

**Committee for the Environment
Report on Local Government (Miscellaneous
Provisions) Bill
(NIA 10/08)**

**TOGETHER WITH THE MINUTES OF PROCEEDINGS,
MINUTES OF EVIDENCE AND WRITTEN SUBMISSIONS
RELATING TO THE REPORT**

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Northern Ireland Assembly, Printed Paper Office,
Parliament Buildings, Stormont, Belfast, BT4 3XX
Tel: 028 9052 1078

Membership and Powers

The Committee for the Environment is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 46.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister of the Environment

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 9 May 2007 has been as follows:

Mrs Dolores Kelly (Chairperson) ⁶
Mr Cathal Boylan (Deputy Chairperson)

Mr David Ford
Mr Trevor Clarke
Mr Ian McCrea
Mr Alastair Ross ¹
Mr Peter Weir
Mr Daithi McKay
Mr John Dallat ⁵
Mr Danny Kinahan ^{3,4}
Mr Roy Beggs ²

¹ From January 21 2008, Mr Alastair Ross replaced Mr Alex Maskey on the Committee for the Environment.

² With effect from 15 September 2008 Mr Roy Beggs replaced Mr Sam Gardiner.

³ With effect from 29 September 2008 Mr David McClarty replaced Mr Billy Armstrong

⁴ With effect from 22 June 2009 Mr Danny Kinahan replaced Mr David McClarty

⁵ With effect from 29 June 2009 Mr John Dallat replaced Mr Tommy Gallagher

⁶ With effect from 3 July 2009 Mrs Dolores Kelly replaced Mr Patsy McGlone

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Executive Summary

Purpose

1. This report sets out the Committee for the Environment's consideration of the Local Government (Miscellaneous Provisions) Bill.

Key issues

2. The introduction of the Local Government (Miscellaneous Provisions) Bill was welcomed by the Committee. The Committee considered that the key issues relating to the Bill were:

- Funding
- Communication
- The inclusion of provisions for Community Planning and Well Being
- The need for local authorities to be consulted prior to the introduction of subordinate legislation
- Power to enter contracts being applied retrospectively
- The benefit of including additional vires in the Bill to enhance the confidence of waste providers to enter into waste management agreements
- Specific reference to any particular council or transition committee and definition of "successor council"
- The power of Statutory Transition Committees to prevent councils from engaging in significant land disposals and entering into contracts
- The enforceability of disposals made in contravention of a direction
- The constitution of Statutory Transition Committees
- Impact of the reorganisation of local government on rate payers
- The role of local authorities and the Department following the establishment of Statutory Transition Committees
- The timing of the availability of the severance scheme for councillors
- The widening of the power for a district council to acquire land other than by agreement

3. Members sought a balanced range of views as part of their deliberations on the Local Government (Miscellaneous Provisions) Bill and requested evidence from interested organisations and individuals as well as from the DOE.

Funding

4. Several councils and organisations expressed concern about the funding of the Review of Public Administration process. The councils stressed the importance of appropriate and adequate funding being devolved along with the functions being passed to local authorities. The Community and Voluntary sector were more concerned about continuity of funding during the transition process. The Department indicated that a PriceWaterhouseCooper economic appraisal suggested that the process could yield significant benefits provided certain decisions are made and that this report will trigger and underpin the process of securing funding for implementing the RPA.

5. The Committee sought confirmation that the Bill would not prevent funds for reorganisation being provided either by central or local government and was advised that this will be a decision for the Executive, informed by the PWC economic appraisal, but which will not be affected by the Bill.

Communication

6. The Committee identified a need for better information dissemination from the organisations most closely involved in the transition process to councillors not directly involved in the process. The Committee was advised that a Communications Strategy to inform and build capacity has been produced.

The inclusion of provisions for Community Planning and Well Being

7. Some organisations were concerned about the lack of provision in the Bill for the new functions councils will have for Community Planning and Well-Being. The Department informed the Committee that provision for these functions will be encompassed in the forthcoming Local Government (Reorganisation) Bill.

The need for local authorities to be consulted prior to the introduction of subordinate legislation

8. Most of the detail of the issues covered in this Bill will be provided through secondary legislation and witnesses stressed the importance of consultation on the secondary legislation. Some called for this to be made compulsory.

Power to enter contracts being applied retrospectively

9. The Committee was concerned that Clause 1 included a sub-section that would apply Part 1 of the Bill to a date several months before the Bill would be enacted. Members recommended that the legislation would be improved by the exclusion of this sub-section.

The inclusion of additional vires to enhance the confidence of bidders entering into major waste infrastructure procurement agreements

10. The Committee was advised that bringing forward vires currently proposed for inclusion in the Waste Bill could potentially enhance the confidence of bidders and financiers being encouraged to compete to provide waste infrastructure procurement. The Department advised the Committee that although the timing of the Waste Bill would ensure that all contract provisions would be in place in good time, it was considering bringing these additional vires powers in earlier to provide greater confidence to bidders and financiers and so reduce costs to ratepayers. The Committee recommended the inclusion of these vires in this Bill.

Specific reference to any particular council or transition committee and definition of "successor council"

11. The Committee was concerned about the lack of clarity relating to specific reference made to particular councils or transition committees and also the definition of 'successor council'. It agreed to recommend that an amendment should be made to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Transition Committee. The Department indicated it would be willing to introduce an amendment to this effect.

The power of Statutory Transition Committees to prevent councils from engaging in significant land disposals and entering into contracts

12. Concern was expressed about the proposals in the Bill for Statutory Transition Committees to have power to prevent councils from engaging in significant land disposals and entering into major capital and non-capital contracts which would bind new councils into the future. However it was acknowledged that this was an inevitable consequence of not having shadow councils. The Department stressed the importance of the Statutory Transition Committees having a strong role to protect the interests of new councils and indicated it would be unlikely to amend this provision.

13. The Committee agreed to recommend an amendment to Clause 10 to allow for an appeals mechanism via which councils could challenge decisions made by Statutory Transition Committees. The Department indicated it would be willing to introduce an amendment to this effect.

The enforceability of disposals made in contravention of a direction

14. The Department advised the Committee that having sought legal advice it could confirm that the legal effect of this clause is that any disposal without the requisite consent would be unlawful which reinforces that proposed disposals must be referred to Statutory Transition Committees for consent.

15. The Committee noted its concern that as with Clause 9, there needed to be clarification of 'successor council' in Clause 13 and agreed to recommend an amendment to provide clarification as to the definition of 'successor council' as per Clause 9. The Department indicated it would be willing to introduce an amendment to this effect.

The constitution of Statutory Transition Committees

16. The Committee recognised the importance of getting the right balance on Statutory Transition Committees but accepted that some of this, such as gender, is in the hands of individual parties.

17. In relation to party representation, the Department advised the Committee that councils would be able to choose one of three mechanisms for selecting its representatives on the Statutory Transition Committees: d'Hondt, St. Lague or the Single Transferrable Vote.

18. The Committee sought more specific information on how the Belfast Statutory Transition Committee would work with those of Lisburn/Castlereagh. The Committee stressed the importance of ensuring that citizens from the areas of these two current councils that were to be subsumed into the new Greater Belfast were adequately represented on the Statutory Transition

Committee. The Committee agreed that an amendment to address the same concerns in Clause 9 should also apply to this clause and agreed Clause 14 subject to a technical amendment to Clause 9.

Impact of the reorganisation of local government on rate payers

19. The Committee was concerned about the potential for some of the arrangements proposed relating to the winding-up of existing councils to impact heavily on citizens. The Committee urged the Department to consider ways of protecting rate payers as well as managing the process from the local authority staff perspective.

20. The Committee sought confirmation that this Clause of the Bill would not prevent funds for reorganisation being provided by central government. The Department indicated that which body will pay for the reorganisation will be a decision for the Executive, informed by the PWC economic appraisal, but which will not be affected by the Bill.

The role of local authorities and the Department following the establishment of Statutory Transition Committees

21. The Committee sought clarification of the roles and responsibilities that would remain with existing councils following the establishment of Statutory Transition Committees. The Department indicated that as a result of not having Shadow Transition Committees there will be a very sudden switch of key decisions from individual councils to Statutory Transition Committees.

The timing of the availability of the severance scheme for councillors

22. The Committee considered the proposed timing of a severance scheme in relation to how it would be perceived and acted upon by councillors.

The widening of the power for a district council to acquire land other than by agreement

23. The councils that gave evidence to the Committee welcomed the widening of the power for district councils to acquire land other than by agreement 18 but called for the proposed vesting powers to be widened beyond Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997. The Committee did not agree that this power should not be widened in advance of the Local Government (Reorganisation) Bill which will give the new councils the function of Community Planning and Well-Being and agreed Clause 18 as drafted on 1 October 2009.

Recommendations

Power to enter contracts being applied retrospectively (Clause 1(3))

1. The Committee felt that the inclusion of a sub-section applying Part 1 of the Bill to a date several months before the Bill will be enacted was inappropriate. The Committee therefore

recommended that the legislation would be improved by its exclusion and during the clause by clause analysis on 1 October 2009 the Committee agreed Clause 1 subject to the deletion of sub-section 3.

2. On subsequently being advised by the Department that this sub-section would not be deleted, but the clause amended, the Committee agreed the clause subject to the amendment proposed by the Department.

The inclusion of additional vires to enhance the confidence of bidders entering into major waste infrastructure procurement agreements (Clause 2)

3. The Committee was advised that bringing forward vires currently proposed for inclusion in the Waste Bill could potentially enhance the confidence of bidders and financiers being encouraged to compete to provide waste infrastructure.

4. The Department advised the Committee that although the timing of the Waste Bill would ensure that all contract provisions would be in place in good time, it was considering bringing these additional vires powers in earlier to provide greater confidence to bidders and financiers and so reduce costs to rate payers.

5. The Committee recommended that in order to encourage and enhance the confidence of bidders and financiers when competing to provide waste infrastructure, the additional vires should be brought forward from the Waste Bill and included in this Bill.

Specific reference to any particular council or transition committee and definition of "successor council (Clause 9)

6. The Committee was concerned about the lack of clarity relating to specific reference made to particular councils or transition committees and also the definition of 'successor council'. The Committee agreed to recommend that an amendment should be made to Clause 9 to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Transition Committee.

The power of Statutory Transition Committees to prevent councils from engaging in significant land disposals and entering into contracts (Clause 10)

7. Concern was expressed about the proposals in the Bill for Statutory Transition Committees to have power to prevent councils from engaging in significant land disposals and entering into major capital and non-capital contracts which would bind new councils into the future. However it was acknowledged that this was an inevitable consequence of not having shadow councils. The Department stressed the importance of the Statutory Transition Committees having a strong role to protect the interests of new councils and indicated it would be unlikely to amend this provision.

8. The Committee agreed to recommend an amendment to Clause 10 to allow for an appeals mechanism via which councils could challenge decisions made by Statutory Transition Committees.

The enforceability of disposals made in contravention of a direction (Clause 13)

9. The Committee noted its concern that, as with Clause 9, there needed to be clarification of 'successor council' in this clause and agreed to recommend an amendment to provide clarification as to the definition of 'successor council' as per Clause 9.

The constitution of Statutory Transition Committees (Clause 14)

10. The Committee stressed the importance of ensuring that citizens from the areas of Lisburn and Castlereagh councils that were to be subsumed into the new Greater Belfast were adequately represented on the Belfast Statutory Transition Committee. The Committee agreed that the amendment recommended to address the same concerns in Clause 9 should also apply to this clause.

Introduction

11. The Local Government (Miscellaneous Provisions) Bill was referred to the Committee for the Environment for consideration in accordance with Standing Order 33(1) on completion of the Second Stage of the Bill on 30 June 2009.

