

Northern Ireland Affairs Committee

Oral evidence: Funding priorities in the 2018-19 budget: Education, HC 1497

Wednesday 13 March 2019

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Members present: Dr Andrew Murrison (Chair); Maria Caulfield; Lady Hermon; Nigel Mills; Ian Paisley; Jim Shannon.

Questions 335 – 388

Witnesses

I: Derek Baker, Permanent Secretary, Department of Education (NI); Fiona Hepper, Deputy Secretary for Education Policy and Children's Services, Department of Education (NI); Gary Fair, Director of Finance, Department of Education (NI).

Written evidence from witnesses:

– [Department of Education](#)

Examination of witnesses

Witnesses: Derek Baker, Fiona Hepper and Gary Fair.

Q335 Chair: Good morning, everyone. Welcome and thank you for coming to give evidence to our Committee today. As you are aware, usually this Committee would not be interfering in matters to do with education in Northern Ireland—that is a devolved matter, so we would rightly be told to mind our own business. Sadly, however, force of circumstance has made it very much our business, in our opinion, since budgets are set now at Westminster. We therefore feel that we should cast an eye over important public services. We are doing so particularly in relation to education and health, hence your appearance before us today.

Can I start by asking about the Salisbury review in 2013? As you know, it made a number of far-reaching recommendations. As a starter for 10, can I ask what your assessment is of the extent to which those recommendations have been rolled out?

Derek Baker: In general terms, Chair, many of the recommendations have been rolled out. We have made a number of changes over the years that took them into account and we have progressively implemented most of the recommendations. Fiona could probably answer in great detail about the recommendations one by one, but I am sure you do not actually want to hear about them one by one. However, in large measure we could say that the recommendations of that report have been implemented. Fiona, would you like to add anything on the specifics on that?

Fiona Hepper: Of Sir Bob Salisbury's 29 recommendations, 18 have been completed, another two are substantially completed, one of which, on the treatment of VAT, I would say has been completed. Then there are nine others where significant work is ongoing. That includes, for example, as part of our transformation work, which you will maybe hear a little bit about later; the fact we are doing another review of the common funding scheme and the formula. That will be wrapped up in a couple of Sir Bob's recommendations. As Derek said, our view would be that this is largely in train, with a significant proportion of it put to bed.

Chair: That is reassuring. Thank you. You have touched upon one area where perhaps limited progress has been made, and one that Sir Robert cited when he gave evidence to us, which is the reservation of a fairly large part of funding to the Education Authority and the fact that a small part, in the opinion of many of those who have given evidence to us, is actually given directly to schools for them to spend. Around 41% is reserved to the Education Authority, with the balance being spent by schools directly.

I just wondered whether you might want to comment on that recommendation made by Sir Robert and the extent to which this is a



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work to progress. Do you agree or disagree with those who we have taken evidence from who say—not uniformly; there was a mix of views on this subject—that schools should be able to deploy funding more directly? They have cited areas where they would say there is wastefulness in relation to the ways the funding is currently spent.

Derek Baker: Chair, perhaps I will open in responding to that question. Over the years, we in the Department of Education have not done a very good job in clarifying how the entirety of the Department's budget is spent. There is a danger that some urban myths can develop about how much money goes to schools and how much is somehow held back. You get an urban myth about money being held back for bureaucracy, civil servants or bureaucrats. We gave the Committee evidence some time ago of the totality of the Department of Education's budget. Over 90% goes directly to schools and pupils, and we are more than happy to break that down.

You are absolutely correct that 60% goes directly to schools through the common funding formula, under what we call the aggregated schools budget. The remainder goes to various things, but most of it goes to the Education Authority and it, in turn, passes the money on to schools. For example, it funds our 39 special schools directly; it funds special educational needs in schools; it funds the managed IT system for all schools; it funds teacher substitution costs—I could go on. You probably have the details of all of that. I do, however, accept that there is a body of opinion among many of our school principals that more should be delegated, and I am more than happy to have that conversation.

Interestingly, the Committee might wish to note—I was not in the Department at the time—that the last Education Minister, Peter Weir MLA, engaged in a limited consultation with school principals. He wrote to them all and asked them about their preferences regarding increased delegations of budgets. There was a fairly poor response. Only about 17% of principals responded. Amongst those who did respond, there were mixed views. Some did not want any more delegation, and some were keen on it. The general view was that, if budgets were to be delegated to schools, they did not want the Department or the Education Authority passing the problem of shrinking budgets on to them and them having to manage cuts. They wanted to make sure that the budgets were well stocked before they were transferred, and some of them made the point, which I can fully understand, that with the delegation of greater budgets they would also want greater administrative support, perhaps a bursar or office staff to help them in the management of that.

That said, I would be more than happy to enter into a detailed debate about what could be transferred. I have engaged with many principals since I have been in this post, and a common complaint I hear is about the procurement of maintenance costs. Chair, you mentioned at the start that there were views that maybe we do not get the best value for money in some areas. Some principals hold the view that there is better value



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for money to be had if that was, for example, delegated. It was for that reason that we insisted that a review of the current procurement of maintenance would be included in the transformation programme that we are running.

As we look at rolling out a new special educational needs framework for Northern Ireland, on foot of the legislation that the Assembly enacted in 2016, we will be looking at how budgets are deployed there. I worry about special educational needs. The budget keeps rising, as it does in England and in other jurisdictions. We need to make sure that we are spending that money in the best way possible. If there are better ways of doing it, I am more than prepared to look at that.

It is work in progress. There are serious discussions to be had, but there are things you could not delegate. For example, the Education Authority pays the rates bills for all controlled and maintained schools—that is our equivalent of council tax. There is no point in delegating that to schools. Otherwise, you would have schools having to make 1,000 transactions instead of one single transaction. There is no benefit or added value. It is work in progress.

Q336 Chair: In 2015, £500 million was allocated for Fresh Start for shared and integrated education. It got off to a fairly slow start, with the first three years seeing very little actual spend or allocation. Can you update the Committee on where the deployment of those funds has got to?

Derek Baker: I can. Can I first say that this money was very, very welcome? It will give a great boost to integrated education and to shared education, and shared education is difficult work. It was always going to be the case that it would be a slow start, bearing in mind that the money was not to be used as a substitute for the Department's mainstream budget. We could not use it for projects that we were already going to fund anyway. Inevitably, as with any capital project—these were all meant to be capital projects, new builds or extensions—there is a long lead time. We were never going to spend £50 million in year 1, or in year 2.

We have slowly ramped up and we have developed a suite of projects. As you are probably aware, for each project to be funded from the Fresh Start capital, there are three stages of approvals. We have to get approval in principle to a project—this is approval from the UK Government—then we have to get approval to proceed in planning, which is to appoint the consultants, design and plan it; and then we need approval to construct. That has been a slightly sticky process, I have to say. It has not all gone smoothly. We have had our issues in engaging through the Northern Ireland Office with the UK Government. Sometimes we have been a little bit frustrated. None the less, that money is very welcome. We have projects underway; we have projects announced. I am sure Fiona can give you an update on exactly where we are on the full suite of projects and what stage they are at.



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Fiona Hepper: We have one project completed, and that is a primary school. We have five that are at stage 1 and that are approved in principle. We have 13 projects that are approved for planning. We have another nine that are approved to go to construction. Towards the tail end of last year, we also got approval to include the Strule shared campus from within this budget. That is £140 million committed for the Strule campus. In terms of the rest of them, there are 23 integrated schools being taken forward through each of those various stages, and another five shared campuses, which are part of the former Executive's T:BUC strategy. Those are the first five to progress.

To date, we have spent just under £18 million from the budget. We have approval to carry over to the end of this comprehensive spending review £91 million. We will continue engagements with the Treasury and the NIO as we get closer to the end of this spending review, to see whether any future underspends can be carried over into the next spending review, but obviously we appreciate that it cannot be decided at the moment. Just for your information, in terms of the full £500 million, we have committed, through the various 28 projects plus Strule, £483.8 million out to 2025-26.

Q337 **Chair:** We have heard in evidence that the problem with funding is not the sum total that is allocated but rather how it is spent. That evidence has been quite compelling. Although most spending Departments will say, "We do not have enough money. We would rather like some more," of course the other side of the equation is how the money is deployed and how it is spent. In the context of Northern Ireland, it is quite complicated, because of the way the estate is configured and the footprint. There are figures that suggest there are a number of unfilled places and small schools. This is something I have some sympathy with, as a Member of Parliament for a rural constituency. I sympathise with that.

