



Northern Ireland  
Assembly

Committee for Agriculture and Rural Development

## Report on the Rural Needs Bill

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Ordered by The Committee for Agriculture and Rural Development to be printed 26  
January 2016

Report: NIA 288/11-16 Committee for Agriculture and Rural Development

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# Membership and Powers

## Powers

The Committee for Agriculture and Rural Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Agriculture and Rural Development and has a role in the initiation of legislation. The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.

The Committee has power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister for Agriculture and Rural Development.

## Membership

The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows

- Mr William Irwin MLA (Chairperson) <sup>12</sup>
- Mr Seán Rogers MLA (Deputy Chairperson) <sup>3, 18, 19</sup>
- Mr Sydney Anderson MLA <sup>8,15</sup>
- Mrs Jo-Anne Dobson MLA
- Mr Declan McAleer MLA <sup>1,4</sup>
- Mr Kieran McCarthy MLA <sup>9,10,13</sup>
- Mr Ian McCrea MLA <sup>17</sup>

- Mr Oliver McMullan MLA
- Mr Ian Milne MLA <sup>2,7</sup>
- Mr Edwin Poots MLA <sup>14</sup>
- Mr Robin Swann MLA <sup>6,11,16</sup>

<sup>1</sup> With effect from 23 January 2012 Ms Michaela Boyle replaced Mr Conor Murphy

<sup>2</sup> With effect from 08 May 2012 Mr Chris Hazzard replaced Mr Willie Clarke

<sup>3</sup> With effect from 19 May 2012 Mr Joe Byrne replaced Mrs Dolores Kelly as Deputy Chairperson

<sup>4</sup> With effect from 10 September 2012 Mr Declan McAleer replaced Ms Michaela Boyle

<sup>5</sup> With effect from 03 December 2012 Mr Danny Kinahan replaced Mr Robin Swann

<sup>6</sup> With effect from 21 January 2013 Mr Robin Swann replaced Mr Danny Kinahan

<sup>7</sup> With effect from 15 April 2013 Mr Ian Milne replaced Mr Chris Hazzard

<sup>8</sup> With effect from 16 September 2013 Miss Michelle McIlveen replaced Mr Trevor Clarke

<sup>9</sup> With effect from 01 October 2013 Mr Trevor Lunn replaced Mr Kieran McCarthy

<sup>10</sup> With effect from 27 January 2014 Mrs Judith Cochrane replaced Mr Trevor Lunn

<sup>11</sup> With effect from 04 July 2014 Mr Tom Elliott replaced Mr Robin Swann

<sup>12</sup> With effect from 23 September 2014 Mr William Irwin replaced Mr Paul Frew as Chairperson

<sup>13</sup> With effect from 29 September 2014 Mr Kieran McCarthy replaced Mrs Judith Cochrane

<sup>14</sup> With effect from 06 October 2014 Mr Edwin Poots was appointed to the Committee

<sup>15</sup> With effect from 06 October 2014 Mr Sydney Anderson replaced Miss Michelle McIlveen

<sup>16</sup> With effect from 30 June 2015 Mr Robin Swann replaced Mr Tom Elliott

<sup>17</sup> With effect from 5 October 2015 Mr Ian McCrea replaced Mr Thomas Buchanan

<sup>18</sup> With effect from 31 December 2015 Mr Joe Byrne resigned as Deputy Chairperson of the Committee

<sup>19</sup> With effect from 11 January 2016 Mr Seán Rogers was appointed as Deputy Chairperson of the Committee

## List of Abbreviations and Acronyms used in this Report

AFBI	Agri-Food and Biosciences Institute
DARD	Department of Agriculture and Rural Development
DCAL	Department of Culture, Arts, and Leisure
DFP	Department of Finance and Personnel
DRD	Department for Regional Development
DOJ	Department of Justice
NDPB	Non Departmental Public Bodies
NICCY	Northern Ireland Commissioner for Children and Young People
NICVA	Northern Ireland Council for Voluntary Action
NILGA	Northern Ireland Local Government Association
NISRA	Northern Ireland Statistics and Research Agency
RCDSS	Rural Community Development Support Service
RCN	Rural Community Network
RDC	Rural Development Council
SOLACE NI	Society of Local Authority Chief Executives Northern Ireland
TADA	The Antrim, Down, and Armagh Rural Support Network