12. The Minister of the Environment (the Minister) made the following statement under section 9 of the Northern Ireland Act 1998:

'In my view the Local Government (Miscellaneous Provisions) Bill would be within the legislative competence of the Northern Ireland Assembly'.

13. The Bill proposes to make provision about the powers of district councils to enter into contracts and to acquire land otherwise than by agreement; to make provision in connection with the reorganisation of local government, including provision for controls on existing councils, for statutory transition committees and for the payment on severance allowances to councillors; and for connected purposes.

14. During the period covered by this Report, the Committee considered the Bill and related issues at meetings on 23 April, 10 September, 17 September, 24 September, 1 October, 8 October, 13 October and 15 October 2009. The relevant extract from the Minutes of Proceedings for these meetings are included at Appendix 1.

15. The Committee had before it the Local Government (Miscellaneous Provisions) Bill (NIA 10/08) and the Explanatory and Financial Memorandum that accompanied the Bill. The Committee was also provided with guidance on handling potential conflict of interest when considering the Bill.

16. On referral of the Bill to the Committee after Second Stage, the Committee inserted advertisements on 3 July 2009 in the Belfast Telegraph, Belfast Telegraph North West edition, Irish News and News Letter seeking written evidence on the Bill.

17. A total of 9 organisations/individual responded to the request for written evidence and a copy of the submissions received by the Committee is included at Appendix 3.

18. The Committee was first briefed by officials about the consultation stages and policy development of the policy areas covered by the Local Government (Miscellaneous Provisions) Bill on 23 April 2009. The Committee was also briefed by the 3 Waste Management Groups regarding the waste aspects of the Bill on 23 April 2009. The Committee took evidence on the Bill from Craigavon Borough Council on 10 September, Belfast City Council, Arc 21 and the Northern Ireland Local Government Association on 17 September, Omagh District Council on 24 September and Mr James Whitten on 1 October. The Minutes of Evidence are included at Appendix 2.

19. The Committee began its formal clause by clause scrutiny of the Bill on 1 October and concluded this on 13 October 2009.

Extension of Committee Stage of the Bill

20. On 28 September 2009, the Assembly agreed to extend the Committee Stage of the Bill to 26 October 2009.

Report on the Local Government (Miscellaneous Provisions) Bill

21. At its meeting on 15 October 2009 the Committee agreed its report on the Bill and agreed that it should be printed.

Consideration of the Bill by the Committee

22. The Bill has 2 Parts as follows:

- Part 1 relating to contracts and councils which includes functions to include power to enter contracts, certified contracts to be intra vires, certification requirements, special provisions for judicial review and audit reviews and relevant discharge terms and absence of relevant discharge terms.
- Part 2 on local government reorganisation including control of disposals and contracts of exiting councils, consideration to be taken into account for purposes of direction, the constitution and function of statutory transition committees, power to modify existing legislation, severance payment to councillors, acquisition of land otherwise than by agreement, and the application of certain provisions to certain joint committees constituted as bodies corporate

The Department briefed members on the policy areas covered by the forthcoming Local Government Bill at its meeting on 23 April 2009.

23. The Department briefed members on contracts and compulsory purchases, severance payments for councillors and statutory transition committees, all of which were later included in the Local Government (Miscellaneous Provisions) Bill – see Appendix 2.

24. For compulsory purchases and contracts the Department indicated that the proposed legislation will include provisions similar to those in the 1997 Act. It will also include a provision to enable councils to acquire land otherwise than by agreement (i.e. to vest land) for their waste management purposes as provided for in the Waste and Contaminated Land (NI) Order 1997

(the 1997 Order). The Department stressed that the need for this aspect of the Bill has arisen as a consequence of the EC Landfill Directive (1993/31/EC) which aims to prevent or reduce, so far as possible, negative effects on the environment from the landfilling of waste.

25. The Department also discussed how they will make preliminary arrangements for the restructuring of local government by introducing provisions to:

- require councils to set up Statutory Transition Committees to work towards the effective merging of the current 26 councils into the 11 new councils;
- enable the Department to issue directions to transition committees; and
- introduce, prior to reorganisation, controls over the current 26 councils with regard to borrowing, disposals, contracts and the application of capital receipts and reserves.

26. The proposed legislation will include provisions in the following broad areas:

- a new power to enable the Department to establish an independent remuneration panel to advise the Minister on the level of allowances for councillors; and
- a new power to enable the Department to make a scheme to allow severance payments to be made to councillors who do not stand for re-election.

Arc 21, SWaMP and the North West Region Waste Management Group (NWRWMG) briefed members on the Local Government Contracts and Compulsory Purchase Bill at its meeting on 23rd April 2009

27. Arc 21, SWaMP and the North West Region Waste Management Group suggested that additional vires are added to the forthcoming Local Government Bill to increase the confidence of bidders and financiers when entering into waste infrastructure procurement agreements – see [Appendix 2](#).

28. Arc 21, SWaMP and NWRWMG also discussed additional considerations for future legislation including:

- Power to form and hold an equity share in a Joint Venture or arms-length Company;
- Power to indemnify the members and officers if they become a director of a company;
- Power to delegate functions and decision-making to such companies.

Evidence from Craigavon Borough Council on 10 September 2009

29. On 10 September the Committee took evidence from Craigavon Borough Council - see [Appendix 2](#).

30. Craigavon Borough Council was satisfied with the content of the Bill in all areas except Clause 18, which pertains to the acquisition of land otherwise than by agreement. The Council welcomed the clause but suggested that it should be amended and extended to cover more than Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997 to take cognisance of new functions such as "community planning and well-being" which will not be transferred by existing powers.

31. Craigavon Borough Council felt that amending Clause 18 at this stage to allow a district council to acquire land otherwise than by agreement in connection with any of its functions would avoid future delays.

Evidence from Belfast City Council on 17 September 2009

32. On 17 September the Committee took evidence from Belfast City Council - see [Appendix 2](#).

33. The Council noted that although it perceived there to be gaps in Part 1 of the Bill dealing with waste contracts, it was satisfied that these had largely been picked up in the proposed Waste Bill. The Council noted that outstanding gaps dealing with vires issues and powers of district councils needed to be introduced expeditiously otherwise contractual problems could result.

34. Belfast City Council stressed that it is in a slightly different legal position from the other councils which are effectively coming together in clusters. Belfast City Council is not merging with any other council but will be assimilating territory if the recommendations of the Boundary Commission for Northern Ireland are confirmed and the Council felt the legal difference needed to be reflected in the legislation.

35. The Council further expressed concerns about the powers in the enabling legislation to give directions to make regulations asking that all the councils and the local government sector in general be consulted before any directions or regulations are finally made.

Evidence from Northern Ireland Local Government Association and Arc21 on 17 September 2009

36. On 17 September the Committee took joint evidence from the Northern Ireland Local Government Association (NILGA) and Arc21 – see [Appendix 2](#).

37. NILGA and Arc21 broadly supported the provisions of the Bill but felt that the additional powers designed to remove any concerns that contractors and financiers might have about entering into long-term service contracts should be brought forward from the forthcoming Waste Bill to this Bill. These vires relate in particular to the granting of warranties, guarantees and indemnities, and the granting of cross-indemnities and acceptance of joint and several liabilities. NILGA/Arc 21 encouraged the Committee to consider the inclusion of these vires in this Bill, rather than incur the inevitable delay which would result by deferral to the waste Bill unless there was a strong rationale for not doing so and providing their inclusion would not delay the Bill's passage.

38. NILGA supported the severance provision in the Bill at Clause 17, but strongly endorsed it being centrally funded and introduced simultaneously with amended co-option legislation to allow councillors to make informed choices on the way forward. NILGA supported the view that the scheme should apply during the period from January 2010 until the date of the local government elections in May 2011.

Evidence from Omagh District Council on 24 September

39. On 24 September the Committee took evidence from Omagh District Council – see [Appendix 2](#).

40. Omagh District Council stated it is keen to establish how and when consultation on the regulations that relate to the Bill will take place and that it wanted to be consulted on those regulations.

41. The Council strongly recommended that the Statutory Transition Committees have a consultative role only. It also felt that any council that has already taken corporate decisions on land disposal, or made significant progress towards capital or non-capital contracts as part of a corporate or business plan, should be allowed to proceed without the Minister, the Department or the Statutory Transition Committees having the power to veto such transactions.

42. Omagh District Council endorsed proposals for Statutory Transition Committee constitutions and recommended the use of d'Hondt, in the first instance, or Sainte-Laguë. It did not support the single transferable vote.

43. Omagh District Council supported the principle of a severance scheme and stressed that the cost must be met by central government.

Evidence from the Department of the Environment on 24 September

44. The Committee took evidence from Departmental officials at the meeting on 24 September – see [Appendix 2](#).

45. Officials briefed the Committee on clauses 1-8 and 18-19 of the Bill and answered members' queries on vesting powers, certified contracts and SWIF funding.

Evidence from Mr James Whitten on 1 October

46. The Committee took evidence from Mr James Whitten, a retired director of finance for Crawley Borough Council, on 1 October – see [Appendix 2](#).

47. Mr Whitten felt that a severance scheme was not warranted and noted that Councillors who stood down in England after a reorganisation did not receive a severance payment.

48. Mr Whitten also felt that the severance scheme appeared to be an extravagance given the current state of public finances and, as such, that Clause 17 should be deleted from the Bill

Evidence from the Department of the Environment on 1 October

49. The Committee took evidence from Departmental officials at the meeting on 1 October – see [Appendix 2](#).

50. Officials briefed the Committee on Clauses 9-17 and 20-23 of the Bill and answered members' queries on Statutory Transition Committees, severance packages and the functions of councils after the establishment of transition committees and co-option.

Evidence from the Department of the Environment on 8 October

51. The Committee took evidence from Departmental officials at the meeting on 8 October – see [Appendix 2](#).

52. Officials provided further information on Clauses 1, 2, 9, 10, 13, 14, 15, 16 and 17.

Evidence from the Department of the Environment on 13 October

53. The Committee took evidence from Departmental officials at the meeting on 13 October – see [Appendix 2](#).

54. Officials provided further information on Clauses 14 and 15.

Key Issues

55. During its consideration of oral and written evidence from interested individuals and organisations the Committee identified a number of key issues on which further advice was sought from the Department.

General

- Funding
- Communication
- The inclusion of provisions for Community Planning and Well Being.
- The need for local authorities to be consulted prior to the introduction of subordinate legislation.

Relating to Clause 1

- Power to enter contracts being applied retrospectively.

Relating to Clause 2

- The benefit of including additional vires in the Bill to enhance the confidence of waste providers to enter into waste management agreements.

Relating to Clauses 9

- Specific reference to any particular council or transition committee
- Definition of “predecessor council”.

Relating to Clause 10

- The power of Statutory Transition Committees to prevent councils from engaging in significant land disposals and entering into contracts.

Relating to Clause 13

- The enforceability of disposals made in contravention of a direction.

Relating to Clause 14

- The constitution of Statutory Transition Committees (number / gender / party and area representation).

Relating to Clause 15

- Impact of the reorganisation of local government on rate payers.

Relating to Clause 16

- The role of local authorities and the Department following the establishment of Statutory Transition Committees.

Relating to Clause 17

- The timing of the availability of the severance scheme for councillors.

Relating to Clause 18

- The widening of the power for a district council to acquire land other than by agreement.