Nevertheless, there does seem to be on the face of it, in accordance with some of the evidence we have heard, a case for looking afresh at how the estate is, of course with the added overlay in Northern Ireland particularly of the involvement of faith organisations. I wonder whether you can comment on what work is being done, appreciating the political sensitivity of this and the absence of Ministers at Stormont, to ensure that you are getting best value from the estate you have.

Derek Baker: Yes, Chair. I would agree with you entirely that, were we starting afresh with a blank page, we would not have the estate that we currently have for schools. We have too many small schools—we probably have too many small primary schools, and probably too many small sixth forms. The Committee is well aware of the fragmented nature of education structures in Northern Ireland. You are right that it would not be appropriate for me to comment or offer a view on that, because that takes me squarely into the political domain. Any change to that would require, dare I say it, very courageous political decisions. We have to work with what we have got.



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The process we have underway to address any inefficiency in the schools estate is area planning, as the Committee is probably aware. The policy foundation for that is our sustainable schools policy. That does not just look at money; it looks at the sustainability of individual schools across a range of dimensions. It is the quality of the education, the quality of the leadership, sustainable enrolment, finances, accessibility to local communities and indeed the links to local communities. We have a strategic area plan, which is produced by the Education Authority. The intention is that they work through the priorities, area by area, to see what we need to do to right-size the schools estate. That may be amalgamations; it may be closures; it actually may be expansions in some cases. That is difficult work. As you mentioned, it can be very sensitive work, particularly in rural areas.

The end of the process is usually what we call a development proposal. They would come to the Department for a decision. In the absence of a Minister, I am the decision-maker. I have taken the view that, in the absence of a Minister, I should continue to take decisions on development proposals. I have taken legal advice. We also have the comfort of the legislation that the Secretary of State enacted last year, the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. I welcome that.

I am always open to judicial review, of course, so nothing is absolutely safe. I have taken the view publically—I reported it in a report on area planning last year—that we are going too slowly on this and that the managing authorities—the Education Authority and the Council for Catholic Maintained Schools—do need to go faster on this. We are facing something of a funding crisis. While this will not solve it of itself, it will contribute to rationalising the schools estate.

This is sensitive. Last month, I took development proposal decisions involving the closure of four small rural primary schools. That is a big issue for those communities. I fully get the sensitivity of that. Communities have an emotional attachment to their schools. They are often the heart of the community. None the less, they are decisions that need to be taken. We are moving ahead with it. I am taking development proposal decisions. I have said publically that we are not moving ahead fast enough with that and we need to accelerate the pace and tempo. It is hard work and we need to take communities with us.

Fiona Hepper: To add to that, if I may, again as part of our transformation programme, one of the key projects under that umbrella is focused on aspects of area planning. There are several strands to that work. One of them is that we have got the Education Authority and CCMS, in partnership, to look at accelerating a number of projects. They have picked 16 projects that they are looking at pushing forward at a faster pace. As Derek says, we fully understand the complexities and the sensitivities around area planning, but we do want to use the transformation programme to try to accelerate that.



In the meantime, the Department, as a second and third strand of that piece of work, is looking at the processes and the policy underpinning area planning; we are looking to see whether there are barriers in the process or whether there are things we can put forward as proposals for change. That work has good legs at the moment. We have been around all of the key stakeholders to get their opinions, their views and what their different perspectives are across all the sectors. That is progressing.

The third phase of that will be the overarching policy review of the sustainable schools policy. We will have accelerated a number of projects on the ground, which will be good. They will come forward to Derek for his decision. We also have two other pieces of operational work and policy work, pending the return of a Minister of Education.

Q338 **Chair:** So far you have felt yourself to be relatively protected from judicial review. If you go further into this, I sense you will be more likely to be subject to JR. From what you say, the Bill passed last year in relation to your functions has been of assistance.

Derek Baker: It is not really for me to say that I am protected from judicial review. Others might take a different view.

Chair: That was the intent of the Bill, was it not?

Derek Baker: It was to provide clarity, but there are always ambiguities. It does not entirely protect me from judicial review, but I will take that as it comes. I take the view that it is in the public interest to press on with this work, because the fundamental purpose of such work is to ensure that we have a network of sustainable schools providing a broad and balanced curriculum for our children and young people. That is my justification for moving ahead. I am not going to wilfully and knowingly engage in wild adventures in this work. Everything will be very carefully considered, and we take care to be very transparent about this work.

I exclude myself from any of the analysis leading up to a decision. I have a team in the Department that draws together all of the information, all of the analysis and any objections to any particular proposal, brings it together and gives me a very detailed submission. I then take my decision on the back of that. I record my decision, and everything is published on the Department's website. Everybody can see every piece of analysis, opinion and view that went into the decision. If anybody wishes to challenge that, so be it.

Q339 **Ian Paisley:** Thank you for coming. At the outset, can I say thank you for the work you do, especially under the very strenuous circumstances of not having ministerial direction? I know it is a difficult job, but the work the Department is doing is appreciated. Last year, you funded the Holocaust Educational Trust, along with the Department for Communities. I think the funding for that is proceeding this year—we heard word of that. Is it the intention to make that a main budget line going forward for that piece of learning?



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Derek Baker: We did fund that in the past, Mr Paisley, but the funding for that is now coming from the Executive Office, not the Department of Education, so we cannot take any credit for that anymore.

Ian Paisley: You should have taken the credit.

Derek Baker: No, I cannot take the credit. I had some engagement from one of your colleagues, Peter Weir MLA, about this. I also had some engagement from the Secretary of State's special adviser about this, who is a strong supporter. We had some internal discussions between Departments and, happily, the Executive Office decided to take on the burden of funding this programme. That is what they are doing. I cannot speak for them as to whether they are going to mainstream that budget.

Q340 **Ian Paisley:** That is useful to know; thank you. In terms of the confidence and supply money that was allocated to the education budget—it was about £25 million—can you give us an indication of what that was allocated to?

Derek Baker: It is actually more than £25 million in this financial year. When we were doing the budget negotiations this time last year, we were faced with a very difficult scenario. Going into 2018-19, our budget looked like it would be significantly less than our spend the year before, in 2017-18. We were extremely grateful that we received an award of confidence and supply money, which came in two pots, if you like. You will know better than I that part of the confidence and supply arrangement included a pot of money for pressures on education and health. We received £20 million of that in 2018-19. That generally went into our budget to raise it up more closely to the level we had had the previous year so that we would not have to make £20 million of cuts.

In addition to that, to our surprise but also to our pleasure, we got £16.5 million of confidence and supply money that had been earmarked to tackle social deprivation. That was allocated to the Department of Education to fund a number of programmes that are targeted in that sphere. We allocated it to a variety of programmes: Sure Start, which works with families in some of our most disadvantaged areas; extended schools, which again helps schools that draw a large proportion of their population from disadvantaged areas by providing breakfast clubs and after-school homework clubs and so forth; a pathway fund, which supports early interventions in disadvantaged communities; some literacy and numeracy projects; and also some nurture units—we have 31 nurture units attached to a number of primary schools—to help children who have emotional or attachment problems and who have difficulty adjusting to primary school.

Some £16.5 million went to those projects. If we had not received that total of £36.5 million of confidence and supply money, we would have had to make £36.5 million of cuts in the current financial year. To give the Committee a little bit of context, £36.5 million of cuts would equate to more than the entirety of what we spend on youth services. That is all



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the statutory youth clubs, the voluntary clubs, uniformed organisations and community-based organisations. In over 1,700 settings, 140,000 children and young people benefit from that. It equates to more than our total Sure Start programme, all 38 projects put together, plus all of our extended schools. It was potentially a massive cut we were facing, and the confidence and supply money allowed us to obviate those cuts and maintain expenditure at previous levels.

Q341 Ian Paisley: It is very good to hear that money was used in that way, in a very targeted way. The cuts would have affected some of the most deprived areas.

Derek Baker: They would have, and the reason is that we have a duty to focus on our statutory functions, but some of the things I have mentioned are not statutory functions. None the less, they are exceptionally important.

Ian Paisley: Yes, because they are already there, people expect them to be there.

Derek Baker: They do.

Q342 Ian Paisley: Even if they do not have a statutory label, people think they are statutory in terms of their use of the service. Will any of the £140 million announced in the most recent budget go directly to education?

