



Official - Sensitive

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New Nick,

MINISTRY OF JUSTICE SUPPLEMENTARY ESTIMATE 2015-16

Thank you for your letter of 1 March in which you ask for clarification of a number of points arising from our Memorandum in support of our Supplementary Estimate.

Resource

As you have noted, we requested an additional £427m of resource DEL funding, net of transfers between departments. We attributed £259m of this to additional demand and income pressure. You asked two questions, which I will take together:

Why has the Ministry not been able to control its spending sufficiently?

Is this Supplementary Estimate evidence that the Ministry's 2013 Spending Review Settlement was too ambitious?

As the Memorandum explains, our SR13 settlement was a challenging one, requiring a 10% real reduction in a single year – on top of the 27% real reduction we had delivered in SR10. Our settlement was then further reduced at Autumn Statement 2013 and again at the Summer Budget which followed the May 2015 election.

As is normal on a spending review, our settlement was based on a set of assumptions agreed with HM Treasury. At the time we agreed the SR13 settlement, in mid-2013, these assumptions were based on best estimates of forecasts about our position in both 2014-15 and 2015-16; we viewed the assumptions as reasonable and realistic. As the Memorandum noted, there have been significant changes both to demand in the criminal justice system and to our income forecasts since the settlement. It is those changes in particular which have led to our difficulties this year, rather than the settlement being too ambitious.

Our SR13 settlement was based on assumptions that workload in the criminal justice system would be broadly flat. What we have actually seen since 2013 is an increase in demand, driven by increases in the detection and prosecution of serious offences

– in particular sexual and other violent offences, including domestic violence. Prosecutions for sexual offences are in general more complex than other types of cases, have a lower guilty plea rate, and tend to take longer. This increase in demand has put pressure on the prison population and on the requirement for Crown Court sitting days. For example, the published November 2012 prison population projection for June 2015 (the assumption which underpinned the SR13 settlement) was 84,000. During the course of 2013, this shift in demand was reflected in the numbers, and by November 2015 the population was around 86,000. Crown Court sitting days have also had to increase steadily from the 101,500 we thought would be required to 109,000 in 2015-16. As a result, we have had to provide additional funding in 2015-16, not planned for at the time of the settlement, to both NOMS and HMCTS. There are also additional costs to the Legal Aid Fund.

Our settlement also assumed that we would be able to raise additional fee and fine income in 2014-15 and 2015-16. While fine income recoveries are broadly in line with what was forecast at the time of the SR13 settlement, we have not seen the full benefit of this in 2015-16. Because of pressures on our budget last year as a result of the Autumn Statement 2013 reductions, HM Treasury agreed that we could bring forward retention of fine income as agreed in our SR13 settlement, from 2015-16 to 2014-15. This was helpful but meant that it was not available to support the further reduction to our baseline required this year.

Fee income has also not matched our expectations. This is the result of several factors, including unpredicted volume changes following introduction of enhanced fees in March 2015, delays to timetables for introducing new tranches of fees, scope changes, and decisions not to take forward some changes until 2016-17.

We always knew that 2015-16 would be challenging. But we took on the challenge presented by the settlement and its subsequent revisions, working hard to live within our budget in both 2014-15 and 2015-16 to develop and deliver sustainable spending plans and to absorb considerable pressures. We worked hard to bear down on spending during the year (we touched on that subject when Indra Morris and I gave evidence to a recent committee inquiry), and in the process we have learnt much that will help us during 2016-17.

I would contend that we have managed our budgets well for the last five years, but that a combination of events went against us this year. As well as the demand and income pressures I have described, we under-delivered against some savings targets. We also incurred some one-off increased costs: 2015-16 was a transitional year for MoJ as key programmes designed to deliver savings, such as Transforming Rehabilitation and Shared Services, entered mobilisation and implementation phases. Coming together, these factors made our financial position difficult this year.

How will the increase in the 2015-16 budget represented by the Supplementary Estimate affect the Ministry's ability to meet its SR15 settlement?