## Executive Summary

1. The Rural Needs Bill will impose a duty on public authorities to consider rural needs. There will be provision for the Department to provide guidance, advice and information etc., for monitoring and reporting by public authorities and for the Department to make arrangements for cooperation with other bodies.
2. Evidence gathered by the Committee indicated that there was broad support for the Bill, although concerns were expressed over a number of matters and provisions. The most substantive concerns raised covered the inclusion of named public bodies in addition to central and local government on the face of the Bill; the strengthening of the statutory duty in clause 1; the transparency and accountability of the reporting arrangements; clarification on terminology and definitions; and whether the Bill lacked sanctions.
3. The Committee considered and sought amendments from the Minister on the matters of the inclusion of named public bodies in addition to central and local government on the face of the Bill; the strengthening of the statutory duty in clause 1; the transparency and accountability of the reporting arrangements.
4. The Minister concurred with the Committee and provided draft amendments which were subsequently approved by the Committee. However, the Committee noted that the amendments to the policy of clause 1 in connection with the strengthening of the statutory duty and the inclusion of other public bodies required the approval of the Northern Ireland Executive.
5. On the date by which the Committee approved this Report on the Rural Needs Bill, approval of those amendments requiring Executive agreement had not been obtained.
6. Other matters raised and discussed by the Committee included the need for training; provision of baseline information to be used to review the effectiveness of the Bill; the nature of the cooperation arrangements required under clause 4; and whether the Bill should

make provisions for decisions relating to the closures of rural schools. However, after due consideration and deliberation the Committee decided that it would not pursue these matters by way of amendments or other means.



## Introduction

7. The Rural Needs Bill (NIA Bill 67/11-16) was referred to the Committee in accordance with Standing Order 33 on completion of the Second Stage of the Bill on 17 November 2015.
8. The Minister for Agriculture and Rural Development made the following statement under section 9 of the Northern Ireland Act 1998: “In my view the Rural Needs Bill would be within the legislative competence of the Northern Ireland Assembly.”
9. The stated purpose of the Bill is to impose a duty on public authorities to consider rural needs, and for connected purposes.
10. During the period covered by this Report, the Committee considered the Bill and related issues at 7 meetings. The relevant extracts from the Minutes of Proceedings for these meetings are included at *Appendix 1.*
11. The Committee had before it the Rural Needs Bill (NIA 67/11-16) and the Explanatory and Financial Memorandum that accompanied the Bill. Following the introduction of the Bill on 09 November 2015 the Committee wrote to key stakeholders and inserted public notices in the Belfast Telegraph, Irish News, and News Letter seeking written evidence on the Bill by 12.00 p.m. on 23 November 2015.
12. A total of 19 organisations responded to the request for written evidence and a copy of the submissions received are included at *Appendix 3.*
13. The Committee commissioned the Northern Ireland Assembly Research and Information Service to provide research on the content and implications of the proposed Bill. These papers are included at *Appendix 5.*

14. After the Bill completed its Second Stage on 17 November 2015, the Committee arranged an all-day session to take oral evidence on the Bill from relevant stakeholders and the Department. This session took place on Tuesday 24 November 2015. The Committee heard from the following bodies:
  - Department of Agriculture and Rural Development;
  - Local Rural Support Networks;
  - Rural Community Network and Rural Development Council;
  - NI Local Government Association and Solace NI; and
  - Ulster Farmers' Union and NI Agricultural Producers Association.
  
15. At its meeting of Tuesday 24 November 2015, the Committee agreed a Motion to extend the Committee Stage of the Bill to 26 January 2016. The Motion to extend was supported by the Assembly on 07 December 2015. The Official Report of the Plenary debate can be accessed [\*here\*](#).
  
16. The Committee had discussions with Department officials on the key issues of the Bill at its meeting on 01 December 2015. This was followed by consideration of amendments and informal clause by clause scrutiny of the Bill on 08 and 14 December 2015 respectively. The relevant Minutes of Evidence of these meeting are included at [\*Appendix 2\*](#).
  
17. The Committee carried out its formal clause by clause scrutiny of the Bill on 12 January 2016; consideration of its draft report on 19 January 2016; and, at its meeting on 26 January 2016, the Committee agreed its report on the Bill and ordered that it should be printed.