Funding

56. Several councils and organisations, in writing (Appendix 5) and verbally to individual members, expressed concern about the funding of the Review of Public Administration (RPA) process. The councils stressed the importance of appropriate and adequate funding being devolved along with the functions being passed to local authorities. In response to the Committee's questions regarding the cost of the process, the Department made it clear that it was aware of the concerns of councils. It referred to a PriceWaterhouseCooper (PWC) economic appraisal, near completion, that will demonstrate that provided certain choices are made in the next few months; completion of the review of administration will yield significant benefits.

57. The Department indicated that this report will trigger and underpin the process of securing funding for implementing the RPA.

58. The concerns relating to funding of the community and voluntary sector focused on their ongoing access to funding during the transition process.

59. The Committee was unable to see the PWC report prior to concluding its formal clause by clause analysis of the Bill. However the Department was able to inform the Committee that the report concludes that if all 'at risk' members of staff decide to leave local government as a result of reorganisation, the cost will be in the region of £18m. The Department noted that this will be a one off cost that will be counteracted over time as a result of efficiencies and a smaller workforce.

60. The Committee sought confirmation that the Bill would not prevent funds for reorganisation being provided either by central or local government. The Department indicated that this will be

a decision for the Executive, informed by the PWC economic appraisal, but which will not be affected by the Bill.

Communication

61. The Committee identified a need for better information dissemination from the organisations most closely involved in the transition process to councillors not directly involved in the process. NILGA and DOE were asked to show how it was currently trying to achieve this. It was widely recognised that translating a complex process into a short monthly briefing was difficult but the Department has established a dedicated government reform communications team to develop and implement a communications strategy and plan for the reform programme. The strategy and plan have been agreed by the Strategic Leadership Board and their implementation is being steered by the cross-sectoral Regional Transition Co-ordinating Group. The strategy and plan aim to circulate as much information as possible and include proposals for a capacity building programme. The Committee asked to be included in all future communications relating to the RPA process.

The inclusion of provisions for Community Planning and Well Being

62. Several organisations and councils raised concerns about the lack of provision in the Bill for the new functions councils will have for Community Planning and Well-Being. In response to the Committee's questions on this issue, the Department indicated that it was neither necessary nor appropriate to make provision for these functions in this Bill and they will be encompassed in the forthcoming Local Government (Reorganisation) Bill.

The need for local authorities to be consulted prior to the introduction of subordinate legislation

63. It was widely recognised that much of the detail of the issues covered in this Bill would be provided through secondary legislation. Several witnesses stressed the importance of consultation on the secondary legislation and some witnesses called for this to be made compulsory in Part 1 of the Bill [NILGA Appendix 2].

Power to enter contracts being applied retrospectively (Clause 1(3))

64. The Committee was concerned that Part 1 of the Bill being applied to any contract which a council enters into after 22 June 2009 (Clause 1(3)). Members felt that delays to the Bill have rendered this date inappropriate and the legislation would be improved by its exclusion. During the clause by clause analysis on 1 October 2009 the Committee agreed Clause 1 subject to the deletion of sub-section 3.

The inclusion of additional vires to enhance the confidence of bidders entering into major waste infrastructure procurement agreements (Clause 2)

65. The Committee was advised by NILGA and Arc21 that bringing forward vires currently proposed for inclusion in the Waste Bill could potentially enhance the confidence of bidders and financiers being encouraged to compete to provide waste infrastructure procurement. Whilst

they noted that the proposed timing of the Waste Bill should not prevent bidders, the earlier date would help prevent time delays. It was noted, however, that this would not be a desirable option if it delayed the passage of this Bill.

66. On 24 September 2009 the Department advised the Committee that although the timing of the Waste Bill would ensure that all contract provisions would be in place in good time, it was considering bringing these additional vires powers in earlier to provide greater confidence to bidders and financiers. [Appendix 5]. Although the inclusion of additional waste vires were addressed when considering clause 2 the Department noted that the proposed amendment for their inclusion would not be at this clause.

67. The Committee agreed it should recommend that in order to encourage and enhance the confidence of bidders and financiers and thereby reduce costs to rate payers when competing to provide waste infrastructure, the additional vires should be brought forward from the Waste Bill and included in this Bill.

Specific reference to any particular council or transition committee and definition of "successor council" (Clause 9)

68. Belfast City Council drew the Committee's attention to the lack of clarity relating to specific reference made to particular councils or transition committees and also the definition of 'successor council'. The Council suggested that particular provision may be necessary in the Bill in relation to Belfast and/or the Lisburn/Castlereagh Transition Committee.

69. The Committee concurred with this view and agreed to recommend an amendment to this clause to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Transition Committee. The Department indicated it would be willing to introduce an amendment to this effect.

The power of Statutory Transition Committees to prevent councils from engaging in significant land disposals and entering into contracts (Clause 10)

70. The Committee heard the concerns of Omagh District Council in relation to the proposed powers in the Bill for Statutory Transition Committees to have power to prevent councils from engaging in significant land disposals and entering into major capital and non-capital contracts which would bind new councils into the future. The Committee suggested this might result in a short-term approach to decision-making but the Department stressed that it is important that the Statutory Transition Committee have a strong role to protect the interests of new councils. The Department made it clear that despite pressure from councils on this issue, it would be unlikely to amend this provision.

71. The Department noted that it also will continue to have a degree of control during this process and this role will be underpinned by legislation as it would be difficult to enforce otherwise. However the Department stressed that it will have to demonstrate good reasons for turning down projects.

72. The Committee concurred with the councils' concerns and agreed to recommend an amendment to Clause 10 to allow for an appeals mechanism via which councils could challenge decisions made by Statutory Transition Committees. The Department indicated it would be willing to introduce an amendment to this effect.

The enforceability of disposals made in contravention of a direction (Clause 13)

73. Belfast City Council drew the Committee's attention to the need for clarification around the legal position of those who acquired and occupied land through a disposal made in contravention of a direction. The Department advised the Committee that having sought legal advice it could confirm that the legal effect of this clause is that any disposal without the requisite consent would be unlawful which reinforces that proposed disposals must be referred to Statutory Transition Committees for consent.

74. The Committee noted its concern that as with Clause 9, there needed to be clarification of 'successor council' in this clause and agreed to recommend an amendment to provide clarification as to the definition of 'successor council' as per Clause 9. The Department indicated it would be willing to introduce an amendment to this effect.

The constitution of Statutory Transition Committees (Clause 14)

75. Many of the submissions to the Committee orally and in writing stressed the importance of getting the right balance on Statutory Transition Committees.

76. All accepted the decision relating to proposed representative numbers.

77. The Community and Voluntary sector in particular were keen to see more representation of women on the Statutory Transition Committees and noted that current representation was on average well below the current representation on councils themselves [Appendix 5]. The Committee concurred that it would be desirable to have an appropriate gender balance on the Statutory Transition Committees but accepted that this was in the hands of individual parties.

78. In relation to party representation, the Department advised the Committee that councils would be able to choose one of three mechanisms for selecting its representatives on the Statutory Transition Committees: d'Hondt, St. Lague or the Single Transferrable Vote. The Department made it clear that councils would be bound by detailed requirements in relation to the running of each system.

79. The Committee sought more specific information on how the Belfast Statutory Transition Committee would work with those of Lisburn/Castlereagh. The Committee stressed the importance of ensuring that citizens from the areas of these two current councils that were to be subsumed into the new Greater Belfast, were adequately represented on the Statutory Transition Committee. The Department recognised the importance of this and informed the Committee that in addition to citizens, resources such as recycling facilities in these areas, had to be considered. The Department informed the Committee that it would be issuing guidance to the two Statutory Transition Committees on the need to work together, possibly in the form of a sub-committee from both reporting back to each.

80. The Committee noted that the Statutory Transition Committees would have responsibility for deciding on issues such as city and borough status, Aldermen and Chains of Office.

81. The Committee agreed that the technical amendment to address the same concerns in Clause 9 should also apply to this clause and agreed Clause 14 subject to a technical amendment to Clause 9.

Impact of the reorganisation of local government on rate payers (Clause 15)

82. The Committee noted its concern about the potential for some of the arrangements proposed relating to the winding-up of existing councils, particularly staff redundancy, to impact heavily on citizens. The Committee urged the Department to consider ways of protecting rate payers as well as managing the process from the local authority staff perspective.

83. The Department informed the Committee that overall cost of staff redundancies is being considered as part of the business case being prepared by Price Waterhouse Cooper for the reform of local government. It also advised that the Local Government Reform Joint Forum has been discussing the detail of the redundancy package and respective roles of Statutory Transition Committees, existing councils and the new councils in the decision-making process.

84. As recorded under the Funding section of this report, the Committee was unable to see the PWC report prior to concluding its formal clause by clause analysis of the Bill. However the Department was able to inform the Committee that the report concludes that if all 'at risk' members of staff decide to access redundancy as a result of local government reorganisation, the cost will be in the region of £18m. The Department noted that this will be a one off cost that will be counteracted over time as a result of efficiencies and a smaller workforce.

85. The Committee sought confirmation that this Clause of the Bill would not prevent funds for reorganisation being provided by central government. The Department indicated that which body will pay for the reorganisation will be a decision for the Executive, informed by the PWC economic appraisal, but which will not be affected by the Bill.

The role of local authorities and the Department following the establishment of Statutory Transition Committees (Clause 16)

86. The Committee asked the Department to clarify the roles and responsibilities that would remain with existing councils following the establishment of Statutory Transition Committees. The Department indicated that as a result of not having Shadow Transition Committees there will be a very sudden switch of key decisions from individual councils to Statutory Transition Committees and that between April and the election, decisions will lie solely with the Statutory Transition Committees.

The timing of the availability of the severance scheme for councillors (Clause 17)

87. The Committee considered the proposed timing of a severance scheme in relation to how it would be perceived and acted upon by councillors. When asked, most witnesses appeared to be content that the scheme would be available to persons who immediately prior to the start of the prescribed period were members of the council.

The widening of the power for a district council to acquire land other than by agreement (Clause 18)

88. The 3 councils that gave evidence to the Committee welcomed the inclusion of this clause to widen the power for a district council to acquire land other than by agreement 18 but called for

the proposed vesting powers to be widened beyond Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997. The councils suggested that the vesting powers should be extended to encompass all statutory council functions. The Department advised the Committee that it was only putting in place the essential legislation necessary to implement the review of public administration by the deadline and to introduce a wider power than this would have required much more extensive consultation. The Department maintained that additional requirements, such as vesting power in connection with Community Planning and Well-Being proposed by Craigavon Borough Council, could be addressed post 2011.

89. The Committee concurred with the Department that this power should not be widened in advance of the Local Government (Reorganisation) Bill which will give the new councils the function of Community Planning and Well-Being and agreed Clause 18 as drafted on 1 October 2009.

Clause by Clause Consideration of the Bill

90. The Committee conducted its clause by clause scrutiny of the Bill on 1, 8 and 13 October 2009 – see Appendix 2. The Committee recommended several amendments which are outlined below.

Clause 1 – Functions to include power to enter contracts

91. On 1 October the Committee agreed the clause subject to the removal of sub paragraph (3).

92. On being advised by the Department that clause 1(3) will not be deleted but will be amended at consideration stage, on 8 October the Committee agreed the clause subject to the amendment proposed by the Department.

Clause 2 – Certified contracts to be intra vires

93. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meeting on 8 October and the Committee agreed the clause subject to the amendment proposed by the Department.

Clause 3 – The certification requirements

94. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 4 – Certified contracts: supplementary

95. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 5 – Special provision for judicial reviews and audit reviews

96. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 6 – Relevant discharge terms

97. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 7 – Absence of relevant discharge terms

98. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 8 – Interpretation of this Part

99. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 9 – Introductory

100. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meetings on 8 and 13 October and members agreed the clause subject to a Committee recommendation for an amendment to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Transition Committee.