The Ministry of Justice SR15 settlement sees an overall reduction to the Ministry of Justice's budget of 15% – equating to £1 billion savings by 2019-20 once inflation has been taken into account. The additional funding provided in the Supplementary estimate was intended to cover some specific 2015-16 requirements, including funding for modernisation and in relation to the O'Brien judgment and associated litigation, which will ensure MoJ is in the right shape to deliver our significant reform plans over this Parliament. There was also some funding to reflect overall pressures

from changes in demand, as I have described earlier, which had already been factored into our SR15 settlement.

What specific areas of spend has the Ministry identified where substantial savings will be made to meet future spending constraints?

By the end of the spending review, we will have made significant reductions from our administrative spend, as well as the running costs of our courts and prisons. That will be done by reform: we plan to create a more efficient and rehabilitative justice system. A large part of the £1bn reduction in MoJ's overall spend will be achieved by the efficiencies created by our priority reform programmes, delivering a more effective justice system at a lower cost to the taxpayer.

Some of it will be achieved by increasing MoJ's income, by way of fees and charges. We have adapted our approach in the light of what happened in 2015-16; but it remains part of our strategy to continue to look for ways to increase income, particularly from those who can afford to contribute more, so that those who use and directly benefit from the courts pay towards their running costs.

The remainder will be made up of improvements and savings in how we run the department.

What controls will the Ministry put in place to make sure it does not exceed future spending settlements?

Our existing processes and controls were effective in many ways, but we are determined to improve them. So as part of our allocations processes for 2016-17, we have adopted a much more granular approach, working out spending requirements in different parts of the department from the ground up, and separating business as usual from change spending.

We are also improving monthly and quarterly monitoring and reporting tools that will track, for example, demand drivers, such as prison population, income, and the costs and benefits generated by our major programmes. We have always used such data to some extent, but our approach recognises the need for close integration with financial reporting so that we have early warning of where key indicators may be going off track to enable us to take appropriate corrective action at the earliest opportunity.

Capital

You asked about our proposed transfer of £45m from capital to resource, in the light of our intention, in the Spending Review, to reduce running costs in prisons and in courts by investing in new technology. Your specific questions were:

Why is the Ministry transferring spend from its capital budget at this time?

Has the Ministry delayed its investment plans?

What was the transferred £45m of capital spend earmarked for?

Part of our strategy for managing down spend in 2015-16 was to run an exercise in November 2015 looking at spend on projects and programmes. We found some scope to make some savings in our capital budgets without affecting our overall investment plans, largely through in-year revisions to capital forecasts and the volatility inherent in capital spend. We also identified a number of small capital

investments where it was possible to defer projects into 2016-17. The greater part of those savings related to reduction of budgets for building maintenance.

Annually Managed Expenditure

You asked for some information about the £330m AME budget cover requested for the impairment of prisons and courts which are being closed – in particular, a breakdown of the nature of the impairment and a full breakdown by building.

Nature of the impairment

The requested cover is for the following types of impairment:

- *Loss in economic benefit from a property when its closure is announced* – for example, if a court with a value of £1m and remaining operational life of 25 years is announced to be closing in a year's time MoJ will only benefit from using that property for one year not 25 years. Since the court is a specialised asset valued on a cost basis the building is revalued to 4% (1/25) of its value, that is, £40k. The other £960k is the impairment incurred on the announcement to close. The land is not impaired because it is not valued on a cost basis.
- *Revaluation to market value* - when a property is marketed for sale, the property is revalued to a market value. If the market value is less than the original cost of the asset, the reduction in value is accounted for as an impairment.
- *Annual revaluation* - each year MoJ's property estate is revalued taking into account changes in construction indices, location factors, condition of the building and market conditions. Where this results in a property being revalued below its original cost, the reduction in value is accounted for as an impairment.
- *Year end revaluation following capital works* - this applies where MoJ spends capital to enhance its existing building stock or construct a new building but the value of works does not necessarily translate into extra value on the property. For example, a new roof will extend the operating life of the property but will not necessarily add any value to it. When the works are completed and the property revalued at year end, the value of the building before the works plus the works is less than the value of the property after revaluation. This downward reduction in value is also accounted for as an impairment.