# Committee Consideration of the Bill

## Background

18. The Rural Needs Bill will require the effective implementation of rural proofing across central and local government. The provisions of clause 1 and clause 3 of the Bill as introduced to the Assembly will apply immediately to central and local government and allow it to be extended, in due course, to other public bodies.
19. The Rural Needs Bill will establish a role for the Department in providing advice and guidance on rural proofing; require information and data on rural proofing to be made available in a transparent way in the form of a report to be laid before the Assembly; and put in place effective arrangements for co-operation and sharing best practice between all public authorities covered by the Bill. Details on the key issues considered by the Committee can be found in the paragraphs below.

## Inclusion of Other Public Bodies

20. Clause 1 of the Rural Needs Bill makes provision for the Department to specify, through subordinate legislation, any person exercising functions of a public nature as a public authority for the purposes of the Act. Such an order would be subject to the draft affirmative procedure.
21. In the policy proposals published by the Department on 03 February 2015, stakeholders were consulted as to whether the statutory duty should extend to non-departmental public bodies (NDPBs). On the basis of the responses received, the Department adopted the following approach, as outlined in oral evidence to the Committee on 24 November 2015:-

*“In drafting the Bill, we have proposed a phased approach for extending the application of the new legislation by including a power for DARD to specify other bodies at a later stage rather than including them in the Bill, which would allow for further*

*consultation with other bodies beyond Departments and district councils.”*

22. The Department also expressed some reservations about how to determine which public bodies should be included on the face of the Bill, stating on 24 November 2015 that:-

*“It would be hard to be definitive about which public bodies to list. That is why we have drafted it in this way initially; it would be on a phased basis, and the list would not be definitive. We have left it broad so that there could be further consultation to see which public authorities would be included at a later date.”*

23. In oral evidence to the Committee on 24 November 2015, the Northern Ireland Local Government Association (NILGA) and the Society of Local Authority Chief Executives Northern Ireland (Solace NI) proposed a means whereby public bodies could be named on the face of the Bill while also addressing the need to defer the imposition of the duty to allow sufficient time for consultation and the establishment of a support framework:-

*“I think that there is concern in the Department about bedding-in time, but there is a commencement clause, and the Department could use that in respect of when to enact the responsibility on different bodies. The Departments could come first, followed by the other public bodies at a later date. We think it would be better to have it in legislation now.”*

24. During these briefings, some Members expressed concern at the omission of public bodies from the face of the Bill, particularly given the fact that many public services are delivered by NDPBs. The Committee discussed this issue and agreed that it would be desirable to include a number of NDPBs on the face of the Bill.
25. At the meeting of 01 December 2015, the Committee agreed to request clarification from the Department on the list of public bodies to which Section 75 of the Northern Ireland Act 1998 applies. In a written response to the Committee, the Department provided details of the relevant public authorities, as set out in section 75(3)

of the Northern Ireland Act 1998. At the meeting of 08 December 2015, officials expanded on this information, explaining that:-

*“Section 75 uses a combination of approaches when defining a public authority. Some bodies are included by reference to another piece of legislation; for example, Departments are included by virtue of being listed in schedule 2 to the Ombudsman (Northern Ireland) Order 1996. Other bodies are listed in the Act, such as the Chief Constable of the Police Service of Northern Ireland, although I should point out that these bodies were inserted by other primary legislation, rather than included in the Bill at the outset. In addition, there is a power, under section 75(3)(d), for the Secretary of State to make an order to designate “any other person ... for the purposes of this section”.*

26. During the course of these discussions, various stakeholders made reference to *The Draft Local Government (Community Planning Partners) Order (Northern Ireland) 2015*. This draft Regulation contains a list of bodies that would have a duty to participate in the local government community planning process. The Committee considered this list which is included at *Appendix 6*. The Committee also considered several definitions of NDPBs and a list of public bodies provided to it by the Northern Ireland Assembly Research and Information Service (*see Appendix 5*).
27. After lengthy consideration, the Committee agreed to request an amendment from the Department to add those public bodies listed in the Schedule of *The Draft Local Government (Community Planning Partners) Order (Northern Ireland) 2015* to the face of the Bill. It also requested a provision which will allow for that list of named bodies to be reviewed and amended as appropriate at agreed intervals.
28. In her response to the Committee on 14 December 2015, the Minister indicated that she would support this amendment. However, given that an amendment of this nature represents a departure from the original policy proposals, she informed the Committee that it would be subject to Executive approval.