Derek Baker: I honestly do not know. That is a question you would need to direct to the Department of Finance. As you know, it goes to the Northern Ireland Office, and the Northern Ireland Office has distributed that via the budget Act. I am quite sure that the £140 million extra that came as part of the budget has helped the Department of Education's budget.

I say that not because I know for sure but because of the chronology of events shortly after Christmas—maybe it was slightly before Christmas; I lose track of time. We were given a hint of what the Department of Education's budget might be for the incoming year, and I was asked, "What does that look like? What does that mean for delivering services?" I went back with a fairly apocalyptic letter saying, "This does not look very good. The consequences are X, Y and Z." When we got our final budget, there was an increase on that initial amount. I can only assume and speculate—I do not know for sure—that maybe the £140 million contributed to a somewhat better outcome than I had originally feared just after the Christmas break.

Q343 Ian Paisley: I do not want to go over the points the Chair made with regard to procurement services, but you mentioned that you are conducting a review of that. That is welcome, because it is an issue that all of us pick up from our constituencies. What is the timeline for that review? Do you have any advance things you can tell us about where you think it may lead?



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Derek Baker: I do not have a precise timeline. In the absence of Ministers, I am probably on slightly dodgy territory. None the less, we embarked on a transformation programme last year. We pulled together the transformation programme under a number of work streams. One of those work streams focuses on the quality of services that are provided to schools, because I hear a lot of complaints from school principals that they feel they are not getting the support they should be getting. We have a number of projects in that sphere. One of them is the review of procurement. I cannot give you a precise timeline. I can find out and certainly write to you. I know it is underway—I think it is well underway—but the important point is that we want to make sure that review is carried out in conjunction with schools and with principals. It has to be carried out with their input so that what comes out of it makes sense for them.

Gary Fair: Just to add a comment, the Education Authority is in the lead on that. Because a lot of principals and schools have been raising issues around this, we have been engaged with the Education Authority on this to make sure there is appropriate engagement early. There are quite a number of these contracts. I am not sure myself of the timelines around them, but there are around 24 in total. The intention is to review the arrangements in the past that appear to have raised some concerns and to make sure there is value for money overall. Quite often it can be value for money at a corporate overall level, but for an individual school there are obviously concerns raised. We are making sure we are involved with the Education Authority in that process.

Q344 **Ian Paisley:** If any of those 24 contracted parties thought they were being unfairly treated, you may end up in a legal wrangle again.

Gary Fair: Yes. The contracts do have different end dates as well, so it is not straightforward.

Q345 **Ian Paisley:** Let us go on to the issue of special educational needs. I have a fantastic special educational needs facility in my constituency, which no doubt you will be aware of, in Ballymena. However, I still have major pressures in my other primary schools. In particular, there are delays in appeals and delays in statementing at the very beginning of a child's educational career. What is the strategy to try to address that issue? You will be well aware of this, and you will hear it from other constituencies, I am sure.

Derek Baker: It is a major issue and a significant concern to all of us. The statistics show that every year the number of children who are assessed as having special needs increases, the number of children with statements increases and the cost of providing support to those children increases. There is some excellent support provided. I was at the formal opening of the Castle Tower special school, and it is an absolutely wonderful facility. I would recommend anybody who has any interest in education to visit Castle Tower. That is the kind of flagship we want for every special school in Northern Ireland, and that is our aspiration.



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In terms of the plans, the Committee may be aware that in 2016 the Assembly passed the Special Educational Needs and Disability (Northern Ireland) Act. That set us on a path to developing a completely new framework for dealing with special educational needs. It will introduce a raft of changes at a strategic level and at an operational level.

In terms of the kinds of things that will flow from that Act, there will be a more detailed plan from the Education Authority about the kinds of services that it will provide in special educational needs. There will be a personal learning plan for every special needs child in every school. Every school will be required to have a learning support co-ordinator, and we are going through a process of training the prospective learning support co-ordinators. There will be an annual review for every child. There will be a reduction in the statutory timetable for having an assessment. There will be closer statutory co-operation between the health sector and the education sector, so that we can get those assessments done better. That co-operation will be inspected jointly between the Education and Training Inspectorate and the RQIA, which is the inspectorate for health and social care.

We are looking at developing better management information for schools and better templates for schools for the personal learning plans for every pupil. It will be a pretty radical change in how we deliver special education. Unfortunately, however, we are a little bit stuck. The new framework is, if you like, a three-legged stool. We have the primary legislation, which has already been enacted by the Assembly, but that will be supported by more detailed regulations, in turn supported by a statutory code of practice, which will set out very clearly the respective responsibilities of all parties. We do not have a vehicle for enacting the regulations, and obviously the statutory code of practice needs to be supported by the regulations.

Q346 Ian Paisley: Not having a vehicle is caused by the absence of the Assembly.

Derek Baker: It is the absence of the Assembly.

Ian Paisley: Last week, this House became the regulatory vehicle for RHI, effectively. It passed measures here. This House could ultimately do that. If there were a further delay, if you were looking down a long tunnel of months and months, maybe into next year, would you welcome this place taking on that regulatory function?

Derek Baker: That is a very political decision. I am sure there are all kinds of pieces of legislation that I and my colleagues would wish to see advanced or would be putting to Ministers to advance. Our general view is that we want to get on with this and put in place the new framework. Ultimately, it is for the benefit of children with special needs, and we want to see that advanced.



I would say to the Committee that, even in the absence of the Assembly and being able to enact the regulations, we are using the time wisely, hopefully, to engage pretty intensively with the schools to make sure we get everything teed up properly—the management information systems, the various templates, the training and so forth—so that what we do again makes sense to schools and makes life easier for them. We do not want to do things to them; we want to do things with them. There is a great element of co-design. However, you are absolutely right. At some point later this calendar year, we will be ready to go with a code of practice. We will be wishing to go with regulations, and it would be useful to have a legislative mechanism to do that.

Q347 **Ian Paisley:** The formula for calculating special school budgets is not available publically. Is there a reason why that is the case?

Derek Baker: Are you talking about the budgets for our 39 special schools? The 39 special schools are funded directly by the Education Authority. They are not funded through the common funding formula, which we use for all mainstream schools. The reason for that is that the needs in those schools are very particular and very varied, and we do not think the common funding formula mechanism would take account of the bespoke needs of all the pupils in those schools. The needs can vary greatly from school to school. The Education Authority funds the 39 schools directly, and the total amount of money they provide to the 39 schools is about £110 million in this financial year.

In addition to that, the Education Authority has responsibility for providing support for children with special needs in mainstream schools and for providing home-to-school transport for special-needs pupils who cannot, for example, use public transport or who need special assistance in getting to school. However, we can break down how the totality of the spend on special needs is allocated. It is about £270 million a year, which, as you can see, is quite a significant proportion of the totality of the Education Authority's block grant. Over 40% of its total grant goes on special needs. However, there is no formula for funding the special schools. It is on a school-by-school basis on the basis of engagement between the authority and the individual school.

Q348 **Ian Paisley:** How can we hold that to account if there is no formula in place? How can we robustly challenge that and make sure that we give it rigorous examination?

Derek Baker: In many areas of education, it is about focusing on the outcomes that are achieved in those special schools. That is subject to inspection by the Education and Training Inspectorate. I am aware of comments made at a previous Committee hearing about our schools not being exam factories. I do not believe they are exam factories.

Ian Paisley: I am glad you said that.



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Derek Baker: I take objection to that, because they are much more than exam factories. We do not do league tables, by the way. However, if I can be a little bit schizophrenic, happily the outcomes in terms of attainment levels for our children with special needs have increased fairly significantly over the years. A good proportion of our children with special needs are doing well in public exams. However, the way we hold all schools to account is primarily through inspection by the Education and Training Inspectorate.

Q349 **Ian Paisley:** I am glad you have made that comment about exam factories, because, believe it or not, my next question was about that. I will set that aside.

Finally, there was one other issue I wanted to touch on with you. Obviously, the best asset you have is your teaching staff.

Derek Baker: It is.

Ian Paisley: Up, down and across the country they are a brilliant bunch of people. Despite the pressures they are under, they deliver a fantastic service. How do you address issues with regard to the morale of your staff? What are you doing there? You will know that from time to time it is an issue with regard to pay and other issues.