Clause 10 – Control of disposals and contracts of existing councils

101. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meetings on 8 and 13 October and members agreed the clause subject to a Committee recommendation for an amendment to allow for an appeal mechanism via which Councils could challenge decisions made by Statutory Transition Committees under Clause 10.

Clause 11 – Directions: supplementary

102. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 12 – Consideration to be taken into account for purposes of direction

103. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 13 – Contravention of direction

104. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meetings on 8 and 13 October and members agreed the clause subject to a Committee recommendation for an amendment to provide for clarification as to the definition of "successor council" as per Clause 9.

Clause 14 – Statutory transition committees: constitution

105. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meeting on 8 October and members agreed to refer the clause for further consideration allowing time to

consider policy proposals relating to the constitution of Statutory Transition Committees developed by Policy Development Panel A. At the meeting on 13 October the Committee remained concerned that this clause as drafted, as Clause 9, failed to address the unique circumstances of the parts of Lisburn and Castlereagh being subsumed into the new Belfast Council. Consequently the Committee agreed the clause subject to the technical amendment to Clause 9

Clause 15 – Statutory transition committees: functions

106. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meeting on 8 October but the Committee decided to refer the clause for further consideration in the hope of gaining information from the economic appraisal being carried out by Price Waterhouse Cooper. The report was not available for the meeting on 13 October but after further briefing from the Department, the Committee agreed to Clause 15 as drafted.

Clause 16 – Power to modify existing legislation

107. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meeting on 8 October and members agreed the clause as drafted.

Clause 17 – Severance payments to councillors

108. At the meeting on 1 October the Committee decided to refer the clause for further consideration. Departmental officials provided members with further information at the meeting on 8 October and members agreed the clause as drafted.

Clause 18 – Acquisition of land otherwise than by agreement

109. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 19 – Application of certain provisions to certain joint committees constituted as bodies corporate

110. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 20 – Regulations and orders

111. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 21 – Interpretation of this Act

112. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 22 – Commencement

113. At the meeting on 1 October the Committee agreed the clause as drafted.

Clause 23 – Short title

114. At the meeting on 1 October the Committee agreed the clause as drafted.

Long title

115. At the meeting on 1 October the Committee agreed the Long title of the Bill.

Appendix 1

Minutes of Proceedings

**Thursday 10 September 2009,
Room 144, Parliament Buildings**

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mrs Dolores Kelly (Chairperson)
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)

Apologies: Mr Trevor Clarke
Mr Daithi McKay

3. Local Government (Miscellaneous Provisions) Bill – Oral Evidence Session – Craigavon Borough Council

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

Craigavon Borough Council officials briefed the Committee and answered members' questions on the Local Government (Miscellaneous Provisions) Bill.

The main areas of the discussion were vesting powers, community planning and wellbeing, enabling powers and planning control.

Agreed: That a Research paper is requested on the comparison of the powers of the Auditor General with the powers of the Local Government Auditor.

Dolores Kelly

Chairperson, Committee for the Environment

17 September 2009

[EXTRACT]

Thursday 17 September 2009, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr Danny Kinahan
Mr Ian McCrea
Mrs Dolores Kelly (Chairperson)
Mr Alastair Ross
Mr Peter Weir
Mr Daithi McKay
Mr Adrian McQuillan

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)

Apologies: Mr David Ford

4. Local Government (Miscellaneous Provisions) Bill – Oral Evidence Session – Belfast City Council

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

Before taking evidence members considered a submission to the consultation on the bill from Mr James Whitten.

Agreed: That Mr Whitten is invited to give oral evidence to the Committee.

Belfast City Council officials briefed the Committee and answered members' questions on the Local Government (Miscellaneous Provisions) Bill.

Mr McCrea left the meeting at 11:15

The main areas of discussion were the timescale to implement the Bill, working relationships between Belfast City Council and NILGA / ARC21, the need to introduce key elements of the Waste Bill quickly and the creation of Statutory Transition Committees.

Mr McCrea rejoined the meeting at 11:25

Mr McQuillan left the meeting at 11.38a.m.

Agreed: That a letter is sent to the Department asking for information on the mechanisms used to inform local councils of local government reform.

5. Local Government (Miscellaneous Provisions) Bill – Oral Evidence Session – NILGA/arc21

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

NILGA and arc21 officials briefed the Committee and answered members' questions on the Local Government (Miscellaneous Provisions) Bill.

The main areas of discussion were Statutory Transition Committees, the timescale of the Waste Bill, dissemination of information on local government reform and severance.

Agreed: That a letter is sent to NILGA asking how they are managing the balance of membership of Statutory Transition Committees.

Mr McKay joined the meeting at 12:08p.m.

Dolores Kelly

Chairperson, Committee for the Environment
24 September 2009

[EXTRACT]

Thursday 24 September 2009, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mrs Dolores Kelly (Chairperson)
Mr Danny Kinahan
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)

Apologies: Mr Adrian McQuillan

3. Local Government (Miscellaneous Provisions) Bill – Oral Evidence Session – Omagh District Council

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council, substitute of South Antrim council on Arc21

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

Ian McCrea – Cookstown Borough Council

David Ford – Antrim Borough Council

The Chairperson informed members they had been provided with a paper from the Examiner of Statutory Rules on the delegated powers of the Bill along with a Bill timeline.

Omagh District Council officials briefed the Committee and answered members' questions on the Local Government (Miscellaneous Provisions) Bill.

The main areas of discussion were Statutory Transmission Committees, severance and governance.

5. Local Government (Miscellaneous Provisions) Bill – Initial clause by clause consideration

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council, substitute of South Antrim council on Arc21

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

Ian McCrea – Cookstown Borough Council

David Ford – Antrim Borough Council

The main areas of discussion were vesting powers, certified contracts and SWIF funding.

Agreed: That a letter is sent to the Minister to ascertain his views on the widening of vesting powers.

Dolores Kelly
Chairperson, Committee for the Environment

1 October 2009

[EXTRACT]

Thursday 1 October 2009, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mrs Dolores Kelly (Chairperson)
Mr Danny Kinahan
Mr Ian McCrea
Mr Adrian McQuillan
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)

Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)

Apologies: Mr Daithi McKay

5. Local Government (Miscellaneous Provisions) Bill – Oral Evidence Session –James Whitten

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council, substitute of South Antrim council on Arc21

Omagh District Council officials briefed the Committee and answered members' questions on the Local Government (Miscellaneous Provisions) Bill.

The main areas of discussion were ideas for recognition of councillors' work in local government, the timescale for a severance scheme and severance schemes in other UK administrations.

5. Local Government (Miscellaneous Provisions) Bill – Initial clause by clause consideration

Mr Ross left the meeting at 11.47a.m.

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Carrickfergus Borough Council

John Dallat – Coleraine Borough Council

Danny Kinahan – Antrim Borough Council, substitute of South Antrim council on Arc21

Ian McCrea – Cookstown Borough Council

David Ford – Antrim Borough Council

Mr Ford rejoined the meeting at 11.48a.m.

Mr McCrea rejoined the meeting at 11.49a.m.

Mr Ross rejoined the meeting at 12.05p.m.

The main areas of discussion were Statutory Transition Committees, severance packages and the functions of councils after the establishment of transition committees and co-option.

Mr Kinahan left the meeting at 12.17p.m.

Mr McQuillan left the meeting at 12.30p.m.

The Chairperson left the meeting at 12.36p.m. and Mr Boylan assumed the Chair.

6 Local Government (Miscellaneous Provisions) Bill – formal clause by clause consideration

The Chairperson informed members that they now needed to formally consider each clause of the Bill.

Clause 1. Functions to include power to enter contracts

The Committee agreed to the clause as drafted, subject to the removal of sub paragraph (3)

Clause 2. Certified contracts to be intra vires

The Committee decided further information was needed on this clause before coming to a decision.

Clause 3. The certification requirements

The Committee agreed to the clause as drafted.

Clause 4. Certified contracts: supplementary

The Committee agreed to the clause as drafted.

Clause 5. Special provision for judicial reviews and audit reviews

The Committee agreed to the clause as drafted.

Clause 6. Relevant discharge terms

The Committee agreed to the clause as drafted.

Clause 7. Absence of relevant discharge terms

The Committee agreed to the clause as drafted.

Clause 8. Interpretation of this Part

The Committee agreed to the clause as drafted.

Clause 9. Introductory

The Committee decided further information was needed on this clause before coming to a decision.

Clause 10. Control of disposals and contracts of existing councils

The Committee decided further information was needed on this clause before coming to a decision.

Clause 11. Directions: supplementary

The Committee agreed to the clause as drafted.

Clause 12. Consideration to be taken into account for purposes of direction

The Committee agreed to the clause as drafted.

Clause 13. Contravention of direction

The Committee decided further information was needed on this clause before coming to a decision.

Clause 14. Statutory transition committees: constitution

The Committee decided further information was needed on this clause before coming to a decision.

Clause 15. Statutory transition committees: functions

The Committee decided further information was needed on this clause before coming to a decision.

Clause 16. Power to modify existing legislation

The Committee decided further information was needed on this clause before coming to a decision.

Clause 17. Severance payments to councilors

The Committee decided further information was needed on this clause before coming to a decision.

Clause 18. Acquisition of land otherwise than by agreement

The Committee agreed to the clause as drafted.

Clause 19. Application of certain provisions to certain joint committees constituted as bodies corporate

The Committee agreed to the clause as drafted.

Clause 20. Regulations and orders

The Committee agreed to the clause as drafted.

Clause 21. Interpretation of this Act

The Committee agreed to the clause as drafted.

Clause 22. Commencement

The Committee agreed to the clause as drafted.

Clause 23. Short title

The Committee agreed to the clause as drafted.

Long title

The Committee agreed to the Long title of the Bill

Dolores Kelly
Chairperson, Committee for the Environment

8 October 2009

[EXTRACT]

Thursday 8 October 2009, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mrs Dolores Kelly (Chairperson)
Mr Danny Kinahan
Mr Ian McCrea
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)

Apologies: Mr Daithi McKay
Mr Adrian McQuillan

5. Local Government (Miscellaneous Provisions) Bill – formal clause by clause consideration

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Member of Carrickfergus Borough Council

Danny Kinahan – Antrim Borough Council, substitute of South Antrim council on Arc21

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

Ian McCrea – Cookstown Borough Council

David Ford – Antrim Borough Council

The Chairperson informed members they had been provided with a copy of the key issues emerging from the evidence sessions on the Bill for consideration.

Agreed: That members were content with the key issues paper subject to confirmation of the three voting mechanisms referred to.

The Chairperson informed members they had been provided with correspondence from the DOE and NILGA in relation to the RPA Communications Action Plan.

Agreed: That a letter is sent to the DOE asking that the Committee are copied into any further communication on this issue.

The Chairperson informed members that they now needed to formally consider the clauses of the Bill which could not be agreed at the meeting on 1 October.

Clause 2 - Certified contracts to be intra vires

The Committee agreed the clause as drafted subject to the amendments proposed by the Department.

The Department noted that the additional waste vires powers would be included through an amendment but not in this clause.

Clause 9 – Introductory

The Committee agreed the clause subject to a Committee recommendation that the clause is amended to reflect the concerns of members.

Clause 10 - Control of disposals and contracts of existing councils

The Committee agreed the clause subject to a Committee recommendation that the clause is amended to reflect the concerns of members.

Clause 13 - Contravention of direction

The Committee agreed the clause subject to a Committee recommendation that the clause is amended to reflect the concerns of members.

Clause 14 - Statutory transition committees: constitution

The Committee decided to refer the clause for further consideration.