29. At its meeting of 12 January 2016, the Committee was provided with a copy of the amendments required to add the additional bodies to the Bill (see *Appendix 4* and letter from the Minister dated 08 January 2016). The Committee was informed that Executive approval had not been obtained as the Rural Needs Bill was not considered at the Executive meeting of Thursday 17 December 2015. While the first substantive meeting of the Executive in 2016 was not scheduled until 21 January, officials assured the Committee at the meeting of 12 January 2016 that the proposed amendments were “currently under consideration by Ministers”. However, they could not confirm when a decision on the amendments would be made.
30. The Committee considered the four amendments which deleted the original definition of “public authority” as provided at clause 1(2)(a)(b) and (c); created a Schedule to the Bill which listed the agreed public bodies to which the duty will apply; inserted a new section in clause 1 to allow for a review of those bodies listed in the Schedule at least every three years; and allowed for such transitional provision as the Department thinks appropriate as result of such a review.
31. The Committee agreed that it was content with the amendments, subject to approval by the Executive.

### **Strengthening of the Statutory Duty in Clause 1 concerning Consideration of Rural Needs**

32. Clause 1 of the Rural Needs Bill imposes a statutory duty on Departments, district councils and any other public bodies (which may be specified by order) to consider rural needs when developing, adopting, implementing or revising policies, strategies and plans and designing and delivering public services.
33. The evidence received from voluntary and community organisations was almost unanimous in calling for the statutory duty “to consider” to be strengthened. Many stakeholders expressed concern that a duty “to consider” would not necessarily

lead to a consequent adjustment to policies, strategies or plans (where appropriate) and believed that the statutory duty should be set at a higher level. Several stakeholders specified that the duty should be strengthened to require Departments, district councils and any other public bodies to have or give “due regard” to rural needs. Reflecting this concern, the Local Rural Support Networks stated the following in oral evidence to the Committee on 24 November 2015:-

*“We thought that, perhaps, the phrase “give due regard to” should replace the word “consider”, as we felt that “consider” does not carry enough weight. A public authority may well consider rural needs but not act on them. Considering rural needs could lead to a rural impact assessment being carried out without any substantial adjustment to the delivery of policy and programmes in rural areas. Therefore, to “have due regard to” may require public authorities to take the issues associated with rural needs more seriously.”*

34. In proposing a higher level of duty, a number of stakeholders also called for the addition of a provision that would require public authorities to mitigate any adverse impacts identified as a consequence of having ‘considered’ rural needs. In written evidence submitted to the Committee, the Centre for Cross Border Studies stated that:-

*“The wording of the statutory duty should explicitly require the relevant duty holders to mitigate any adverse impacts should they be identified when developing new or existing policies or strategies.”*

35. The Rural Community Network, the Rural Development Council and the Local Rural Support Networks also expressed concern that the Bill did not include a provision to require public authorities to remedy any adverse impacts identified. They suggested the inclusion of a requirement to “take reasonable steps to mitigate such impacts” after clause 1(b) as they believed that this less onerous provision would balance the need to mitigate adverse impacts with the reality of limited public expenditure.

36. In its response to these issues, the Department reiterated its position that the duty “to consider”, together with the monitoring and reporting mechanisms in the Bill which require public bodies to demonstrate how they took account of rural needs when developing policies and strategies and delivering public services, would prove sufficiently robust. During an oral briefing to the Committee on 01 December 2015, the Department outlined a number of specific concerns in framing the duty in terms of “due regard”, noting that, in addition to potentially placing an increased administrative burden on duty holders:-

*“As a duty to have “due regard” is justiciable, it would bring an increased risk of legal challenges to government policies and decisions and the costs associated with such challenges.”*