Derek Baker: I agree with you. I have been in post two years, and I try to get out and about as much as I can. I have visited over 100 schools. Schools are fantastic places. Our teachers and our school leaders and our boards of governors do an absolutely fantastic job. I am blown away by what goes on in our schools. That is actually why I say that our schools are much more than exam factories.

When I go to schools and teachers and principals are talking to me, the first thing they tell me is not, "We achieved this, that or the other in the public exams." They are telling me about the sense of community; they are telling me about the developments; they are telling me about the access for young people to arts and sports; they are telling me about how young people are mentoring each other, doing anti-bullying work and creating inclusive societies within schools. That is what is going on in schools.

I take your point. Our teachers do a wonderful job. Times are difficult for them, not least because of the budgetary pressures visited upon them. We have a particular problem at present on pay. We have actions short of strike underway by four of our five teaching unions, and the National Association of Head Teachers is now contemplating industrial action. That is a real problem for us. I appreciate that our head teachers in particular are under pressure because of this action short of strike. We need to end this. We have been working very intensively over recent months with the teaching unions, because we want to resolve this.

Without wanting to get involved in negotiations here—that would be inappropriate—any resolution of this issue will have three strands, in my



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view. There will be a pay element to it. There will be a workload element. This comes back to your point on morale. We have identified with the teaching unions nine areas that we wish to review, and part of that is about workload and what they would regard as unnecessary bureaucracy and administration. It includes some aspects of inspection that we want to look at with them.

The third element of any resolution will have to be a payback, because we are somewhat boxed in. The public sector pay policy in Northern Ireland is 1% unless anything above that can be paid for by way of efficiencies. We need to get some payback by way of changes to terms and conditions. I appreciate that is really difficult for the unions, but on a without-prejudice basis we may be able to put together the bones of a package.

There are two caveats beyond that: first, I will need to get approval for any package in the context of public sector pay policy; and secondly, it will need to be affordable. There is a lot I have to do to play for that, but we are determined to resolve this situation, because everyone is on a hook. It is not good for teachers either. So long as they are in action short of strike, they will not get a pay award of any shape or form, because I cannot do that, though I want to reward our teachers.

It does not help, I have to say, that in England teachers have just got a 3.5% funded pay award. Yesterday I was reading reports—I do not know whether this is accurate; it is in the media—that Scotland has just agreed a three-year 13% pay award for teachers. I can understand how teachers in Northern Ireland are looking at that and saying, “I would like to be treated fairly too,” and I want to treat our teachers fairly. We are working really intensively to try to resolve this action short of strike, because I agree—

Q350 Ian Paisley: Could any confidence and supply money going forward be used on that?

Derek Baker: Not that I am aware of, no. Again, we have £16.5 million of confidence and supply money for the incoming financial year. Our intention is to use it in the same way. It was allocated on the basis that we would use it in the same way as we used it in the current year: for programmes in the area of social deprivation that otherwise would have been cut.

Q351 Ian Paisley: That may have a knock-on effect if it relieves pressures, though.

Derek Baker: It might. The confidence and supply money we have got has allowed us to bring expenditure for next year broadly up to the current year's levels. I do not want to get into the detail of this, because it is subject to negotiation and it is all very sensitive, but we really are working hard to address this. I can tell you that the action short of strike, the issues of morale and the difficulty in schools that is causing are



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probably largely below the public consciousness and maybe even the political consciousness because schools and school leaders are doing such a good job at trying to keep a lid on things. However, it is one of the biggest risks on my risk register, because of the corrosive effect it is having in our schools. We need to resolve it, and I am determined to try to resolve it.

Ian Paisley: Thank you for those words.

Q352 **Jim Shannon:** Very quickly, in the short time we have, let me continue on the issue of changes. You referred specifically to special needs, and my colleague Ian has referred to that so I do not want to go over those things again, but I would just say this. You have outlined a very good programme for what you are going to do to respond to the increasing needs of children with special educational needs.

From my own point of view, as a representative, I would have to say that I have more and more cases coming in about special needs all the time. That is an indication to me that it is not just more awareness; there is greater need. Where is the extra money coming from to deal with the programme you outlined? You said there would be extra training for staff and extra staff in place as well. What you are putting forward seems to me to be a fairly large amount of money. Where is that coming from?

Derek Baker: It is a huge pressure on us. It is one of the pressures we identified going into the budget this year. We have set aside money for training this year to allow for substitute teachers so we can take teachers out of schools and train them in preparation for the new special educational needs arrangements. That is a small drop in the ocean. The larger amount of money is the money that needs to be spent to support children with special educational needs. You say, "Where it is coming from?", but we simply have the budget that is allocated to us, and we have to carve it out of that amount of money. That is why our pressures in education are growing.

If you look back over the past decade or so at the Department of Education's budget, it has been fairly flat in cash terms over that whole decade from 2010 onwards. There have been marginal increases in cash terms, but that has not kept pace with inflation, rising costs such as pay, which goes up every year, and also with the almost exponential rise in special educational needs. That is not unique to Northern Ireland. A few weeks back we saw reports that in England, for example, local authorities were struggling with special educational needs budgets. It is just a growing pressure on us. It is one of the reasons why, year on year, we see more and more schools tumbling into deficit.

You say, "Where is the solution?", but we do not have a good solution. It is just eating up more and more and more of our budget, and that is why we have growing pressures every year. I do not have a solution for that. The solution probably is more money. We need to reform the system; I get that. We need to make sure the system is as efficient as it should be,



and we have work to do on that. With the need growing exponentially over a period, maybe levelling off a little bit, we have a real problem with special educational needs. Make no mistake. I do not want to downplay that.

Q353 Jim Shannon: I agree with you. The multitude of jobs and constituency cases I am getting indicates that. I have very good relationship, as I said to you earlier on, Derek, with the local schools as well. To name one in Lady Hermon's constituency—the people who attend it come from my constituency, Lady Hermon's constituency and probably further afield—take Killard House School. I know the principal Colin Miller very well; we all do. He is an excellent guy.

When I was there before Christmas at their school play, he told me that they are under increasingly difficult financial pressures. They deliver education to a very large raft of children with all sorts of complex needs, and in many cases multiple complex needs. There is no doubt that they do excellent work. What is your suggestion for Colin Miller specifically? He seems to indicate that the financial pressures he is under are most difficult to try to negotiate through.

Derek Baker: I have had the privilege of visiting about seven or eight special schools while I have been in this current post. To be quite honest, you could not pay the staff for the work that they do there. It is wonderful work. I do not have any specific advice for Colin and that particular school, but the important point is that we need to engage with the Education Authority to ensure, so far as possible, that each special school gets the resources it needs. We are doing our best to carve out money to give to our core functions, but it means taking things from around the edges and stopping things around the edges. That is really, really difficult.

Whenever I take the decision to stop something that is a good programme but may not be a statutory programme, I come under a huge amount of pressure, not least from elected representatives. I can give you an anecdote of a relatively small but very popular programme—it was a good programme—that I took money off during the course of last year, or at least I did not give it any additional money. I managed to get all five of our political parties in one room together, which is quite some feat, collectively joining in lobbying me really hard and putting me under pressure not to cut that. Those are the kinds of decisions that I have to make and that I have to do so that we can provide funding to core functions such as special needs. It is getting harder and harder and harder, because the pressures are rising.

Q354 Jim Shannon: In relation to procurement—again, it has been well aired—I just want to ask you something. I declare an interest as a governor on the Glashury College board of governors. We have discussions about procurement, and I am glad to hear that you are doing the review. You have given us an indication of a timescale that you hope to try to keep to. When you talk about the review, who will be involved in that



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review? Will it be the local schools, for instance? Who will feed into that process?

Derek Baker: The Education Authority is leading on that review, because they are the prime authority in the contracts. As Gary has said, in doing so we are making sure that the Education Authority are engaging with school principals so that it makes sense to principals. We have all heard the story of the apocryphal £200 light bulb. A school principal said, "I needed lights changed and it cost this, that and the other. I could have had it done much more cheaply." We are trying to address that kind of complaint as part of this review so that school principals will feel they are getting a good deal out of the procurement of maintenance.

Q355 **Jim Shannon:** I recently met with the chair of the local primary schools group in my area, and he informed me very honestly and truthfully that their schools are in financial crisis—he used that word purposefully. It does reflect the seriousness of the situation. Can I ask you whether you have had an opportunity to discuss with the Education Authority some short-term financial assistance for those schools that are absolutely cut to the bone?