Clause 15 - Statutory transition committees: functions

Mr Ross left the meeting at 10.45a.m.

The Committee decided to refer the clause for further consideration.

Clause 16 - Power to modify existing legislation

The Committee agreed the clause as drafted.

Clause 17 - Severance payments to councillors

Mr Weir joined the meeting at 10.49a.m.

Mr Ross rejoined the meeting at 10.50a.m.

The Committee agreed the clause as drafted.

Clause 1(3)

The Committee agreed the clause subject to the amendment proposed by the Department.

Agreed: That a meeting is held on Tuesday 13 October at 12.45p.m. to discuss the remaining clauses and to formulate Committee recommendations for amendments.

Dolores Kelly
Chairperson, Committee for the Environment
15 October 2009

[EXTRACT]

Tuesday 13 October 2009, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mrs Dolores Kelly (Chairperson)
Mr Danny Kinahan
Mr Daithi McKay
Mr Adrian McQuillan
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)
Ms Eilis Haughey (Bill Office)

Apologies: Mr Ian McCrea

The meeting began in public session at 11.04a.m.

2. Local Government (Miscellaneous Provisions) Bill – formal clause by clause consideration

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Member of Carrickfergus Borough Council

Danny Kinahan – Antrim Borough Council, substitute of South Antrim council on Arc21

Peter Weir – North Down Borough Council, Vice President NILGA, member of Policy Development Panel A

David Ford – Antrim Borough Council

Adrian McQuillan - Member of Coleraine Borough Council

John Dallat - Member of Coleraine Borough Council

Datihi McKay – Member of Ballymena Borough Council

The Chairperson informed members that they now needed to formally consider the clauses of the Bill which could not be agreed at the meeting on 8 October.

Mr Dallat joined the meeting at 11.18a.m.

Clause 9 – Introductory

The Committee agreed the clause subject to the recommendation for an amendment to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Committee.

Clause 10 - Control of disposals and contracts of existing councils

The Committee agreed the clause subject to the recommendation for an amendment to allow for an appeal mechanism to the Department of the Environment which Councils could challenge decisions made by Statutory Transition Committees under Clause 10.

Clause 13 - Contravention of direction

The Committee agreed the clause subject to the recommendation for an amendment to provide for clarification as to the definition of 'successor council' as per Clause 9.

Clause 14 - Statutory transition committees: constitution

The Committee agreed the clause subject to the technical amendment to Clause 9.

Clause 15 - Statutory transition committees: functions

The Committee agreed to the clause as drafted.

The Chairperson adjourned the meeting at 11.14a.m.

Dolores Kelly
Chairperson, Committee for the Environment

13 October 2009

[EXTRACT]

Thursday 15 October 2009, Room 144, Parliament Buildings

Present: Mr Roy Beggs
Mr Cathal Boylan (Deputy Chairperson)
Mr John Dallat
Mr David Ford
Mrs Dolores Kelly (Chairperson)
Mr Danny Kinahan
Mr Ian McCrea
Mr Adrian McQuillan
Mr Alastair Ross
Mr Peter Weir

In Attendance: Dr Alex McGarel (Assembly Clerk)
Mr Sean McCann (Assistant Clerk)
Mr Nathan McVeigh (Clerical Supervisor)
Mr Steven Mealey (Clerical Officer)
Dr Kevin Pelan (Assembly Research)

Apologies:

5. Local Government (Miscellaneous Provisions) Bill –consideration of draft Committee report

The following members declared an interest:

Dolores Kelly – Member of Craigavon Borough Council

Roy Beggs – Member of Carrickfergus Borough Council

Danny Kinahan – Member of Antrim Borough Council, substitute of South Antrim council on
Arc21

Peter Weir – Member of North Down Borough Council, Vice President NILGA, member of Policy
Development Panel A

Ian McCrea – Member of Cookstown Borough Council

David Ford – Member of Antrim Borough Council

Mr Adrian McQuillan – Coleraine Borough Council

Mr John Dallat - Member of Coleraine Borough Council

The Chairperson informed members they had been provided with a copy of the draft Committee report for agreement.

Agreed: That the Committee is content with the Executive summary.

Agreed: That the Committee is content with the Recommendations.

Agreed: That the Committee is content with the Introduction.

Agreed: That the Committee is content with the Consideration of the Bill by the Committee.

Agreed: That the Committee is content with the Key issues

Agreed: That the Committee is content with the Clause by clause consideration of the Bill.

Agreed: That the Committee is content with Appendix 1 - Minutes of Proceedings relating to the report.

Agreed: That the Committee is content with Appendix 2 - Minutes of Evidence relating to the report.

Agreed: That the Committee is content with Appendix 3 - Written Submissions?

Agreed: That the Committee is content with Appendix 4 - List of Witnesses?

Agreed: That the Committee is content with Appendix 5 - Other papers submitted to the Committee.

Agreed: That the report is printed.

Agreed: That the minutes, and minutes of evidence, from the meeting on 15 October are incorporated into the final report.

Dolores Kelly

Chairperson, Committee for the Environment

22 October 2009

[EXTRACT]

Appendix 2

Minutes of Evidence

25 June 2009

Members present for all or part of the proceedings:

Mr Patsy McGlone (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr Trevor Clarke

Mr David Ford

Mr Tommy Gallagher

Mr Danny Kinahan

Mr Ian McCrea

Mr Daithí McKay

Mr Alastair Ross

Mr Peter Weir

Witnesses:

Ms Julie Broadway

Mr Ivan Gregg

Mr John Murphy

Mr Jim Stewart

Department of the Environment

1. The Chairperson (Mr McGlone): We are joined by Julie Broadway, principal grade 7 in the Department of the Environment's local government policy division; Jim Stewart, deputy principal in the local government policy division, and John Murphy, deputy principal in the local government policy division; and Ivan Gregg from the Department's planning and environmental policy group.

2. Before we begin, I declare an interest as a member of Cookstown District Council.

3. Mr Beggs: I declare an interest as a member of Carrickfergus Borough Council, and I acknowledge that my dad is also a member of Larne Borough Council.

4. Mr Kinahan: I declare an interest as a member of Antrim Borough Council.

5. Mr McKay: I declare an interest as a member of Ballymoney Borough Council.

6. Mr Ford: I declare an interest as a member of Antrim Borough Council.

7. Mr Weir: I declare an interest as a member of North Down Borough Council. I am also a member of the transition committee for Ards and North Down. Although this may be slightly tangential, I am a member of policy development panel A, which has been looking at the governance of the transitional arrangements.

8. Mr I McCrea: I declare an interest as a member of Cookstown District Council. I also sit on the transition committee for the proposed new Mid Ulster council.

9. Mr T Clarke: I declare an interest as a member of Antrim Borough Council.

10. The Chairperson: I ask you to give us an overview of the Local Government (Miscellaneous Provisions) Bill, Julie, and then to deal with any queries from Committee members.

11. Ms Julie Broadway (Department of the Environment): First, I will point out our areas of responsibility. Jim Stewart has been dealing with the contracts provisions; John Murphy has been

dealing with the transition committees; and Ivan Gregg can deal with any queries that Committee members may have about the waste applications in the Bill.

12. As the Committee will be aware, the Bill will clarify councils' powers to enter into long-term service contracts with the private sector, and so remove any concerns that contractors and financiers may have about such contracts. It will also enable councils to acquire land otherwise than by agreement for waste-management purposes.

13. The Bill will also enable the Department to make some preliminary arrangements for the reorganisation of local government in the run-up to 2011, in advance of a main local-government reorganisation Bill. The Bill will provide for severance arrangements for councillors, for the establishment of statutory transition committees to prepare for and assist with the reorganisation of local government. It will also introduce a system of controls by means of direction over disposal of land and contracts entered into by existing councils.

14. The provisions on contracts were originally included in a draft Local Government (Contracts and Compulsory Purchase) Bill. Consultation on the draft Bill was carried out from December 2008 to March 2009. The synopsis of responses to that consultation and the Department's response to those responses were forwarded to the Committee in April 2009. On the reorganisation provisions, when we last briefed the Committee in April 2009, we explained that the provisions on severance and the transition committees, which we had originally intended to include in the draft Local Government (Finance) Bill, were to be added to the Local Government (Miscellaneous Provisions) Bill owing to timing issues.

15. The Department carried out separate consultations on the proposed arrangements for the establishment of transition committees and for severance arrangements between April and May 2009, and a synopsis of the responses to both those consultations was sent to the Committee earlier this month. Therefore, the Bill as introduced in the Assembly now contains provisions on statutory transition committees, and it will provide for regulations to make provision for their membership, procedures, governance arrangements and functions.

16. The Bill also contains an enabling provision to allow the Department to make regulations for a scheme to allow severance payments to be made to councillors who do not stand for re-election.

17. The briefing material that we recently forwarded to the Committee included a memorandum of delegated powers to provide more information on what the enabling powers will be used for. Over the summer months, we intend to work on what the regulations will include.

18. A provision has recently been added to the Bill to allow the Department to issue directions to existing councils as a means of control so that, in the lead up to reorganisation, they will not be able to dispose of land or enter into capital contracts above specified values unless they have the consent of their statutory transition committee. The Minister wrote to the Committee to let you know about his decision to include the control provisions in the Bill, and you were originally briefed on the matter when we briefed the Committee on the draft Local Government (Finance) Bill.

19. Those provisions were moved into the Local Government (Miscellaneous Provisions) Bill because of timing. The finance Bill is not expected to come into operation until autumn 2010, and that would mean that the controls regime would be able to apply only for a short period before reorganisation and, therefore, would not be very effective. The provisions were moved to allow for their earlier introduction and in response to the growing concerns, of which officials had become aware through their dealings with the voluntary transition committees, the transition

management teams and the local government sector in general, that suitable controls on financial arrangements would need to be in place for the final year of the old councils' existence.

20. It was not possible to carry out full public consultation on the proposals to include those financial controls before the Bill was introduced in the Assembly. I appreciate that that is not an ideal situation. However, before the Department makes any directions about the controls, we will engage with political parties and with councils' transition committees and transition management teams to obtain their views, and we will also return to the Committee on the matter before any decisions are reached about what will be included in those directions. I am now happy to take questions.

21. Mr Weir: You mentioned the Bill's proposals for the control and disposal of contracts. I understand the logic behind introducing a requirement for existing councils to gain permission for the disposal of contracts above a certain capital limit.

22. The Bill also contains provision to cover vesting issues surrounding bodies corporate of the waste groups. I presume that the proposed legislation for the control and disposal of contracts of existing councils refers to restrictions on the individual councils and that it is not meant to apply to waste groups that involve a number of councils. Is the legislation intended to provide a check and balance to prevent a council from entering into contracts to build £100 million or £200 million worth of projects before someone else has control over that?

23. Ms Broadway: Yes, it is intended to prevent an existing council from committing a new council to a contract.

24. Mr Weir: The legislation would not apply, for example, to bodies corporate of waste groups.

25. Mr Jim Stewart (Department of the Environment): As drafted, the provisions in clause 19 do not apply to either Arc21 or the Southern Waste Management Partnership (SWaMP2008). It may be more appropriate for Ivan Gregg to talk from the waste perspective. In their body-corporate orders and their memorandums of agreement, they need the consent of the constituent councils to enter into contracts. To include Arc21 and SWaMP in the legislation would be to take a belt-and-braces approach, but, they are not included in the Bill as drafted, so they are under no obligation.