37. At the meeting of 01 December 2015, the Committee agreed to request clarification from the Department on the specific nature of the duty imposed by Section 75 of the Northern Ireland Act 1998. The issue was addressed by the Department at the subsequent meeting on 08 December 2015, clarifying that Section 75 actually imposes two duties. The first duty is one of “due regard” as it applies to equality of opportunity and the second requires that “regard” is given to the promotion of good relations. The Department cited the following guidance from the Equality Commission in an effort to distinguish between the two levels of duty:-

*“The term due regard was intended to be, and is, stronger than regard, but in either case an authority is required by the statute to take the specified matters into account and give them the required weight when carrying out its functions relating to Northern Ireland.”*

38. The Department also highlighted the difficulty of including a duty to take mitigating measures in the Bill as this would effectively require public authorities to undertake their functions in a particular way. This may have financial implications or potentially bring the organisation into conflict with existing obligations (for example, under EU or human rights legislation).



39. The Committee deliberated on this matter at its meeting on 08 December 2015. Having considered the requested clarification on the nature of the duty to have or give “due regard”, the Committee agreed that it supported the inclusion of this higher threshold of statutory duty in the Bill. It sought an amendment from the Department to strengthen the duty to one of “due regard”.
40. In her response to the Committee on 14 December 2015, the Minister indicated that she would support this amendment. However, given that an amendment of this nature represents a departure from the original policy proposals, she informed the Committee that it would be subject to Executive approval.
41. At its meeting of 12 January 2016, the Committee was provided with a copy of the two amendments required to change the duty from “consider” to “due regard” (see *Appendix 4* and letter from the Minister dated 08 January 2016). The Committee was informed that Executive approval had not been obtained as the Rural Needs Bill was not considered at the Executive meeting of Thursday 17 December 2015. While the first substantive meeting of the Executive in 2016 was not scheduled until 21 January, officials assured the Committee at the meeting of 12 January 2016 that the proposed amendments were “currently under consideration by Ministers”. However, they could not confirm when a decision on the amendments would be made.
42. The Committee considered the two amendments which deleted the word “consider” and replaced it with “due regard” at clause 1(1) and which amended the long title of the Bill to reflect this change.
43. The Committee agreed that it was content with the amendments, subject to approval by the Executive.

### **Transparency & Accountability on Reporting Arrangements**

44. This matter related predominantly to clause 3: Monitoring and reporting. Clause 3 imposes a statutory duty on public authorities to compile information on the exercise of its functions under clause 1 and to provide that information to the Department. In addition, it

places a statutory duty on the Department to prepare an annual report containing the information sent to it by the other public authorities and details of the exercise of its own functions under the Bill. Clause 3 also requires that the report be laid before the Assembly.

45. In considering the evidence provided on the Bill, it became clear that many stakeholders agreed that the provisions under clause 3 required strengthening in order to ensure accountability and transparency. There was a suggestion from several organisations including the Rural Community Network, the Rural Development Council, the Northern Ireland Rural Women’s Network, NILGA and Solace NI that the clause be amended to require the Minister to make an annual statement assessing the impact of the Rural Needs Bill to the Assembly.
46. In oral evidence to the Committee on 24 November 2015, the Rural Community Network and the Rural Development Council stated (see *Appendix 2*):-

*“At clause 3(2), we believe that an additional clause should be inserted stating that the Minister must make an annual statement of his or her assessment of the impact of the Rural Needs Bill to the Assembly. We believe that that additional step should be inserted, as our understanding is that the current clause, which states that a copy of the annual report be laid before the Assembly, means that any report compiled on rural proofing will be lodged in the Assembly Library. We believe that requiring a ministerial statement to the Assembly will add an extra layer of accountability and transparency to the rural-proofing process.”*

47. In its response, the Department informed the Committee that, in principle, an amendment could be made to provide for a Ministerial statement to be made on the monitoring report. However, legal advice provided to the Department indicated that it would not be appropriate for such a statement to cover the impact of the Bill as this would require a judgement to be made on the extent to which public authorities had discharged their duties. In oral evidence to the Committee on 01 December 2015 the Department stated:-

*“This would go beyond the intended monitoring and reporting arrangements, which focus on scrutiny by the Assembly and its Committees, and could create a false accountability of public authorities to DARD. It has always been the policy intention that the annual monitoring report should be made publicly available, as well as being laid in the Assembly library. I hope that that helps members to understand that we have tried to address stakeholders' concerns about the availability and transparency of the information.”*

