



Northern Ireland Assembly
Environment Committee
Room 247
Parliament Buildings
Stormont Estate
BELFAST
BT4 3XX

12 November 2013

Email: committee.environment@niassembly.gov.uk

Dear Sir/Madam

**ANTRIM + NEWTOWNABBEY STATUTORY TRANSITION COMMITTEE'S RESPONSE
TO THE LOCAL GOVERNMENT REORGANISATION BILL**

The opportunity to provide evidence to the Environment Committee on the 'Local Government Bill' is welcomed and it is believed that the introduction of the Bill is a further step forward in the reform of local government.

The Antrim + Newtownabbey Statutory Transition Committee, having discussed the proposals locally and considered views from across the sector, generally supports NILGA's response and have identified specific Key Issues that require further attention (see attached Appendix).

In conclusion, the Statutory Transition Committee welcomes the opportunity to work closely with the Environment Committee on the further development of all subsequent legislation and guidance.

Yours faithfully

A handwritten signature in black ink, appearing to read 'D McCammick'.

David McCammick
Chief Executive
Antrim Borough Council

A handwritten signature in black ink, appearing to read 'Jacqui Dixon'.

Jacqui Dixon
Chief Executive
Newtownabbey Borough Council

Antrim + Newtownabbey Statutory Transition Committee

“Local Government Bill” Key Issues

Positions of responsibility (Part 3)

There are concerns that the Bill is highly prescriptive in terms of how Members may be selected for positions of responsibility and committee membership.

Whilst the principle of proportionality is firmly supported, it would contend that consideration be given to permitting local solutions which are politically acceptable - perhaps through a requirement for local arrangements to be approved via the quality majority voting procedure.

There are also concerns that the Bill proposes that all ‘positions of responsibility’ will be grouped into one pool and councils will be required to apply the identified proportionality methods in order to fill all of the positions of responsibility for the forthcoming 4 year term.

It is contended that the legislation should not require that the positions of responsibility be grouped together into one pool nor should it specify the period of time of the appointments, but rather it should be left to each individual council to decide how best the application of proportionality should be carried out.

Permitted Forms of Governance (Part 3)

The options of permitted forms of governance are noted and that it will be a matter for the council to determine its own arrangements locally.

Qualified Majority Voting (Part 7)

It was highlighted that local government within Northern Ireland has operated for many years on the basis of a simple majority vote. It is accepted that qualified majority voting may be seen to be desirable as a form of protection for political minorities in circumstances where there is a sizeable political majority in a Council area. Where a council is equally divided politically, such a system may have an impact upon the decision making process and ability of councils to get things done in local areas. The principle of proportionality is supported and we believe that local solutions which are politically acceptable should be permitted – perhaps through a requirement for local arrangements to be approved via the qualified majority voting procedure.

It is recommended that careful consideration is therefore given to the identification and detailed definition, through regulations, of the specific types of decisions to be subject to QMV and that further engagement and detailed discussions should take place with local government in this regards.

Call in (Part 7)

There are no objections to the principle of “call in” being available, however, it would be concerned with the current broad definition of the two circumstances in which call-in can apply (as set out at a Clause 45 (1) of the Bill) and the potential for a high percentage of council decisions being subjected to call-in and thereby making effective decision making more difficult.

The Department is therefore urged to liaise with local authorities in order to develop and agree robust and clear definitions around the criteria for each of the two circumstances and to examine

and detail the practicalities and process for implementing such procedures (e.g. procedure, format and time limits for any requisition to be submitted)

It is also recommended that consideration is given to limiting the power to call in a particular decision/recommendation to a single requisition / challenge.

Conduct of councillors (Part 9)

Council has consistently supported the establishment of a statutory ethical standards framework and a mandatory code of conduct for all Councillors and therefore welcome, in principle, the proposals set out within the Bill.

The role that such frameworks provide in reinforcing the trust in councils and in local democracy is recognised and that this is particularly important in the context of any future transfer and delivery of new functions by councils. Further engagement is sought with the Department in developing such frameworks.

There are concerns however that the legislation does not contain a specific appeal mechanism, other than through a Judicial Review. It is therefore recommended that a right of appeal is clearly set out within the Bill.

It is further recommended that consideration be given to extending or creating a supplementary to the Code of Conduct to cover the role of elected Members on public bodies.

The enhanced role of the Commissioner to investigate complaints under the code is welcomed, in principle, as this would ensure independence in the process. However, further detail of the procedures to be adopted by the Commissioner in undertaking any such investigations and the associated capacity and resource requirements around this would be helpful.

Community Planning (Part 10)

Full support is given to the proposal that local authorities lead and facilitate community planning and would view this as a key enabler for the integration of services to address local needs. Local councils are uniquely and ideally placed to lead and facilitate community planning.

It would appear that the Community Planning model proposed in the legislation is largely similar to the Welsh community planning model. Whilst there is no objection to the adoption of the model, it is vital that the legislation and supporting guidance takes account of the specific circumstances in Northern Ireland.