Derek Baker: I meet schools all the time—I meet school principals, groups of school principals and area learning communities. That is the message I am getting. I have to operate within the budget I have. I cannot spend money I do not have. When we develop our budget strategies—we have just gone through that process for the incoming year, having received our allocation—our priority is to put whatever resource we have, and certainly whatever additional resource we have, into early-years, schools and youth, because those are our core functions.

On Friday—we were pretty quick off the mark, given that we got our financial allocations only a couple of weeks ago—we wrote to every school in Northern Ireland to give them their financial allocation for the incoming year so that they have clarity on that. In doing so, we tried to protect schools so that they would not be sustaining or have to sustain any further cuts in the incoming financial year.

Any school that is in dire financial straits—there are quite a few of them—obviously needs to engage with the Education Authority on this. I do not want to understate the problem that we are facing here. I have explained to you how we have had a combination of a perfect storm over about a decade: flat cash, rising costs and rising service demands. Last year, when the Northern Ireland Audit Office looked at school finances, it euphemistically made the point that schools' finances have reached a "tipping point". What they really meant was, "It cannot go on like this, because we are in something of a crisis." I am not understating the position we are in; it really is very, very difficult.

Q356 **Jim Shannon:** Fiona, you referred to the new buildings, and you gave some examples. You referred specifically to the money set aside for



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integrated and shared campuses. Let me ask this question. Why has it taken three years for most of the capital funding from the Fresh Start agreement to be allocated to projects? I do not know whether you can answer that, Fiona, or not.

Just to be clear, I am not against the idea of integrated and shared campuses. I feel it is very important to have those opportunities. Again, as an example, as I said, I sit on the board of governors for Glastry College. We have been waiting for a new building for almost 15 years. We thought we were close to it about seven years ago. We are no closer to it now than we were back then. We understand there has been restricted financial money available for any of the new colleges or new schools coming through. You can understand the frustration we have in relation to that. Again, on the capital funding that was allocated to the Fresh Start agreement, what projects did that go to? Is there any of that money left?

Fiona Hepper: Yes, it will be a bit of a recap of what I said before, and Derek covered it as well. The £500 million over 10 years that was allocated to us was allocated in tranches of £50 million each year. The difficulty with capital projects is that you cannot go from a cold start to sod-cutting in a year. There is always a relatively low ramp-up while the planning is done, the business case is being made and the land is being purchased or you are trying to get the land for the school and so on. There is always a front-end tail on these things.

While this funding is to boost the level of integration, sharing and bringing our children together in that way, it could not be used for projects that were already, if you like, in our hopper. It really was new-school projects that had to be looked at, and hence you get this ramping up. We have reached an agreement whereby any of the underspend in those first few years can be rolled forward. The discussion we need to have is, when we get to the end of this spending review, can that flexibility extend for the full 10 years?

So we do have 23 integrated schools where we are looking at new builds in a mixture of primaries and post-primaries. We have five shared campuses. One of those up in the Ballycastle area is one of the biggest spending projects that we will have, excluding Strule. It will be over £30 million. There has been some further work done in association with the council up in that area. They want to come in and invest in that campus and the projects we are doing for community use and so on. You can already start to see the tentacles spread out beyond purely school capital and out into the community side of things. That is where we are on that. As I said, over the period to 2025, we have about £483 million of the £500 million accounted for in terms of those 28 projects, plus the Strule campus, where there was an allocation of £140 million made to that project, which again was most welcome.

In terms of what I call the normal capital for the Department, we have about £160 million of capital for this year. The allocation for 2019-20 is a bit lower—it is £152 million—and then Fresh Start comes on top of that.



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Again, we profile that out in terms of major capital builds, which would be your building from scratch or new build. There is also the very successful programme that was invented by the Department a number of years ago, the school enhancement programme, which looks at capital builds between £500,000 and £4 million. That can make quite a significant difference across the school estate. That will build you a new primary school, even though it is a school enhancement project. It will also significantly add to the capital value and the new facilities in primaries and post-primaries.

Those are some of our most successful builds. We can do those faster in many ways than the major capital projects, because you are not going through and trying to find the site, getting the land and trying to purchase the land and going through that process. You are quite often building extensions. We have been out at a number of those in the last year or so, and there are some absolutely fabulous examples of high-quality new investment in the school estate.

There is quite a bit of work going on. Due to the way the pipeline of projects has been going on the capital side, this year we actually took a very significant share of our capital budget and put it into minor works. About £90 million of minor works are being handled by the Education Authority and the Department this year. Again, there is a lot of investment in what is largely an ageing school estate. We would be hoping that that level of investment in the estate will reduce the level of maintenance that will be needed. There is a seesaw going on here between capital investment, majors and minors and then maintenance.

Q357 Jim Shannon: I am aware that some of the schools in my constituency. Killinchy Primary School is one of those enhancement schemes. Ballywalter is not. I remind you of it, just to have it on the record. I also just inform you as well that Glastry College's land was purchased some 12 years ago at a fairly high price, even at that time. It is still lying there. The business plan has been done and yet we are as near to getting that new school as we are to that water filling up by itself.

Derek Baker: I should say on the major capital works, that is, new schools, some years ago the then Minister wiped the slate clean and any projects that previously might have been considered were cleared from the decks and a new call for projects was issued, according to a set of criteria that were set by the Minister, so those are the projects that are in the pipeline. Some of them are in train, some of them are building out and some of them are nearing completion.

What I will have to do, probably during the course of this calendar year, is consider, in the absence of a Minister, whether I will issue a further call for major works—that is, complete new builds—and, if so, what the criteria will be. It is the criteria bit that gets a bit tricky for me, because it could take me into the territory of policy decisions and ministerial decisions, and I do not want to go there. On the other hand, it is a good thing to have a pipeline of major capital projects, because there is such a



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long lead time for these and we need to get those going. My disposition would be towards issuing a new call for capital projects sometime this calendar year, but I will have to give careful thought to the criteria.

Q358 Lady Hermon: Thank you very much indeed for coming to give us evidence today and thank you very much for your leadership and commitment to education in Northern Ireland, particularly in the absence of a Minister and the Executive. I have a number of questions all over these pages here. Could you just describe to us, from your perspective, the impact on the Department of Education of the prolonged absence of a functioning Assembly and the absence of an Education Minister for over two years? What is the major impact on your Department, or a number of major impacts?

Derek Baker: I have been in post for two years. As I walked in the door, literally the previous Education Minister walked out the door.

Lady Hermon: It was not connected to your arrival.

Derek Baker: I hope not. I have never had an Education Minister in the time I have been in the Department. I have to say that, as a civil servant, I find it astonishing that in a part of the United Kingdom we have nobody politically in charge of and democratically accountable for a service of such fundamental importance to the wellbeing of our society as the education of our children. That is a personal comment.

Q359 Lady Hermon: Are you embarrassed by that?

Derek Baker: No, I am not embarrassed by it. "Embarrassment" is not the right word. As someone who lives in Northern Ireland, perhaps I am embarrassed. I am speaking personally here, not as a Permanent Secretary, but my previous comment was as a civil servant, because as a civil servant I am conditioned to operating under the direction and control of a Minister. My job is not to make policy.

I am accountable to nobody. I do not go to the electorate. I have no Assembly Committee to appear before to account for myself and my decisions. I have no Assembly Public Accounts Committee. There are no Assembly debates going on about education issues. That is quite wrong and I am uncomfortable with it. Personally, I am very uncomfortable with it, because I should not be taking policy decisions and I try not to. That is a personal perspective.

At a more practical level, if I can work from the strategic down, which might be a little bit esoteric, we have gone through a budget process. It is unfortunate that we do not have an Executive and a group of Ministers collectively taking the big strategic resource allocation decisions across Departments. I would argue for education, but it is important that everything is considered in the round and that those decisions are taken, linkages between them are made and resource allocation decisions are made on that basis. That is not happening.



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If I get down into the Department itself, when faced with a difficult budget and a tight budget, it is wrong for me to be deciding whether programme A is more important than programme B, based on the fact that both of those programmes have been put in place by a previous Education Minister and/or an Executive. It is not for me to take those decisions, yet I find myself having to take some of those decisions.