48. The Committee deliberated on this matter at its meeting of 08 December 2015. It agreed that an amendment which required the Minister to provide an annual statement was desirable. Such a provision would not be prescriptive, but would allow the Minister to decide what any such statement should contain. It would allow the Assembly to receive an account of how rural needs were being considered by government departments in the policy making process. It could also act as an incentive to encourage Assembly Statutory Committees to undertake scrutiny of the issue. The statement may contribute to raising a wider awareness of the need to and importance of taking rural needs into account.
49. The Committee requested that the Department consider such an amendment. In its response to the Committee on 14 December 2015, the Department indicated that it agreed that clause 3 be amended to require the Minister to give an annual statement to the Assembly. A further amendment was proposed to require the Department to publish the annual monitoring report.
50. The Department provided the two amendments which give effect to these changes to the Committee at its meeting of 12 January 2016 (included at *Appendix 4*). The amendments added the provision to publish the report to clause 3 and added a new section to clause 3 to provide that the Minister make an annual statement to the Assembly on the content of the report.
51. The Committee indicated that it was content with the two amendments.

## Provision of Guidance, Advice and Information

52. The main concern with the provision of guidance, advice and information related to the need to strengthen the wording at clause 2. Many of the stakeholders suggested that the first line of clause 2 be amended to state that “The Department will take such steps...” rather than “The Department may take such steps...” as originally drafted.

53. In its oral evidence to the Committee on 24 November 2015, NILGA and Solace NI stated that:-

*“The Society of Local Government Chief Executives (SOLACE) would say that there is nothing in this legislation that compels anyone to give one iota of notion or regard to the guidance. Ordinarily, in legislation, you will see a clause stating that “public authorities shall have regard to guidance issued by the Department” for instance. We feel that that is needed, or the guidance could be easily set aside. You do not have to have regard to it; you do not have to comply with it. We feel that strengthening the wording of clause 2 would be an improvement.”*

54. At the meeting of 1 December 2015, the Department responded, stating that:-

*“It is important to highlight that the enabling power in clause 2(a) is in relation to DARD’s providing guidance, advice and information to “any person” about issues connected with rural needs or ways of meeting those needs. Therefore, it is much broader in scope than a power to provide those particular public authorities that are affected by the Bill with guidance, advice and information on the exercise of their statutory duties.”*

55. The Department further stated that such an amendment may have potential resource implications and that it may also:-

*“...perpetuate the current situation in which rural issues are seen solely as DARD’s responsibility.”*

56. Nevertheless, after due consideration the Committee agreed that it required an amendment to clause 2 to the effect of deleting the word “may” and inserting “will”. At the meeting of the 14 December 2015, the Department indicated that the Minister was content to take this amendment forward:-

*“The Minister has indicated that she wishes to support that amendment, which will strengthen DARD's role in providing support for rural proofing and the implementation of the Bill. I should point out that the Office of Legislative Counsel has advised that the wording of such an amendment would be "must" rather than "will", but that can be addressed when drafting the amendments.”*

57. The Department provided the amendment which would give effect to this change to the Committee at the meeting of 12 January 2016 (included at **Appendix 4**).
58. The Committee indicated that it was content with the amendment.

### **Clarification on definitions and terminology used in the Bill**

59. The issues discussed in the above paragraphs have significant cross over and relevance to the consideration given by the Committee to the need for clarification of the definitions and terminology used in the Bill.
60. Many of the stakeholders who provided evidence to the Committee expressed concern about the definitions in the Bill, focussing particularly on clause 6 and the definition of rural needs. For example in its written submission to the Committee (included at **Appendix 3**), the Northern Ireland Rural Women’s Network stated that:-

*“We are concerned as to whether the definition of “rural needs” as set out in the Bill currently to mean “the social and economic needs of persons in rural areas” is sufficiently clear to enable public authorities to discharge the duty.”*

