set to cause significant further instability. The Victims of Crime Commissioner has described [the criminal justice system as being “close to breaking point”](#). Decisions taken by civil servants in the absence of a minister including an action plan on domestic and sexual abuse, response to the Prisoner Ombudsman’s report, the prisons ‘25 by 25’ delivery plan, and a restorative justice protocol.

Department for Communities

Budget 2023 - 24	Budget change from 2022 - 23
£0.87 billion	1.0%

Over 90% of DfC spending relates to protected, contractual or statutory programmes, leaving little room for spending to be reduced. Decisions were made to maintain funding for Supporting People, many third sector organisations and labour market partnerships in 2023-24, and funding for homelessness interventions was increased. The Discretionary Support Fund has been reduced and funding for arms-length bodies, Discretionary Housing Payments, rates support grants and new social housing is also lower than in previous years. Significant staff vacancies are being carried to help reduce costs. In the voluntary and community sector, organisations are struggling as a result of budget cuts across multiple departments. This follows the loss of the European Social Fund and the inadequacy of its supposed replacement, the UK Shared Prosperity Fund.

Department for the Economy

Budget 2023 - 24	Budget change from 2022 - 23
£1.39 billion	-0.7%

The department faces non-ringfenced resource pressures of £130 million in 2023-24 due to the fall in its cash allocation and the need to repeat last year's savings, together with new pressures and pay and price increases. It has prioritised funding for its strategic objectives and the 10X Economy vision. As with 2022-23, funding for Invest NI and Higher Education Student Support will be reduced, and staff vacancies will be maintained. Further reductions for 2023-24 include lower grants to Tourism NI, further education colleges and higher education institutions. In the absence of a minister, the department has made some important progress, responding to the independent review of Invest NI and publishing both the 10X Economy delivery plan and the Energy Strategy Action Plan update report.

Department of Agriculture, Environment and Rural Affairs

Budget 2023 - 24	Budget change from 2022 - 23
£0.616 billion	3.3%

The lack of an Assembly, Executive and ministers means no political leadership or decision-making to take forward action on climate change. In March 2022, the Assembly agreed Northern Ireland's first Climate Change Act, which committed to net zero by 2050. An interim emissions target for 2040 and an action plan covering all departments are due to be agreed by June 2024. The UK's Climate Change Committee (CCC) said in March 2023 that it had not seen evidence of policy ambition on the necessary scale to meet the net zero target. In a separate report, the CCC said [progress on climate change adaptation is being hampered by the lack of an Executive](#). While there has been a 23% fall in carbon emissions since 1990, [Northern Ireland's emissions rose by 5% in 2021](#), putting [per capita emissions in NI more than 80% higher than the UK level](#). The [deadline for publication of NI's first Environmental Improvement Plan was missed](#). While officials are taking forward important work in the absence of ministers (e.g. consultations on emissions targets, carbon budgets and the path to net zero), political leadership is needed to agree actions to meet the very ambitious targets in the Act.

Department for Infrastructure

Budget 2023 - 24	Budget change from 2022 - 23
£0.415 billion	2.6%

The Department plans to reduce or stop spending on road safety campaigns, cycling proficiency schemes, community planning advice and active travel programmes for schools (see [Dfi final budget allocations](#)). A consultation has been launched on potential changes to the concessionary fares scheme. While funding for assisted travel has been maintained, a review will take place about future provision. Nevertheless, a [budget overspend is expected](#) since some decisions to reduce spending cannot legally be made by civil servants, for example stopping wastewater treatment or flood prevention programmes, or reducing essential maintenance, winter services or street lighting. Officials have [paused some work on major roads](#) because of the budgetary position and climate change commitments. More broadly, there is an absence of leadership in planning for longer-term improvements to Northern Ireland's infrastructure. For example, there was no official response to the recent All-Island Rail Review despite its strategic importance.

05 CONSEQUENCES FOR GOVERNMENT IN NI

Staying within the budget allocation for 2023 - 24 is proving impossible

A real terms funding fall of 3.3% for Northern Ireland means existing services cannot be maintained. Despite around £1 billion of total cuts made by departments, an estimated £1 billion shortfall remains. There is no funding in place for many public sector pay claims, and the Barnett consequential of funding for new pay settlements in England will go towards repaying last year's overspend.

The “governance gap” has deadlocked decision-making

The first principle in the [Guidance on decision-making](#) for civil servants is that major decisions should normally be left for ministers. In practice this is impossible, given budgetary pressures. The Head of the Civil Service has asked for these decisions to be taken by politicians, but the Secretary of State has repeatedly said he is unwilling to do so and wants local politicians to return to an Executive and Assembly. The losers are those who rely on public services, both in the short and long term.

DESPITE AROUND £1 BILLION OF TOTAL CUTS MADE BY DEPARTMENTS, AN ESTIMATED £1 BILLION SHORTFALL REMAINS.

The present budget means an increasing spiral of difficulty

This paper focuses on the current financial year, but the implications for 2024-25 and beyond are serious. Another overspend will create the need for larger cuts or, at best, the further loss of any new allocations. It is hard to overstate how severe the consequences could be.