We have mentioned the fact that we have embarked on a transformation programme. Transformation in education should be led by a Minister. A Minister should be up front, out there, leading that, driving that, speaking about it, bringing his or her Executive colleagues with him or her, talking to the Assembly, talking to communities and so forth. It is not for a civil servant to do that. Even with the programme that we have, and there are various projects, we will take those forward and get to a point where many of them will need ministerial decisions and/or legislation, so we will be stuck. When looking at the cost of home to school transport, we will hit a point where we can go no further. In looking at the common funding formula, and the various weightings and factors in that, we will be stuck because we need a Minister to take the decision.

Q360 **Lady Hermon:** Am I right in thinking that there is a list of things that you are taking forward as far as you can possibly take them forward?

Derek Baker: Correct.

Q361 **Lady Hermon:** That is in the expectation that a Minister will hopefully in the near future be back in post.

Derek Baker: Yes. I would not want a Minister to come in and think we have sat on our hands for the past few years.

Lady Hermon: I do not believe that.

Derek Baker: We would like to have some work done and present to an incoming Minister some ideas and some options. A Minister might say, "That is nonsense. Go and start again," and that is fine; that is a Minister's prerogative. For example, the Department of Education is responsible in Northern Ireland for childcare. It is a hugely important issue.

Lady Hermon: Yes, it is.

Derek Baker: I will be taking that nowhere without a Minister, because the policy and funding issues are of such significance that they sit squarely in ministerial territory. Northern Ireland is falling further and further behind the three other countries of the United Kingdom in relation to our childcare provision, because we have no Minister or Executive to take those kinds of decisions, and that is very unfortunate.

Lady Hermon: It is more than unfortunate; it is absolutely shocking. It is unacceptable.



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Derek Baker: Then we drop down. I have a couple of arm's length bodies and statutory bodies. I need to make public appointments to them, but the power to make those appointments is vested not in the Department but in the Minister, so we cannot do it. I have to get those on to the Secretary of State's list to make public appointments. I have not managed to do that. I am starting to get a little bit concerned about the governance implications for those public bodies of me not being able to make those appointments. There are all kinds of things at different levels where it impacts on me, but it is extremely peculiar, extremely odd and it is constitutionally and philosophically wrong in my view not to have an Education Minister.

Q362 **Lady Hermon:** Would it be accurate to describe you as becoming increasingly uncomfortable about the list of things that cannot be done because we do not have a Minister?

Derek Baker: Yes. I suspect I might be becoming slightly bolder in the things that I am prepared to do, because I feel there are things that need to be attended to.

Q363 **Lady Hermon:** Could you give us some examples of those, please?

Derek Baker: I have already mentioned that to the Chair when we discussed the development proposal decisions earlier. Some of the decisions that have been taken might be regarded as low-hanging fruit. They are relatively uncontroversial, but there is no question that there are some more major decisions coming down the track on development proposals.

Lady Hermon: We are talking about school closures.

Derek Baker: We are, and I will be in a position where I may have to take decisions on those. I am prepared to take those decisions. If I am judicially reviewed, so be it. I mentioned earlier, in response to a question from Mr Shannon, that I would be prepared to consider announcing another call for major works and determining the criteria, because it is in the public interest to build new schools to enhance the schools estate.

Mr Paisley was talking about teachers' pay. I see pay policy as being in ministerial territory, but to move that forward to deal with the morale issues for teachers and to resolve the action short of strike, if I can cross the other hurdles in terms of getting approvals and affordability, I would be prepared to take decisions on teachers' pay. Things need to be done and we cannot stop everything, but there are some areas that I see as clearly being ministerial and I am not prepared to go there.

Fiona Hepper: One of the other areas that decisions have been taken on, which you will be well aware of, is the decisions around the post-primary transfer, to try to ensure as smooth a transition this year as possible.



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Lady Hermon: To avoid a repetition of what happened last year.

Fiona Hepper: That is all to do with the significant growth year on year of the number of children transferring and where the positions are in schools. We have taken the decision, as we can under the legislation, but it would normally be the purview of the Minister, to put some extra places in 20 schools across Northern Ireland to make that hopefully a much smoother process than it was last year.

Q364 **Lady Hermon:** I certainly hope so as well. Can I just pick up on a phrase, Derek, that you used in your evidence earlier? It is ambiguous. I know what you mean, but I want you to give a little bit more detail on that. As you said that we have "something of a funding crisis" in education, and then you went on to say, which I thought was much more accurate, "It is very, very difficult". What is the gap? What is the shortfall? We had the Secretary of State taking through the budget last week. I asked if she could guarantee that the budget allocation would mean that we did not have parents donating books, pencils and, indeed, if I may say again, toilet rolls to primary schools. That is just totally unacceptable. What is the nature of the shortfall? Please give us more detail about "something of a funding crisis". That is definitely an understatement.

Derek Baker: I apologise for the ambiguity of that statement, "something of a funding crisis". I suppose I am trying to be a little bit circumspect in what I say. It is a wonderful headline for one of our local newspapers, "The Permanent Secretary says we have a funding crisis". I was reported last year in our annual resource account of commenting on the huge pressures facing education. Whatever term you use and whether you call it crisis, pressures or whatever, there are huge pressures and I have explained to you the perfect storm.

If I could quantify, going into the budget negotiations for the incoming financial year, we go through a process with the Department of Finance and they ask us for our pressures, what we feel we need, why we feel we need those and the figure work lying behind that. It is a fairly intensive process and they push back hard on it, as they should. They interrogate our figures, as they should. I want to pay tribute to Department of Finance officials, because they have taken the time, trouble and effort to understand our figures. Gary and his team have built up really good relationships, so that they know we are not over-egging the pudding. When we say that we need something we mean it, and they know that we mean it.

They have batted hard on our behalf, and I have to say that the Northern Ireland Office has batted hard on our behalf too. I genuinely believe that. They have taken the time and trouble to understand our pressures. We had a bilateral engagement with the Northern Ireland Office as well. Gary and I had to sit in a forum such as this, where we were heavily outnumbered by officials from the Treasury, the Northern Ireland Office and the Department of Finance, and we were quizzed.



Q365 **Lady Hermon:** What was the outcome of all of this?

Derek Baker: I am getting to the outcome, sorry. The outcome that we got in the budget is 1.1% higher in cash terms than we spent in the current financial year, 2018-19. Our budget going into next year, 2019-20, is 1.1% up in cash terms. That is a real-terms cut, so it does not solve our problems. We still have difficulties. By our analysis, as we go into the next financial year, we still have unfunded pressures of £54 million. We have to manage that. We have to deal with that. We somehow have to manage that, so that we live within our budgets.

The lion's share of that £54 million comprises not getting funded for what we anticipate the rise in pay to be next year. Bear in mind, in the world of education out there in Northern Ireland we have a workforce of about 43,000 full-time equivalents. It is more than that in terms of headcount. Pay goes up every year, be that through incremental pay progression or through cost of living pay awards. A lot of our staff are on what is termed Joint National Council terms and conditions. That pay award is made in Great Britain and it is simply imported to Northern Ireland; we have no choice but to pay it.

The lion's share of that £54 million is comprised of what we regard as the pay pressures for the incoming year, which have not been funded. It means the system has to absorb those pay pressures for a fifth year in a row and that is why schools are saying they are finding it more and more difficult to balance the books, and that is why more and more schools are falling into deficit. That is the reality we face.

Q366 **Lady Hermon:** Let me just ask the detail of this, because school principals will be very curious to know. If that is the shortfall and the bulk of it goes to pay increases and we are hopeful—that is my word—of a settlement of the pay dispute, who is going to pay for that pay rise, which our teachers and other teaching staff and school staff richly deserve? Who is going to pay for that?

Derek Baker: I do not know, but I need to make a case for that. I did explain earlier that the public sector pay policy will require anything above 1% to be paid for by way of efficiency gains. We do have proposals as to how we could maybe change some terms and conditions, which would give us some kind of payback to cover the costs of a pay award.

This is really difficult territory and it is really difficult for the teaching unions. I have not underestimated and I do not want to do the negotiations here. It is all finely balanced and we are in without-prejudice negotiations. I need to make the business case for that to whomever, and I do not quite know who my political masters are at present.

Q367 **Lady Hermon:** You were very complimentary earlier on; I was genuinely pleased—and surprised, maybe—to hear that you were very complimentary about the Northern Ireland Office and the engagement with the Northern Ireland Office. If the Northern Ireland Office has been



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so helpful in discussions to date, is it not for the Secretary of State for Northern Ireland, since we do not have an Executive, to be making that case? We have the spring statement from the Chancellor today—with everything else that is going on, the spring statement is still going to happen. Has that case been made to the Secretary of State for Northern Ireland: that it is the obligation of the Government here to pick up and pay for it?