61. The Committee considered the work undertaken by the Northern Ireland Statistics and Research Agency (NISRA) to define the term “rural”. In the “Review of the Statistical Classification and Delineation of Settlements”, a settlement classification system published by NISRA in March 2015, rural communities were defined as those with a population of less than 5,000 people. This increased the threshold for what constitutes a rural settlement from that previously agreed in February 2005.
62. The Committee also considered a paper from the Northern Ireland Assembly Research and Information Service which covered this issue (included at *Appendix 5*). The paper noted some of the potential difficulties that arise given the various interpretations of and usages of the NISRA data and concluded that there will be a real need to ensure that the guidance that accompanies the Bill provides clarity on this matter.
63. The Committee considered evidence from the Ulster Farmers’ Union (UFU) highlighting the lack of consistency in the use of these definitions between, and within, different departments. In its evidence to the Committee on 24 November 2015, the UFU stated that:-

*“There are many examples of different definitions of “rural”, both between and within different Departments. That results in people who require assistance being left unable to access it. However, a one-size-fits-all approach may not always be appropriate. We suggest that DARD should develop a list of definitions that could be used. It could then give guidance to Departments on the most appropriate definition. For example, those with a farm business number should always be considered as rural. Any definition of “rural” must recognise differing degrees of rurality.”*

64. The Committee explored this matter with the Department who responded that it had not included specific definitions in the Bill as such definitions are likely to change over time. The Department stated in oral evidence to the Committee on 01 December 2015 (included at *Appendix 2*) that it:-

*“...will produce and issue guidance that will provide further clarification on the meaning of terms used in the Bill, and it will also engage with public authorities in developing this guidance to help ensure that it will assist them in discharging their new duties. The point is that we are happy to bring forward that guidance and support on those terms.”*

65. The Committee deliberated on this issue and noted that it was highly desirable that the Department work closely with all public bodies which fall under the remit of the Bill to agree definitions. The Committee also acknowledged that adding a definition to the face of the Bill may prove too prescriptive, particularly given the changing nature of such definitions, exemplified by the revised definition of a rural settlement provided by NISRA in March 2015.
66. The Committee noted a letter from the Minister dated 10 December 2015 (included at *Appendix 4*) outlining how the Department intended to address these concerns. The Committee was content that the Department had committed to providing supplementary advice and guidance on definitions to public bodies.

### **Non-compliance, Sanctions and enforcement**

67. The Committee was aware that some stakeholders were concerned about the apparent “lack of teeth” within the Bill. The central provision of the Bill requires public authorities to comply with the new statutory duty imposed by clause 1. However, the means of holding public authorities accountable in terms of compliance is limited to the monitoring and reporting arrangements as laid out in clause 3. As highlighted by several stakeholders, there is no means of enforcing this provision, nor is there any sanction for non-compliance.
68. In oral evidence to the Committee on 24 November 2015 (included at *Appendix 2*), NILGA and Solace NI stated that:-

*“We can have all the legislation in the world, but, if it is not enforced and if there are inadequate resources and lack of strong guidance on the fulfilment of rural need, you may have a curate's egg: it will be good in parts. We do not think that they should have anything other than something that is good – fully and formally.”*

69. In an effort to address this concern, the Department indicated that it intended to work closely with public authorities in designing the content and format of the annual monitoring report. This will ensure that the information provided by public authorities is clear and consistent and therefore allow for meaningful comparison of the performance of each in discharging their duty to consider rural needs.

70. The Department further remarked in oral evidence on 01 December 2015 (included at *Appendix 2*) that this report:-

*“...will be the means by which the Assembly can hold public authorities to account. Essentially, the proposed reporting requirements are the teeth within the Bill, and any sanction would be clearly within the hands of the Assembly.”*

71. The Department stated that it would not be appropriate to include a power in the Bill which would allow the Department to sanction other government departments. The cost of establishing the required enforcement mechanism or independent monitoring body would probably be prohibitive and unjustifiable, given the current fiscal environment. The Department indicated that some consideration had been given to alternative non-legislative means of enforcement, such as a role for the interdepartmental committee on rural policy or incorporation of stakeholders. Reference was also made to the potential role for scrutiny by Assembly Statutory Committees in considering compliance by the relevant government department.