In other jurisdictions (e.g. Scotland, Wales etc) there are significant regional support structures in place to support and promote local government improvement and community planning. There are currently no similar support arrangements within Northern Ireland and we would suggest that the establishment of a regional support structure to support improvement and community planning is included in the proposals.

It is also important to note that local authorities within other jurisdictions have larger remits and deliver other key public services such as e.g. health, education, and housing; which are not the case in Northern Ireland. Furthermore, as noted at Clause 74 of the Bill, the Northern Ireland Departments will remain responsible for the policy framework, funding and priority setting for many of the agencies who may be community planning partners.

It is noted that the Bill makes a clear distinction as to what is required between 'community planning partners' who must 'participate in community planning and assist the council', and the NI Departments who will have 'a duty to promote and encourage community planning'.

The effectiveness of the community planning process and the delivery of improved outcomes will be dependent on the strength of relationships between councils, departments and other public bodies. It is viewed that the legislative provision in Part 10 should be further strengthened, particularly in relation to the collaborative use of resources and alignment of plans. It is also suggested that consideration be given to the possible introduction of a statutory duty upon all relevant public bodies (including Gov Departments) and statutory agencies to participate and contribute to the community planning process.

Furthermore, it would appear that there is no mechanism included in the Bill for redress for non-compliance with community planning duty. The Department has advised that this may be a role for

the Partnership Panel but it is suggested that a more robust accountability mechanism is put in place.

Performance Improvement (Part 12)

Members would advocate that any performance framework brought forward is not overly bureaucratic, does not depart from existing legislative and statutory obligations of councils and is set within the context of community planning and providing councils with the appropriate flexibility to address local needs.

It is recommended that the Committee should advocate for the ability for local government to have control over its own improvement, through a collaborative agreed approach, rather than having to deal with an outdated top-down legislative arrangement.

The current policy shift in neighbouring regions is towards greater self-regulation and away from overly bureaucratic and centralised scrutiny/inspection, subject to the achievement of a set of agreed (with central government) targets or outcomes.

Presently the Local Government (Best Value) Act (Northern Ireland) 2002 states that a council 'shall make continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.' It is noted that the Bill would appear to depart from the Local Government (Best Value) Act (NI) 2002. Clauses 87- 89 of the Bill extend the areas which councils must have regard to in terms of improving the exercise of its functions in terms of: strategic effectiveness; service quality; service availability; fairness (equity); sustainability; efficiency and innovation. These objectives are identical to those specified in the Welsh legislation and do not necessarily reflect the Northern Ireland context.

It is further highlighted that there would appear to be tensions and potential duplication between these provisions and of existing statutory duties of councils such as those expressed in S75 of the Northern Ireland Act 1998 and S25 of the NI (Miscellaneous Provisions) Act 2006 (duplicating the sustainability requirement). It is therefore recommended that the defined objectives are reviewed and further developed and defined in the context of Northern Ireland.

In the absence of further definition on the performance objectives as set out, there is concern that there is now no explicit reference made within the Bill to a key aspect of Best Value - 'economy' - and, therefore potentially removing considerations around cost and value for money.

It was pointed out that in considering each of the performance objectives individually and not collectively; there exist potential tensions between some of the objectives, for example, the interplay and balance between service availability and efficiency.

Similar to the Best Value Act, it is recommended that the Department ensures that councils are enabled to consider and take into account of a combination of and interplay between the performance objectives.

Local government auditor (Part 12)

If the arrangements specified in Part 12 of the Bill are taken forward, there would be concerns in relation to the capacity and resourcing of the local government auditor, which will need to be enhanced.

Concern was also expressed in relation to the proposed extension of the role of the auditor in terms of the auditing of councils' corporate and/or improvement plans, as this would potentially undermine the democratic process. It is recommended that the scrutiny of corporate plans should be undertaken by elected members who set the priorities for the organisation and should oversee delivery against these priorities.

A Partnership Panel (Part 13)

The establishment of the Partnership Panel is welcomed and it is believed that this would provide a further mechanism to enhance the engagement between central and local government. Members would highlight the importance that the local government representation be nominated by the sector and agreed by the Department and should include representation from each of the new councils at a minimum.

It is also recommended that the Clause adequately ensures the ability of local government to nominate its own representatives, through an agreed appointment process. At present the clause appears to give the Department control of these appointments, with only a requirement to consult local government prior to making its decision.

Control of councils (Part 14)

There are concerns that the power of intervention, previously provided to the DoE (but rarely used), is now extended to all NI departments. Whilst recognising that specific functions will transfer from central to local government as part of the LGR process, the specific rationale for such provisions may need further clarification.

Members consider the language used in these clauses, and the scope of powers conferred on departments to be contradictory to the spirit of fostering a more collaborative working arrangement between central and local government. The Committee is reminded of the comments set out above in relation to Clause 103, and would again note that it will be important for guidance to be produced for government departments to ensure that they don't begin to micro-manage councils and do not place unrealistic reporting expectations on them.

It is particularly noted that under this part of the Bill, there is no requirement to consult, either with local government in general, or with individual local councils.

It is further recommend that the ability of other NI departments to intervene must be restricted to matters pertaining directly to those departments who have transferred functions but retain the policy responsibility.