Derek Baker: I am not going to be so presumptuous as to say to the Secretary of State that she has an obligation to do anything. I have not yet made any case because we have not done the negotiations or completed them. That is work in progress, but I will need to make a case.

Q368 **Lady Hermon:** No case has been made to the Secretary of State?

Derek Baker: That is not quite true.

Lady Hermon: Thank goodness for that.

Derek Baker: We have included numbers in bids that we have made, both in in-year monitoring in the current financial year and as part of the budget process. We have put an amount on the table that we feel would be needed to cover pay. What I am saying is that the full detail of a package of a resolution of the action short of strike has not been put together, because we have not concluded those negotiations. We have put forward a number. I am not prepared to say publically what that number is and I am sure you would not want to know.

Lady Hermon: No, I am not asking.

Derek Baker: We have put that on the table. Our colleagues in the Department of Finance know what that number is and probably the Northern Ireland Office knows what that number is.

Fiona Hepper: Just to be clear, in accounting terms there is the 1% for 2017/18 and the 1% for 2018/19, plus the associated back pay; we have accrued that amount of money in the accounts, so it is there for when the deal is done and then the case is for anything additional beyond that.

Q369 **Lady Hermon:** So money has been set aside if there is an amicable resolution to the pay dispute.

Fiona Hepper: For the 1%.

Gary Fair: The 1% has been accrued, but then we do not have the funding. It has been accrued each year because we accept it is a cost, but while we have put the case for the last five years to the Department of Finance and now also the NIO that there is a real pressure there, we have not got the funding.

Q370 **Lady Hermon:** You have made that case to the Northern Ireland Office.



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Gary Fair: We made the case, separating out the two. There is the normal annual incremental 1% amount that has been accrued. Separate to that, there is the separate case to do with the ongoing negotiations. We have always made the case that we are underfunded for pay. We are on record for having done that quite robustly, so it is acknowledged as an ongoing pressure that is building up in the system, which is leading in no small part to the increase in schools' deficits.

Q371 **Lady Hermon:** Can I just go back to the introductory question from our Chairman, in relation to the Salisbury review? When we had Sir Robert Salisbury in front of us about a fortnight ago, I was really taken aback by the fact that he did not appear to know what had happened to his report and the 29 recommendations that Fiona has mentioned at the very beginning. Forgive me for asking, but is there not a courtesy that when someone has taken the time to do an extensive review of education in Northern Ireland, as Sir Robert Salisbury did, he would have been kept updated? Has he been kept updated?

Fiona Hepper: Certainly when the report came in and we did the initial analysis, which would have been just before the time that I arrived in the Department, we reviewed all of his recommendations and we published a response to each of his recommendations. That was done at the time and then the work continued to deliver the recommendations. In the middle to end of 2018, we produced another document for stakeholders, who Gary engages with, in the Local Management of Schools.¹ They got a full update on where we were on every single one of the recommendations from that independent review.

Q372 **Lady Hermon:** No one thought to contact Sir Robert?

Fiona Hepper: I take your point.

Derek Baker: I take your point, and that is something maybe we need to attend to. We need to publically report on where we are on those recommendations. It is a fair point.

Fiona Hepper: The document that was prepared before Christmas could go on to the website. That is a good point you have made.

Lady Hermon: Thank you. I have to say that your replies to the Chair earlier in the evidence session were very helpful, because we were left with this blank page in terms of what happened to the Salisbury recommendations. Thank you for that.

Q373 **Chair:** Before I come to Maria Caulfield, can I ask what public bodies you want to appoint to, Mr Baker, that you have not been able to?

Derek Baker: The Youth Council for Northern Ireland needs to be reconstituted in April. There are some vacancies on the board of the

¹ Clarification from the Department of Education: This refers to the Local Management of Schools Steering Group



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Council for the Curriculum, Examinations and Assessment. As I say, in both cases the statutory authority is vested in the Minister.

Q374 **Chair:** Do you think the Secretary of State might be able to assist?

Derek Baker: Yes, we have good lines of communication to the Northern Ireland Office on such matters, and we are regularly asked whether there are any public appointments that we feel should be drawn to the Secretary of State's attention, so we will make that case.

Q375 **Chair:** That case is being made.

Derek Baker: It is being made regularly, yes.

Q376 **Chair:** What are the implications of not filling those positions?

Derek Baker: For the Youth Council, they are quite significant. It is a very small body, but it advises us on policy for youth services. A number of current board members have indicated, I understand, that they may not accept an extension, so we just cannot roll their appointment forward. If they do not extend their current appointment, then the governance of the body will effectively disappear in April, unless we can make appointments.

In CCEA, it is probably not so acute. They are down a number of members, but they have a number of committees that deal with important aspects of their work and the chair of that body is a little bit worried that there is a lot of pressure on members in terms of maintaining a quorum at the various committees. CCEA does hugely important work and we need to make sure that it is functioning effectively.

Q377 **Chair:** Do you know if your fellow Permanent Secretaries are facing similar difficulties?

Derek Baker: Yes, many of us are. The Secretary of State has made a number of appointments to public bodies and she is prioritising those. She is determining what the prioritisation of all the proposals for appointments to public bodies is.

Q378 **Chair:** It is not a difficult matter to make an appointment. Usually you do it on advice.

Derek Baker: I cannot speak for the Secretary of State, but there is reluctance on the part of the Secretary of State to interfere too much in what are devolved matters. She is trying to take a fairly minimalist approach.

Q379 **Chair:** These are largely uncontroversial matters, are they not?

Derek Baker: I would suggest that they are.

Q380 **Maria Caulfield:** Just to follow on, in terms of the difficulties you are facing not being able to make decisions because there is not an Assembly



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functioning and there are no Ministers in place, we had the Permanent Secretary for Health here a little while ago, who expressed similar difficulties as well. We asked him, "How long do you think this can last for, not being able to take crucial decisions and with services in Northern Ireland falling behind the rest of the United Kingdom?" How long do you think before significant risks are there for pupils and teachers? Are you talking months or years?

Derek Baker: There is no right answer to that question. I do recall the then head of the Northern Ireland Civil Service, Sir Malcolm McKibbin, in April 2017 saying, "We cannot go without an Executive beyond July 2017", and here we are in March 2019 without an Executive. We are muddling through and we will continue to muddle through. There is no right answer to how long this can go on, but there is no question that important policy decisions are not being taken.

I would hope that there will be no risk to children, because I will do whatever is necessary to ensure there is no physical risk or harm coming to teachers or to children, and nobody would gainsay my doing that. I mentioned one example to Lady Hermon about childcare policy. Childcare policy is really important for the benefit of our community in economic terms and social terms, but childcare strategy is going nowhere in Northern Ireland in the absence of an Executive. That is hugely unfortunate.

The Chair at the start talked about the importance of our dealing with the education estate. I can take decisions, but I come back to the point that a Minister really needs to be front and centre in driving that forward and driving it forward politically with his or her colleagues to have real impact on transformation. There is no right answer to it, but it is debilitating.

Q381 **Maria Caulfield:** In terms of the Secretary of State, who is very keen to see an Assembly returned, an Executive returned and devolved decisions made locally, are there no regular meetings with the Secretary of State in terms of reporting back how difficult the situation is for Departments?

Derek Baker: Yes, there are mechanisms. All the Northern Ireland Departments, through the Executive Office, feed through to the Northern Ireland Office on a regular basis the impact of not having Ministers, the issues that are becoming acute and where things are becoming difficult. There is regular feedback to the Northern Ireland Office on that and we report regularly to the Northern Ireland Office via the same route on the decisions that we are all taking under the Northern Ireland (Executive Formation and Exercise of Functions) Act. There is good intelligence being fed through to the Northern Ireland Office and good communications.

Occasionally, we will have conversations with senior NIO officials. I have to say that the Secretary of State's special adviser is very energetic and would not be slow about button-holing me and asking me about this, that or the other, so there is good communication there.



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Q382 Maria Caulfield: We have heard from head teachers and we have heard from the Children's Commissioner. In your view, could you give us three items that, if a decision was made by the Secretary of State, would make the biggest difference to you at the moment in the absence of an Assembly, in terms of things such as teachers' pay, appointments or whatever it is? Are there three things that you think the Secretary of State could make a decision on that would greatly help you at this moment?