26. Mr Ivan Gregg (Department of the Environment): We are having some discussions with the waste-management groups on those provisions. It may be that they will voluntarily put their contracts past the transition committees. As the Bill is drafted, the two bodies corporate are excluded. That is a slightly different situation, because consensus is required between councils and the waste-management groups before a contract can be signed. Urgency is also required in getting the contracts out. Different factors are to be considered, and we are asking the waste-management groups for their views on whether they feel that their inclusion would be appropriate.

27. Mr Weir: I am not 100% clear on the situation, but I see that joint committees are referred to at clause 19. You mentioned SWaMP2008 and Arc21. What is the legal position of the North West Region Waste Management Group (NWRWMG), because I notice that you have not mentioned it?

28. Mr Gregg: The NWRWMG could be caught, should directions include that group. As it stands, only the bodies corporate — that is, SWaMP2008 and Arc21 — are excluded.

29. Mr Weir: Leaving aside the exclusion aspect, I am not overly familiar with the NWRWMG, but clause 19 states that there are provisions to certain joint committees constituted as bodies

corporate, and those provisions give joint committees a similar power to councils over contracts, acquisition of land and vesting. What is the NWRWMG's position? Obviously, the group is not included under the provisions.

30. Mr Gregg: It is not included.

31. Mr Weir: Is it covered anywhere else?

32. Mr Gregg: The NWRWMG is essentially a lead counsel, and the contract will be issued by Derry City Council. Therefore, the group will be caught as a council.

33. Mr Weir: I will return to the acquisition provisions in a moment.

34. Clause 14 refers to the constitution of statutory transition committees. The Department clearly has enabling powers to introduce more detailed regulations. The Bill will take some time to become law. As soon as the legislation is enacted, do you anticipate being in a position to be able to introduce regulations? Is the preparation work being done so that the regulations can effectively hit the ground running? I know that a process must be gone through, but, presumably, you do not anticipate any delay between the passing of the Bill and the introduction of regulations, which give the detail of the powers involved?

35. Mr John Murphy (Department of the Environment): No, we intend for the regulations to be drafted so that they are ready to go through the necessary processes when the Bill receives Royal Assent. The intention is that they can become operational at the earliest opportunity.

36. Ms Broadway: Over the next couple of months, we will use the opportunity to work on the various enabling powers and regulations that will be required under the Bill so that by the time that the formal Committee Stage starts, we will have a fair idea of the intention behind the regulations.

37. Mr Weir: Finally, will you tell us briefly about the vesting powers on the acquisition side but give us more detail on their scope and restrictions? For example, if you are saying that vesting powers for waste and contaminated land are clearly for waste-management purposes, can someone determine whether vesting powers will be used for the right purpose? I acknowledge that in most cases it will be a clear-cut determination. What is the restriction on where, or from whom, any council or group can vest land? I need more detail on that.

38. Mr Gregg: Details laid down in the Local Government Act 1972 control the compulsory acquisition of land, and those would be applicable in this case. The council or body corporate would have to seek the Department's approval and inform stakeholders, local residents and people who own adjacent land. If there were objections to that compulsory acquisition, the Department could then hold a public inquiry.

39. Mr Weir: Can both private land and public land be acquired? Can the council seek to acquire land from another Department, for example?

40. Mr Gregg: I cannot answer that, because I am not aware of the precise details.

41. Mr Weir: Perhaps you will get back to us on that issue. It may be the elephant in the room, because, in the Bill as drafted, the power that a waste body has can also apply to a body corporate.

42. Mr Stewart: The powers will enable councils to acquire private and public lands, assuming that the public body is —

43. Mr Weir: Hypothetically, that could enable a waste group, for example, to seek to vest land that belongs to one of the existing 26 councils, perhaps even one that was a member of that waste group. I accept that that is a fairly absurd example to give.

44. Mr Ford: Land could even be vested from a council that had opposed the proposal.

45. Mr Weir: Yes. Whatever the rights and wrongs of an individual case, technically, that could happen.

46. Mr Beggs: Spit it out, Peter. He wants to know whether Arc 21 will be able to vest land from Belfast City Council.

47. Mr Weir: North Down Borough Council may seek to earn £20 million that way.

48. Mr Gregg: Waste-management groups operate on the basis of consensus. Therefore, all constituent councils would have to agree to the proposal.

49. Mr Weir: Do all waste-management groups operate on the basis of consensus?

50. Mr Gregg: My understanding is that, to operate, waste-management groups must have the agreement of all councils.

51. Mr Ford: However, the representatives of a particular council might be part of the consensus, but a majority of the council could have a different view.

52. Mr Weir: Mr Gregg, is your understanding that, for a waste-management group to take any action, the councils must agree unanimously?

53. Mr Gregg: Yes. However, if a number of councils agreed that the vesting should proceed but others disagreed, the matter would, ultimately, come before the Assembly for a decision.

54. Mr Weir: I am not quite sure what you mean.

55. The Chairperson: Could it come before the Executive?

56. Mr Stewart: It must come before the Assembly and be passed by resolution. We can get back to the Committee on that point.

57. Mr Weir: That would be helpful, because it may become more than a hypothetical situation.

58. Mr Gallagher: Will you elaborate on the Department's intention to replace the voluntary transition committees with statutory transition committees? It appears that the Department intends to use the statutory transition committees to set the rates for the new councils post-2011. It would be fine for an outgoing Assembly Committee to leave a set of directions for an incoming Assembly Committee in the next mandate.

59. Does the Department intend the staff appointments to be on a permanent or interim basis? Under the Bill, will the Department appoint all staff or only particular categories of staff?

60. Mr J Murphy: The striking of the rate by the statutory transition committee would apply only to the first year of the new council's operation, in order to ensure that it had an operating budget. I suspect that the incoming council would have to examine that budget to determine whether it met its requirements, and it may want to consider certain areas. However, the incoming council must have a budget within which to work. After the first year, the new council will determine the rate.

61. Mr Weir: Although different people may be taking the decision, the process is not particularly different. Had there been no review of public administration (RPA) and an election to Fermanagh District Council, for example, were due to take place in 2011, a new council would be in place in that year. However, the outgoing council would have set the new council's budget for 2011-12 as part of the rates process around February.

62. Mr J Murphy: The same principle applies.

63. Mr Gallagher: The point is that the personnel and mandate are different.

64. Mr Weir: Yes, but the same would happen in any council.

65. Mr J Murphy: At this stage, the appointment of staff will be limited to a chief executive designate and two senior managers, who will be the director of finance and the director of human resources. The transition committees will need only a limited number of staff in place to support them in ensuring that the new councils will be ready to operate four days after the election.

66. Mr Gallagher: What about the voluntary and statutory transition committees?

67. Mr J Murphy: The voluntary transition committees will operate until the regulations are laid before the Assembly and approved. There will then be moves to create the statutory transition committees.

68. Mr Gallagher: Will the methods that were applied for the selection of the voluntary transition committees be the very same as those that you intend to apply to the statutory committees, or do you foresee the need for any changes, given that we have all had a flavour of the way in which the appointments to the statutory transition committees work? In other words, do you see any necessity for safeguards to be inserted, given what you have seen so far?

69. Mr J Murphy: As the Department indicated in the consultation, we are looking to provide a range of options for councils to determine their representation. Therefore, d'Hondt, Sainte-Lague or the single transferable vote (STV) will be used. We intend to set out in the regulations how those processes would operate in order to achieve consistency across councils. Therefore, those councils that choose to use d'Hondt, for example, would all apply the same methodology.

70. Mr Ford: I notice that clause 1(3) states:

"This Part applies to any contract which a district council enters into after 22nd June 2009."

71. What is that point of that subsection?

72. Mr Stewart: There was a possibility of waste contracts, with which I am not totally familiar, coming in fairly early. Clause 1(3) is to allow for early negotiations and agreements to enter into contracts at the time of introduction. It would appear now that no certified contracts have been

entered into. Therefore, that subsection is not really to have any effect at the moment. However, it was to allow a council now to enter into a certified contract.

73. Mr Ford: It appears to me that the type of contract about which you are talking would today be ultra vires. A council might enter into a contract in the hope that, when the Bill becomes an Act, the contract would then be retrospectively approved. That does not sound like terribly good legislation.

74. Ms Broadway: That may be something at which we can look again.

75. Mr Stewart: Yes, OK. The clause was obviously introduced on the understanding that the legislation would come into force.

76. Mr Ford: I think that there is such a thing as the assumption that the legislature will decide what the legislation does, and it appears to me that clause 1(3) is attempting to go beyond that.

77. Will there be a statutory transition committee for the new City of Belfast Council, or whatever it is to be called?

78. Mr J Murphy: Yes, it will have a statutory transition committee.

79. Mr Ford: In that case, what is the position of those who represent the fairly substantial but minority areas of Lisburn and Castlereagh, which are likely, on the presumption that the final report of the Boundaries Commissioner confirms what we already know, to be incorporated into the new Belfast council? However, since the definition of a "predecessor council" in clause 9(2)(b) means that it has to be:

"the whole or the major part of the district of the existing council",

80. Councillors in Lisburn or Castlereagh, as the Bill is drafted, will have no say whatsoever in the new Belfast council.

81. Mr J Murphy: The representation from those areas is an issue that is being raised in the consultation. We will need to give further consideration to that.

82. Mr Ford: Is it not, therefore, inappropriate that the Bill as drafted uses that definition of "predecessor council"?

83. The Chairperson: That is a fair point.

84. Mr Ford: Unfortunately, the long silences before you answered my questions will not be noticeable in the Hansard report. However, by pointing that fact out, it will now be noted.

85. The Chairperson: Has there been any response from the Department on that?

86. Ms Broadway: We will get back to the Committee with the reasons why that committee was set up in that way and why the local government districts as specified in the Local Government (Boundaries) Act (Northern Ireland) 2008 were used.

87. Mr Ford: The position is quite clear: all existing councils in the outer suburbs of Belfast, with the small exception of the area around Banbridge, will form new authorities. However, the Bill does not address the main issue affecting parts of Castlereagh and parts of Lisburn.

88. Ms Broadway: We will get back to you on that.

89. The Chairperson: We want to know the reason for that definition and what potential solutions there are to address it.

90. Mr Beggs: Clause 16 deals with the statutory transition committees' power to modify existing legislation. It seems that that clause will enable either local government legislation or rating legislation to make almost any regulation that is wished. That is an excessively wide delegation of powers to be granted under the headings of "local government legislation" and "rating legislation".

91. Ms Broadway: The rating legislation, in particular, is mentioned because the practical implications of the issue of striking the rate for the first year are still being considered the Department of Finance and Personnel, the Department of the Environment and local government organisations. The clause allows us to make any necessary modifications to the current legislation in order to allow for whatever decision is reached on that issue to be taken forward.

92. Mr Beggs: The terminology provides for any local government legislation. Presumably, that gives you a blank canvas to do what you want with regulations?

93. Ms Broadway: Basically, it allows us to make and apply necessary changes to legislation.

94. Mr Beggs: Will there be any consultation on the legislation that affects local government? The clause gives Government complete authority through primary legislation to change anything by way of regulation.

95. Ms Broadway: The regulations will be consulted on and subject to affirmative resolution.

96. Mr Beggs: Finally, when do you hope that the legislation will be applicable? I am thinking specifically about next January's rating process. Are you proposing that the transition committees set the rates then?

97. Ms Broadway: Yes.

98. The Chairperson: If no other Committee members wish to ask any questions, that concludes our evidence session. Thank you for attending.