Breakdown by building

The bid for additional AME cover was prepared in November and December but included a number of uncertainties. These included uncertainty about the exact number and timing of court or prison closures: the outcome of the court closure consultation was not announced, for example, until 11 February. Similarly, construction indices could change between December and the end of March and the impairment arising from the writing down of enhancement works cannot be estimated as it is property-specific. For these reasons the bid is prepared on a best estimate basis using latest assumptions and available information about possible closures, indices movements, properties expected to be marketed for sale and the likely level of works written down. There is therefore no itemised list of impairments by property to support the £330m bid.

You then asked several questions about the prison estate.

Will the eventual sale of land at HMP Holloway generate a profit for the taxpayer, or will the losses incurred surpass what the Ministry is realistically able to recoup on the sale?

The sale of Holloway will generate money that will be reinvested in the prison reform programme announced by the Secretary of State. It is also expected to open up land for building around 800 new homes.

What value for money considerations were taken into account when deciding to close HMP Holloway?

Value for money was only one consideration when deciding to close Holloway. Other factors included its physical limitations and the opportunity to provide better accommodation for women prisons at Bronzefield and Downview prisons. The closure of Holloway is intended to be a new beginning for female offenders with women prisoners serving their sentences in more humane surroundings, better designed to keep them out of crime. Despite the best efforts of its excellent staff, Holloway is a poorly designed prison that is not fit for a modern, rehabilitative prison. It is located on a cramped site and houses women in dormitories, and its unwieldy layout makes it difficult to supervise and support prisoners effectively.

Are any other prisons in the prison estate built as recently as the 1970s and 1980s also planned for closure?

No further prison closures have been decided, other than those already announced (our intention remains to close the two open prisons, Askham Grange and East Sutton Park). When considering closures, MoJ follows a robust evaluation process which considers every establishment in the prison estate based on a number of criteria. These include:

- the geographic and strategic function the prison provides;
- the quality of the environment the prison provides, including how conducive it is to rehabilitation and to facilitating the provision of rehabilitative services;
- the age of the prison;
- economic factors, such as operating costs and outstanding maintenance issues.

What assurances can the Ministry give the committee that the nine new modern prisons will be built to last longer than Holloway did following its rebuilding?

Much of Holloway was built as a hospital rather than specifically as a prison. The Ministry has had much experience in recent years of building, on time and to cost, good quality accommodation that is built to last at new prisons (e.g. Thameside, Isis and Berwyn) and houseblocks at existing prison sites (e.g. The Mount, Thameside, Parc and Peterborough).

Who will manage the sale of land which is released as a result of the building closures programme? What past experience and commercial expertise in selling land do they possess? If the Ministry intends selling the land using in-house resource, how much consideration has the Ministry given to using an external agent to sell the land on its behalf?

The sale of land released as a result of prison closures will be managed by MoJ Estates Directorate, working closely with the NOMS Prison Estate Transformation

Programme team. MoJ Estates has considerable experience managing the sale of former prison sites, including the 12 prisons sold within the last five years. All our sales are conducted through external agents and we will continue to work with agents to ensure that we obtain best value for the taxpayer.

Our estate strategy involving the closure and disposal of expensive and inefficient sites and the construction of better, cheaper to operate, prisons was praised by the NAO in its December 2013 report as 'the most coherent and comprehensive for many years, [which] has quickly cut operating costs, and is a significant improvement in value for money on the approaches of the past'.

So far as the sale of former court properties are concerned, HMCTS has bolstered considerably its capability through the appointment of an experienced senior property team. Again, external agents will be used where that is appropriate. We will also work closely with the Government Property Unit.

*Yours truly,
Richard*

Richard Heaton