72. The Committee requested clarification on section 75 of the Northern Ireland Act 1998 and how it is applied in connection with policing and enforcement. The Department's response was



provided in a letter dated 04 December 2015 (included at *Appendix 4*). At the meeting of 09 December 2015, the Department stated:-

*“As regards enforcement of the section 75 duties, the enforcement of the equality duty is provided for in schedule 9 to the Northern Ireland Act 1998. The Equality Commission, which, of course, was established by section 73 of the Act, has a duty to:*

*“keep under review the effectiveness of the duties imposed by section 75” and to:*

*“offer advice to public authorities and others in connection with those duties”.*

*Public authorities are required to submit an equality scheme to the commission. Particular requirements for inclusion in such a scheme are, for example, the public authority's arrangements for assessing its compliance with the duties under section 75 and for assessing and consulting on the likely impact of policies or proposed policies to be adopted.*

*Schedule 9 also makes provision for the Equality Commission to investigate complaints regarding the failure of a public authority to comply with its equality scheme, and the commission is required to send a report of the investigation to the public authority concerned, the Secretary of State and the complainant. If the commission considers that any recommended action in the report is not taken within a reasonable time, it can refer it to the Secretary of State, who has the power to give directions to the public authority. The commission will also notify the Assembly of any report or matter referred to the Secretary of State.”*

73. The Committee deliberated on this issue and reflected that it had achieved amendments to clause 1 in connection with the replacement of a duty on public authorities to “consider” rural needs with a higher duty to have “due regard”. Its deliberation also took account of the amendment to clause 2 which strengthened the duty on the department regarding the provision of guidance, advice and information. The Committee also considered the amendments to clause 3 which enhanced the transparency of the reporting

arrangements. The Committee agreed that together these amendments, if accepted by the Assembly at Consideration Stage, would sufficiently strengthen the Bill and address some of the concerns around lack of enforcement, without imposing a separate and potential costly enforcement mechanism.

## Clause by Clause Consideration of the Bill

74. This section gives the decisions on the Committee's scrutiny of the clauses of the Rural Needs Bill. Members and other readers of this report may wish to refer to the previous section so as to gain a full understanding of the Committee's consideration and deliberations on the individual clauses alongside the decisions set out below.
75. The Committee undertook its clause by clause scrutiny of the Bill on 12 January 2016. The Minutes of Evidence for this meeting are included at *Appendix 2*.
76. The amendments, as proposed by the Department, can be found in *Appendix 4*.

### Clause 1 - Duty of public authorities to consider rural needs

77. The Committee indicated that it was content with amendment 1 and amendment 2 as provided by the Department, both subject to approval by the Executive.
78. The Committee indicated that it was content with amendment 3 as provided by the Department, subject to approval by the Executive.
79. The Committee indicated that it was content with amendment 4 as provided by the Department.
80. The Committee indicated that it was content with amendment 5 as provided by the Department.
81. The Committee indicated that it was content with amendment 9 as provided by the Department, subject to approval by the Executive.
82. The Committee indicated that it was content with clause 1 as amended subject to approval by the Executive.

**Clause 2 - Guidance, advice and information, etc.**

83. The Committee indicated that it was content with amendment 6 as provided by the Department.
84. The Committee indicated that it was content with clause 2 as amended.

**Clause 3 - Monitoring and reporting**

85. The Committee indicated that it was content with amendment 7 and amendment 8 as provided by the Department.
86. The Committee indicated that it was content with clause 3 as amended.

**Clause 4 - Co-operation with other bodies**

87. The Committee indicated that it was content with clause 4 as drafted.

**Clause 5 - Commencement**

88. The Committee indicated that it was content with clause 5 as drafted.

**Clause 6 - Interpretation**

89. The Committee indicated it was content with clause 6 as drafted.

**Clause 7 - Short title**

90. The Committee indicated that it was content with clause 7 as drafted.

## **Schedule**

91. The Committee indicated that it was content with the amendment to insert a Schedule as per the wording of the Departmental amendment.

## **Long Title**

92. The Committee indicated that it was content with the Long Title of the Bill amended as per the wording of the Departmental amendment.

## **Links to Appendices**

Printable version of Report can be accessed here

Appendix 1 - *Minutes of Proceedings*

Appendix 2 - *Minutes of Evidence*

Appendix 3 - *Written submissions*

Appendix 4 - *Memoranda and Papers from the Department of  
Agriculture and Rural Development*

Appendix 5 - *Research Papers*

Appendix 6 - *Other Papers*

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ISBN 978-1-78619-102-1

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