Derek Baker: You are putting me on the spot. That is almost like a Santa Claus wish list. You hit one of them spot on when you mentioned teachers' pay. I said earlier that, apart from budgetary issues generally, the second biggest risk on my risk register is the action short of strike and the debilitating effect that is having on schools. Also, it is undermining the inspectorate's ability to inspect schools, and that is really important, because the public, elected representatives, schools, parents and civil servants get their assurances about the quality of teaching and learning in our schools from inspection, and inspection is not taking place because of the action short of strike. That is plainly and simply wrong.

I would say helping us to resolve the action short of strike through teachers' pay would probably be my immediate No. 1 priority, although generally—this is a forlorn hope—the budget issues are up there as well. I know the Secretary of State has made her budget decisions and we will try to live within those. I have to say the budget outcome for the Department of Education for 2019/20 is not wonderful, because it is a real-terms cut, but it is better than I feared maybe several weeks ago or a couple of months ago. I am grateful for the work that the NIO and the Department of Finance have done in that regard. I will not give you three things. I will just give you one thing: if we could resolve teacher's pay, I would be very happy.

Q383 Maria Caulfield: Brilliant. I have one question to Gary. We have heard from a number of witnesses from all parts of Northern Ireland about the issues around procurement and that some schools really find that difficult. There is not a joined-up policy and they do not feel the procurement process is making the best use of the small amounts of money they have. Is there any work that can be done without Ministers or an Assembly to help schools with that?

Gary Fair: As we mentioned earlier, that work is ongoing. The Education Authority is in the lead on that. I am aware that some of the most vocal principals on this issue are involved in the working group looking at issues that have arisen in the past and just making sure that the way future contracts are negotiated are not having the wrong outcomes for individual schools. Overall it is public money, so the onus is on the Education Authority to make sure it is getting value for money overall, but it is trying to engage with schools at this early stage before they go out to procurement again to make sure that all those issues are on the table and well thought through.



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Q384 **Maria Caulfield:** Is there the ability for individual schools at the moment to get the money direct, so that they can make their own decisions, because we heard of stories that, even when buying pens, they have to follow a certain process, yet if they went down the road they could buy them for half the price? Is there that opportunity to devolve that funding to the schools themselves?

Gary Fair: All those kinds of issues will be in the mix here. At the end of the day, value for money is the main driver in this, but it has to be value for money for the Education Authority as a whole, as well as for schools.

Q385 **Maria Caulfield:** Can you make those decisions without an Assembly?

Derek Baker: Yes.

Gary Fair: That is an Education Authority role.

Derek Baker: I was just going to add that point. This review and the outcome of this review is one of those issues that we would just go ahead with without a Minister, because it is an operational issue.

Q386 **Maria Caulfield:** Is there a timescale for how quickly that could be done?

Derek Baker: I do not know the answer to that, but I am happy to write to the Committee. We will get a timescale for that review.

Lady Hermon: It is in the public interest, so no one in their right mind is going to take a judicial review against you for making a sensible decision.

Gary Fair: Can I maybe just emphasise a general point? The Education Authority has in the past year or so been running some engagement events with schools, which the Department has also been involved in. Just to assure members, we are listening to what teachers are saying and taking a lot of the issues seriously, in terms of a lot of other budget issues as well.

In terms of next year, as Derek said, the focus is on frontline services, essentially. When we were developing a budget strategy, what we have been able to do is give schools an extra £7 million this year as part of the aggregated schools budget, which will help to keep the average weighted pupil unit, the main amount that allocates about 80% of that budget to schools,² at the same level as last year. That is better than the last couple of years.

We have also allocated money that we anticipate is going to be a cost to schools from 1 April for an increase in employers' pension contribution. We have overcommitted on that and we are in discussions with the Department of Finance about bidding for the balance. We do try to be as reasonable as possible with schools and give them as much certainty at

² Clarification: This refers to the Age Weighted Pupil Unit, the largest component of the Common Funding Formula



an early stage of the year, so that they can engage early with the Education Authority on their budget plans. We are listening and there are real issues.

Q387 Chair: The National Association of Head Teachers Northern Ireland has raised the issue of the Education Authority, which is a relatively recent organisation, not being subject to any form of audit or performance appraisal. Why do you think that is and do you think there is scope to try to work out whether the Education Authority has done what it was meant to do: to deliver in terms of cost and quality?

Derek Baker: Coincidentally, I had a good meeting with the National Association of Head Teachers just a week ago, and I am going to continue that meeting later. I have agreed another date to continue that conversation. It is fair to say that the Education Authority probably had a difficult gestation and birth. From original concept to the creation of the body it took far too long and that was a direct consequence of political discussions about its role, its scope and its functions and the absence of political agreement. The five legacy Education and Library Boards died a death of 1,000 cuts during that period, and a lot of expertise, corporate experience and corporate knowledge was lost in the process. When the Education Authority came into being it had lost that capacity and capability and it is ramping itself up.

It has a very difficult job bringing what were five different processes together into a coherent regional service, because everything was done five different ways and they are working very hard at that. However, I take your point, because it is a complaint I hear and the Education Authority hears too. The Education Authority is, like the rest of us and like every public body, subject to audit, internal audit and scrutiny by the Northern Ireland Audit Office.

Every four months I have a formal governance and accountability review meeting with their senior team. Gary and Gary's line manager will meet on a monthly basis on the finances. Our directors will meet with their opposite numbers on the Education Authority, so there is a lot of engagement there. Then, believe it or not, enough time has elapsed that the authority will be subject to a formal quinquennial review over the course of the next 12 months, when we will look at all these issues.

Specifically in my conversation with the National Association of Head Teachers, one of the complaints that they made—they also make it to the Education Authority—is that they sometimes do not feel that they get the level and the quality of support they need to make their jobs easier in managing schools. I have asked them, "What would good look like to you? What kind of support would you like?" Coincidentally—I did not know this—when they had the same conversation with the current interim chief executive of the Education Authority, he asked them the same question. They are doing the same piece of work for both of us, but we will triangulate. I want to hear from head teachers what kind of support



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they need, so that they can do their jobs better. That is work in progress and I am committed to it.

We have a range of fora for engaging with the Education Authority. There is a range of structures, mechanisms and audit, so it is not quite right to say that the Education Authority is not subject to audit and not subject to scrutiny. It is subject to all the same kinds of audit and scrutiny that every Government Department is subject to. It is difficult work that they are engaged with. I have much sympathy with them. The board of the Education Authority, which is a very disparate board representing a wide range of interests, including political interests, has come together very well corporately to do its business and it deserves credit for that.

Q388 Chair: Just to finish on a slightly negative note, I suppose, we have referred already to the headline figures for £200 for a light bulb and there are others. I accept that those are probably not representative of the generality, but they do grab the headlines and should cause concern, because they are indicative of some level of waste. Why do you think those sorts of costs have been entrained, because it seems that the list is quite long and it is a remarkable thing that any public body should be spending quite so much on a string of items that could be had for a fraction of the sum that appears to have been paid for them?

Derek Baker: It is true that some of those stories are apocryphal.

Chair: That does not mean to say they are not true.

Derek Baker: I have heard enough of those stories to be concerned about it. As Gary said, the Education Authority has to enter into contracts and there is a whole raft of issues that may not occur to individual schools or individual principals around insurance, indemnity, compliance and, dare I say it, EU public procurement legislation, which feeds through and is transposed into national legislation, which the Education Authority has to take account of.

It is precisely because we have heard those stories that the review of procurement is going on, because I am concerned enough about it as an accounting officer, as is the Education Authority, to say, "We need to get to the bottom of this and come up with a system of procurement that works for everybody and represents value for money for everybody." I am probably ducking your question a little bit by not answering how this can have arisen, because the answer is that I do not know for sure, but it having been brought to my attention I am determined that we get to the bottom of it.

Chair: That is great. Thank you. We all agree that these stories do not necessarily raise the reputation of your Department, the Education Authority or, indeed, education overall in Northern Ireland and it is as well we perhaps deal with them. However, we need to recognise the great work that you, the Education Authority and teachers in Northern Ireland do and the standards in Northern Ireland, which are good. I



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would like to thank you for everything that you are doing under very difficult circumstances.

Derek Baker: Thank you very much, Chair.

Chair: Thank you for coming today to give evidence to our Committee, which has been extremely useful.

Derek Baker: I appreciate those comments. Thank you.