17 September 2009

Members present for all or part of the proceedings:

Mrs Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr Danny Kinahan

Mr Ian McCrea

Mr Daithí McKay

Mr Adrian McQuillan

Mr Alastair Ross

Mr Peter Weir

Witnesses:

Mr Kevin Heaney
Mr Owen Mason
Mr Ciaran Quigley

Belfast City Council

Councilor Joanne Bunting
Councilor Shaun Gallagher
Mr John Quinn
Ms Nora Winder

Northern Ireland Local Government Association / Arc21

99. The Chairperson (Mrs D Kelly): I welcome Mr Ciaran Quigley, director of legal services in Belfast City Council, and Kevin Heaney and Owen Mason, who are here as observers. However, if there is a difficult question, I am sure that Mr Quigley will pass the ball on.

100. Mr Ciaran Quigley (Belfast City Council): It is my job to refer anything difficult. [Laughter.]

101. Mr Beggs: Given that a new set of witnesses has arrived, are members required to declare our interests at this point?

102. Mr Weir: We made the previous declarations when all witnesses were already in the room.

103. Mr Beggs: That is fine. I was unaware of that.

104. The Chairperson: Rather than make members declare their interests during each discussion on the Local Government (Miscellaneous Provisions) Bill, I will note that members have declared their interests.

105. Mr Quigley: Thank you for the opportunity to brief the Committee on the Local Government (Miscellaneous Provisions) Bill. I am accompanied by Owen Mason, who is a policy officer who works with me, and Kevin Heaney, who is Belfast City Council's change manager. Kevin is dealing with the business of transition, and so on.

106. The Bill is in three parts, and I will discuss them in order. The three Parts are entitled "Contracts of Councils"; "Local Government Reorganisation"; and "Miscellaneous and Supplementary". Part 1 replicates existing legislation in Great Britain and clarifies the powers of district councils to enter into PFI and PPP contracts with the private sector. That is more relevant now as we enter a stage of very large waste disposal contracts. The legislation is coming at a critical time.

107. I act as corporate counsel for Arc21, and, therefore, I declare an interest. Arc21 will be represented by its chief executive, John Quinn. I have not seen John yet; I presume he is outside. John will comment on the Bill from an Arc21 perspective. Belfast City Council is one of the 11 members of Arc21, and, therefore, John, essentially, will speak for Belfast City Council on Part 1.

108. I do not need to bore the Committee with replication. However, there are several perceived gaps in Part 1, which deals with PFI. The good news is that those gaps have largely been picked up on by the Department in the proposed waste Bill. However, if the proposed waste Bill is to cover those gaps in Part 1, which deals with vires issues and powers of district councils, it will need to be introduced expeditiously, given the timetables for the letting of large contracts. Otherwise, we might face trouble when dealing with the lawyers who act for the contractors on big waste contracts. I am sure that John Quinn will replicate that view. I am happy to take questions as we go along.

109. Part 2 of the Bill, in general terms, deals with local government reorganisation. There are four Chapters in Part 2. Chapter 2 creates a framework whereby the Department may give directions that prohibit existing councils from disposing of land or entering into capital or non-capital contracts over specified thresholds, which will be specified by regulation. Chapter 3, which provides for the creation of the proposed —

110. Mr Weir: If I may interrupt, it would be more helpful if members could follow your references. I know that those matters are covered under Chapters, but it would be useful if you were to refer to the individual clauses.

111. The Chairperson: Members could follow the witnesses' written submission, which helpfully sets out the clauses.

112. Mr Quigley: I am not speaking to the written submission. I have speaking notes, which I will give to the Committee.

113. The Chairperson: That would be helpful, thank you.

114. Mr Quigley: I am making more general comments.

115. The Chairperson: We will hear your general comments, and members will have to do their best.

116. Mr Quigley: I am happy to be interrogated on the detail.

117. Part 2 is in four Chapters. Chapter 1, clause 9, is simply the introduction on which I have no comment. Chapter 2 contains clauses 10 to 13. That simply creates a framework for the Department to give directions to prohibit the existing councils from entering into contracts. That includes contracts for capital works and non-capital works over thresholds that will be specified by regulation.

118. Chapter 3 contains clauses 14 to 16. Those provide for the creation of proposed statutory transition committees. Again, they provide the Department with the power to make regulations on how those committees will be set up. I do not intend to get into the detail of those regulations, because they do not yet exist. However, the power in the Bill to give directions and to make regulations seems to be drafted in a general way. Therefore, the Department will have the power to make directions in relation to all the existing councils and to make regulations for all the statutory transition committees. However, it is not entirely clear whether that power would extend to giving directions or making regulations in relation to individual councils or statutory transition committees.

119. I make that point because Belfast City Council does not claim any special status in the review of public administration (RPA). I emphasise that it is affected by the RPA as much as everyone else. I say that in case anyone thinks that it is claiming privileges, which it is not. However, Belfast City Council is in a slightly different legal position because 25 of the 26 councils are, effectively, merging in clusters. Belfast City Council is not merging with any other council, but it will assimilate territory if the Boundary Commission for Northern Ireland's recommendations go through, and that remains to be confirmed.

120. If those recommendations go through, Belfast City Council will extend its boundary to take in parts of Castlereagh, Lisburn and a tiny part, I think, of North Down. However, it is not merging with the existing Lisburn or Castlereagh councils, and that legal difference needs to be reflected in the legislation. Otherwise, the Department might not have a clear power to make

special provision for circumstances in relation to ongoing, amicable discussions between Belfast City Council and the neighbouring Castlereagh and Lisburn councils. Therefore, the only substantive point about Part 2 of the Bill is that I would like the legislation to be clarified to ensure that that power exists. There is a simple legal mechanism to do that, which I have set out in my speaking notes, and which I will give to the Committee.

121. I do not want to pre-empt the Office of the Legislative Counsel, which would, I am sure, get extremely annoyed if I started to draft legislation. However, it would be extremely simple to put a new paragraph in clause 9 to the effect that the power of the Department to give directions in Chapter 2 and to make regulations in Chapter 3 will include the power to do so in relation to the circumstances of one or more specified councils. That is my main point. A simple legislative amendment could deal with that without upsetting anyone or creating a suggestion that there is an agenda, which there is not.

122. I hope that that is clear. The only other point that I wish to make concerns the powers in the enabling legislation to give directions to make regulations. We ask that the all the councils and the local government sector in general be consulted before any directions or regulations are finally made. There is a concern that there a set of regulations is waiting in the background to be issued as soon as the Bill comes into effect, without any further consultation with the local government sector. In order that we can be comforted that those concerns can be addressed, I ask that the local government sector be consulted. I do not speak for all sections of local government, but I think that local government in general would agree that consultation, as a general principle, is a good thing.

123. Clause 17, entitled "Severance payments to councillors", is an enabling provision. Kevin Heaney has submitted particular comments about severance. I do not need to go into those, but, in general, we have no problems with that issue. Severance will be dealt with by regulations; this is an enabling Bill. That is why I ask again that when the regulations are made, councils be consulted on the detail of the regulations so that they can make informed comment on the issue rather than simply issuing a high-level note.

124. I know that the Committee previously commented on the subject of clause 18, entitled "Acquisition of land otherwise than by agreement". The shorthand for that is "vest", which always gets people exercised. When the old Pollution Control and Local Government (Northern Ireland) Order 1978 was revoked by the Waste and Contaminated Land (Northern Ireland) Order 1996, a mistake happened, because the previously existing power to compulsorily acquire or vest land was dropped and was not reinstated. That has now been picked up in the Arc21 submissions, and both Arc21 and Belfast City Council are glad to note that that power has been reinstated. The power now extends to the regional subcommittees — Arc21 and the Southern Waste Management Partnership (SWaMP) — both of which have legislative status as joint committees. Therefore, Belfast City Council, as a member of Arc 21, would welcome that, as, I think, would SWaMP.

125. Tomorrow morning, I will attend a meeting of Belfast City Council's policy and resources committee to follow up on a query about clause 18 — whether it will mean that Arc21, for example, could vest land belonging to Belfast City Council. I have noted that that has been an issue in the past. The short answer is no; it could not. Under the terms of reference of the subregional waste groups, one of the principles, which I drafted, is about consensus, and it says that any big decisions have to be approved by all the partner councils. The conspiracy theory that Arc21 is going to vest Belfast City Council land does not stand.

126. I am sorry for the confusion about the document that we submitted from Kevin Heaney's office. I wanted to take the opportunity today to get the high-level points across rather than bore members with the detail of lawyers' drudgery.

127. The Chairperson: Thank you very much, Mr Quigley. When should the proposed waste Bill be in place in order to avoid the problems that you mentioned?

128. Mr Quigley: John Quinn is better placed to answer that. Through Arc21, we are embarking on the third phase of the procurement process. The procurement process is governed by European law, and, because of the amount of money that is involved, it is an extremely complex process.

129. We are about to kick off with the invitation to submit design solutions. I stand to be corrected by John Quinn, but I understand that Arc21, which is leading the field in all of this, has shortlisted three tenders, so it is getting serious. The three consortia involved in tendering will submit detailed design solutions, which will have to undergo a lengthy consideration process. However, it is now 2009, and my understanding is that, by next summer, we will enter into dialogue with lawyers to set up the contracts. Again, I stand to be corrected by John, but that means that the waste Bill needs to be in place by next summer.

130. When I talk about gaps in Part 1 of the Bill, although there are a number of supplementary points, I have identified two major issues that must be picked up. First, the joint committee, or groups of councils that are working together — Arc21 has 11 councils — will have to sign up as guarantors to big contracts. They will also have to give guarantees. Where is the legal power for, for example, Ballymena to give a warranty for, or guarantee, the business of Carrickfergus or Belfast? That is a major issue. I am concerned that lawyers on the other, counterpart side might raise that as a substantive issue, and, because of the current nervousness of the banks about their own situation, that might prejudice in some fashion the deliverability of those contracts. Therefore, I urge members to expedite the waste Bill as much as possible, although I understand that that is an argument for a different day.

131. Mr Weir: Thank you for your evidence, Ciaran. I shall begin with the acquisition powers. Some of us in the wider area of Arc21 would have been happy had the conspiracy theory been right. I do not know whether Mr Kinahan agrees. Nevertheless, your interpretation of how Arc21 works is quite right, and those who have a conspiracy theory that clause 18 will compel Belfast City Council to do particular things are fairly wide of the mark.

132. With respect to the widening of acquisition powers — last week, we heard evidence from Craigavon Borough Council, which holds a similar position on the matter — there is a lot of merit in what you suggest. However, to play devil's advocate, if that was felt to be a good idea, first, would there be an opportunity to put that wider power into subsequent legislation? Secondly, my only concern with widening that power is that when the Bill was put out for consultation, the urgent need to get it through became apparent. Therefore, were the Bill to be amended from having one specific power to a general-purpose power, there could be an argument that the whole thing would have to go out to consultation again, because such an amendment would go beyond a legislative-level amendment.

133. Mr Quigley: In our submission to the Department on the draft Bill, we picked up on that point. We said that, as a matter of principle, we would prefer the power to compulsorily acquire land to extend across a range of statutory functions. The existing legislation means that you have to look at various pieces of enabling legislation in order to discover whether a power to vest land exists. For example, you will find a power to vest in The Recreation and Youth Service (Northern Ireland) Order 1986, but when you look at other pieces of legislation, no such power exists. That touches on the power of general competence in dealing with land.

134. My view is that the matter should be picked up in the next RPA legislative phase, which is the reorganisation Bill. The reorganisation Bill will deal with the more constitutional issues of local government. It was supposed to have been out by now, but there has obviously been a

delay. It would probably not be feasible to deal with that power in this Bill, because that would lead to consultation problems and would perhaps delay the Bill, which no one wants. However, I stress that there are a lot of issues that need to be picked up in the reorganisation Bill.