The absence of proper government means the problems facing Northern Ireland will grow

Short-term fire-fighting means there is a lack of positive, strategic thinking. The list of issues where progress has not been made is lengthy, and there will be a ‘long tail’ of consequences from recent prolonged periods without decision-making. Examples include health service reform, Fair Start, infrastructure projects, climate change, energy policy, an ageing population and regionally balanced

growth. Failures by previous Executives to take responsibility for these longer-term challenges have exacerbated the current problems – just as failure to tackle them now will lead to tougher challenges in future. Useful preparatory work is being done by the civil service on longer term cross-cutting ‘missions’, but a restored Executive is required to take the necessary decisions about action.

“THERE WILL BE A ‘LONG TAIL’ OF CONSEQUENCES FROM RECENT PROLONGED PERIODS WITHOUT DECISION-MAKING.

Budgetary management is poor

The lack of an Executive to agree spending priorities means repeated short-term budget crises, no multi-year funding, and no in-year reallocation of funding between departments. While some spending has been cut back this year, in many cases this has been driven by what was legally possible rather than making strategic decisions about how to get the best from the funding available. This short-term focus means that Northern Ireland is not getting the most out of its budget, despite the very tight settlement.

Disadvantaged people and communities bear the brunt of funding cuts

In some cases, spending on early intervention and prevention programmes has been cut because this spending is classed as discretionary. This will generate longer-term costly problems for individuals and communities. There is a lack of recognition or assessment of the cumulative impact of reductions in spending from different departments on particular vulnerable groups and organisations.

“THERE SHOULD BE RECOGNITION OF THE CUMULATIVE IMPACT OF CUTS ON PARTICULARLY VULNERABLE GROUPS.

There is a serious lack of accountability, transparency and scrutiny

Without an Executive, ministers or Assembly, much less information is disclosed and there are far fewer opportunities for challenge. The Executive Office publishes [monthly summaries of decisions civil servants have made using their extended powers](#), but these provide limited information and nothing is said about decisions that have not been made. Some civil servants have provided media interviews or statements about the current position and decision-making process, but there is a no consistent approach across departments. Altogether this falls far short of what is available with a functioning Executive and Assembly.

The challenges facing a returning Executive are unprecedented

These include managing within the available budget, dealing with the accumulated backlog of decision-making, making progress on Northern Ireland's longer-term issues, and addressing the ongoing rising cost of living. Urgent and difficult decisions will be needed about the short-term stabilisation of public services, and a longer-term programme of transformation and reform – and how to balance the tension between those two considerations.

Long periods without an Executive have become the norm

The Executive has not functioned for more than two-thirds of the time since the start of 2017. While periods without proper government might once have been seen as an exception, recently they have become normalised. There is little provision for ensuring proper governance and management of public services during these periods.

Apathy and disillusionment with the Belfast / Good Friday Agreement and the wider democratic process

The absence of a functioning government has contributed to apathy and disillusionment with the fundamentals of the Belfast/Good Friday Agreement and the wider democratic process. Good governance depends on the engagement and active participation of at least a very large proportion of the community. Loss of confidence and disengagement carry substantial risks.

06 THE WAY AHEAD

Pivotal offers the following suggestions on ways to proceed:

- ▶ The return of the devolved institutions with local decision-making is the best way to provide political leadership and accountability, and to avoid further deterioration in public services.
- ▶ Given that long periods without an Executive have been the norm in recent years, arrangements should be put in place to ensure proper governance for Northern Ireland during these times, so that public services do not decline further.
- ▶ Departments should collectively consider the cumulative impact of spending cuts across public services on disadvantaged individuals and groups. Early intervention and prevention programmes should be prioritised in all budgetary decisions, rather than seen as discretionary.
- ▶ More transparency and scrutiny are needed about decision-making. Departments should publish information about what decisions have not been taken in the absence of ministers, rather than just the current details about what has been done using their extended powers.
- ▶ An appropriate amount of additional funding will be needed to stabilise public services. Any new funding needs to be sustained for the next three or more years, since one-off allocations offer only a short-term sticking plaster. Any funding package to accompany a restored Executive needs to prioritise both stabilisation of public services now and the overdue transformation of public services for the future. Commitments to reform should be followed up to ensure real change is delivered.
- ▶ Consideration of revenue raising measures and a review of all super-parity policies (i.e. policies that are more generous than elsewhere in the UK) should be part of a broad and open conversation about Northern Ireland's public finances.

- ▶ If and when an Executive returns, a complete change in working culture is essential. Previous commitments to adopt a cross-cutting Programme for Government have not been effective in practice. Any new Executive needs to work with genuine common purpose and collective responsibility. Focus is needed on addressing Northern Ireland's longer-term challenges like improving skills, enhancing infrastructure, addressing climate change and tackling poverty. A Programme for Government and multi-year budget should be agreed before any Executive is formed.
- ▶ A returning Executive needs to be bold and ambitious in taking responsibility for the difficult decisions facing Northern Ireland, particularly those that may be unpopular, like changes to how public services are delivered and local revenue raising. Successive Executives have failed to take on these big decisions. The parties in the Executive need to commit to supporting difficult decisions, including where the Minister responsible for them is from a different party.
- ▶ The UK and Irish governments should re-commit to taking an active role in ensuring the restoration of the Belfast / Good Friday Agreement institutions and to supporting their stability and effectiveness when they are in place.