135. I have argued previously for powers of general competence on the wide range of work that councils do. Not everyone agrees with that argument, and the riposte now is that a power of well-being will be granted through community-planning provisions. However, I believe that there is a difference between a power of well-being and a power of general competence. I may be ranting at the winds on the matter, but I maintain my position as a lawyer in local government. Power of well-being is fine and dandy as far as it goes, but local government should be given the means to go about its business in a proper, efficient and resourceful way. That means that it should have general powers in relation to its functions. I do not mean that local government should have continental-style powers to do anything that it wants to unless someone refuses. However, there should be a general power to do a range of things regarding its statutory functions; that is a slightly different point.

136. The Chairperson: Thank you.

137. Mr Weir: I have other questions.

138. The Chairperson: Will you make them as quick as possible?

139. Mr Weir: I thought that we were scrutinising legislation.

140. The issue of general competence and general well-being is a debate for another day. However, I was a little surprised by your comments about the impact of statutory transition committees on consultation with councils for two reasons. First, a list of questions containing detail on the specifics of governance and the constitution of statutory committees has already been sent to my, and presumably every other, council. Secondly, local government has drafted what will effectively form the basis of the regulations. Policy development panel A, which is composed entirely of local government councillors, drafted that. A member of Belfast City Council has always been one of the 10 people on that panel. The representative soul of the people who advise the panel comprises the chief executives of local government, so local government officers are also involved. The fruits of their labour have been sent to local councils, so I was a bit surprised by what you said about the regulations.

141. I suppose that Belfast is in a slightly grey area as regards its attitude to some aspects of the RPA. As you have acknowledged, it is not a merger, but a new legal entity will be created. I am not convinced that people in Lisburn or Castlereagh regard it as satisfactory that they will simply be assimilated into the new council. It almost bears the hallmarks of Germany's assimilation of Austria. Rather than simply taking the decisions and then consulting the people of Lisburn and Castlereagh, do you not believe that areas that are due to come into an enlarged Belfast council should be formally represented on any transition group in Belfast City Council?

142. Mr Quigley: I attended a couple of policy development panel A meetings, and I understand that it has drafted the principles and so on, and I have no problem with that. My only concern is to make sure, from a lawyer's point of view, that I see the detail of the regulations before they become law. It is my experience that the detail of legislation can sometimes depart from what people thought they were going to get. As a lawyer, therefore, I would like to have that opportunity on behalf of my council, Belfast City Council, to have a look at and to be consulted on that detail. That is the best practice that has been adopted by Departments over the years.

143. With regard to Lisburn and Castlereagh councils: I thought that "assimilation" was a kind word, because it sounded better and kinder than "incorporation" or "takeover". However,

whatever the word, I am sure that it will be a coming together in friendship and harmony.
[Laughter.]

144. In the spirit of that friendship and harmony, our chief executive convened an inaugural meeting a few weeks ago between representatives of Belfast, Castlereagh and the Castlereagh/Lisburn transition committee. Another meeting has been arranged for October.

145. I am glad to report that the discussions were friendly and noted the points that Mr Weir raised. There was consensus that we needed to take on board the issues that were raised. Belfast City Council's policy and resources committee is its transition committee. However, I think that we have tentatively agreed — and Kevin can correct me if I am wrong — that members from the Lisburn/Castlereagh transition committee will be on our transition committee. Have we agreed that?

146. Mr Kevin Heaney (Belfast City Council): No.

147. Mr Quigley: We have not agreed that? [Laughter.] I thought that I was getting away with that. I should not have brought you.

148. Mr Weir: You are starting to sound like the Executive.

149. Mr Quigley: We were going to negotiate with them; is that the case?

150. Mr Heaney: No —

151. The Chairperson: We are enjoying the craic, but if we could just keep to the business.

152. Mr Heaney: The current position is that there has been a joint agreement that there will be a joint committee forum of delegated representatives from the Lisburn/Castlereagh transition committee to the Belfast City Council transition committee. They will meet on a formal basis, initially every two months. They will then devise a joint programme of work, which we will talk about at our next meeting in October, to examine transition-related matters. Belfast City Council's response to the Local Government (Miscellaneous Provisions) Bill recommended that that type of engagement mechanism should be formalised in the legislation to ensure that —

153. Mr Weir: Will that body, in effect, become a transition committee for that area?

154. Mr Heaney: It will be a joint transition committee, representing Belfast council's transitional committee and the Lisburn/Castlereagh transition committee.

155. Mr Boylan: Thank you for your presentation, and I am glad to see that Belfast is not getting any special treatment. As an Armagh man, I would have taken a wee bit of offence at that. You spoke about consultation. Obviously, NILGA has been playing a major role, and the key is that councils are fully equipped to deliver those functions.

156. I am getting a sense that things are perhaps not going right. I am off the council now, but my understanding from council officers and panel members is that things are moving forward in consultation and discussion. Obviously, there is a time frame, but it seems to be going OK. Are you saying that there seem to be a few problems that we need to address, because time is of the essence; or do you feel that contributions from councils are not going so well on the ground? Local councils have the responsibility, and they played a major role in this. You spoke about proper consultation. I thought that a pretty good body of work was already ongoing.

157. Mr Quigley: I am talking about the consultation on the specific directions and regulations that are to be made. This legislation is, in large part, framework or enabling legislation. In other words, regulations and directions will be made or given under this legislation. I am simply saying that councils want to be consulted on the detail of that.

158. One hears different stories about relationships with NILGA. Belfast City Council works with NILGA, which carries out an important role on behalf of local government. I suppose that there are other sectoral interests, but Belfast City Council has worked closely with NILGA. Nora Winder from NILGA is here today to talk to the Committee. I have spoken to Nora in the past couple of days, and I am happy with what she is saying to the Committee.

159. Mr Boylan: Thank you; I just wanted clarification.

160. Mr Kinahan: You mentioned that we should ensure that councils are kept up to date on changes. I wonder whether we should give councils a monthly summary. I am concerned that if we tell councils about certain matters, we will end up re-discussing them a month later. Our council was concerned about being kept up to pace all the way through the RPA, particularly on waste matters. That area is so big that we were not always in the picture and, therefore, delays were more likely because we did not know what was happening.

161. The Chairperson: We can put that matter to the Committee when the witnesses leave.

162. Mr Dallat: My concerns have passed with the passage of time. I was worried that we would create an international incident between Germany and Austria. However, I am now convinced that it is Belfast and Castlereagh. [Laughter.]

163. The Chairperson: I thank the witness for the presentation.

164. We can deal with Mr Kinahan's comments about whether the Committee has a role to keep councils informed or whether that is a departmental responsibility.

165. Mr Boylan: That is why I sought clarification; work is ongoing, and NILGA is the body that should keep councils informed. Is Mr Kinahan saying that that is not happening? NILGA plays a major role and, perhaps, there is a gap that we do not know about.

166. The Chairperson: We can write to the Department to ask about its mechanisms for updating councils, whether through NILGA or by individual council.

167. Mr Beggs: We could place a large burden on our staff if we ask them to produce an additional set of briefing notes. We should, perhaps, make councils aware of the proceedings and how they can check our minutes and any documents that we have received. Someone who wants to follow matters more closely can do so. Other than that, it would place a big burden on our staff.

168. The Chairperson: We should, perhaps, write to the Department and ask about the current system. The NILGA representatives will, no doubt, read the transcript of today's meeting, and, if any gaps exist in that communication process, they will let us know. Do members agree with that approach?

Members indicated assent.

169. The Chairperson: We move to a briefing on the Local Government (Miscellaneous Provisions) Bill from NILGA and Arc21. I ask Committee staff to note members' declarations of

interest in relation to their council membership. Members will note that NILGA and Arc21 have similar views on the Bill and have asked that they be allowed to brief the Committee jointly. That may be helpful.

170. I welcome Councillor Joanne Bunting, chairperson of the RPA policy development panel A. She is a member of Castlereagh Borough Council. I also welcome my party colleague Councillor Shaun Gallagher, who is from Derry City Council and is chairperson of the NILGA waste working group. I welcome Ms Nora Winder, NILGA's director of policy and strategy, and Mr John Quinn, who is the chief executive of Arc21. You are all very welcome. You have 10 or 15 minutes to brief the Committee, after which we will take questions and comments from members. I invite you to make your presentation.

171. Councillor Shaun Gallagher (Northern Ireland Local Government Association/Arc21): Thank you and good morning, Chairperson. We are grateful for the opportunity to appear before the Committee and outline the local government position on the Local Government (Miscellaneous Provisions) Bill. The Bill has three parts: today, we will address the first two parts. John Quinn, chief executive of Arc21, and I will talk about council contracts. Councillor Joanne Bunting, chairperson of the RPA policy development panel A, and Ms Nora Winder, NILGA director of policy and strategy, will address local government reorganisation.

172. First, I will confirm that, on the whole, NILGA broadly supports the provisions of the Bill. We would, however, like to use this time to make a few specific comments. As chairperson of the NILGA waste working group, I want to raise some issues about additional powers that are being contemplated in the waste Bill and the provisions that are designed to remove any concerns that contractors and financiers might have about entering into long-term service contracts.

173. The Department is aware of our comments, as we had previously submitted them in response to the written consultation on the draft Bill and, more recently, to the consultation on the proposals for a waste Bill. Those comments relate in particular to the granting of warranties, guarantees and indemnities, and the granting of cross-indemnities and acceptance of joint and several liabilities. The preamble in respect of the formal consultation on the draft waste Bill made reference to pre-consultation discussions with local government prior to the earlier consultation on the draft Local Government (Contracts and Compulsory Purchase) Bill, now renamed the Local Government (Miscellaneous Provisions) Bill, in which the Department acknowledged that:

"the draft Bill may not provide sufficient assurances for prospective contractors and financiers."

174. In addition, it explains that the Department sought legal opinion which advised that:

"it would be very prudent (even if not essential) to make appropriate legislative provision in relation to these issues."

175. Those are the issues of guarantees, warranties, indemnities, and joint and several liability. Given the obvious critical nature of those elements, we are disappointed that those provisions have been omitted from the Local Government (Miscellaneous Provisions) Bill and are now being contemplated in the later draft waste Bill, despite strong representations by local government during the consultation. Unless there is a strong rationale for not doing so, we would encourage the Committee to consider inclusion in this Local Government Bill, rather than incur the inevitable delay which would result by deferral to the waste Bill.

176. We understand that Royal Assent for the Local Government (Miscellaneous Provisions) Bill is scheduled for November 2009, with the draft waste Bill following by June 2010. Alongside the issue of local government waste infrastructure procurement, those dates are likely to coincide

with the most intense dialogue stage of the tendering process for the waste management groups. From a commercial and competitive perspective, we believe that, although the June date is sufficient to allow financial close and award, the earlier date would potentially enhance the confidence of the bidders and financiers who will be selected to enter the final stage of those competitions and, hopefully therefore, contribute to the most economically advantageous solution. Furthermore, the earlier date would allow final bidders to undertake due diligence in a timely fashion and reduce the risk of timetable delay.

177. Consequently, unless the legislative process is deemed to be compromised or materially delayed by the inclusion of those elements in this Bill, we consider there to be commercial advantage in "banking" the additional vires more than six months earlier in the procurement process.

178. Accordingly, we seek the addition of the following elements into the Bill, subject to their inclusion not delaying or comprising the Bill's passage. First, the addition of a paragraph to clarify either that the councils/joint committees have express power to grant warranties, guarantees and indemnities, or that part 1 of the Bill should be extended to cover stakeholder agreements and collateral guarantees. Secondly, the addition of a paragraph to clarify that the councils/joint committees have express power to grant cross-indemnities and to accept joint and several liability, or that Part 1 of the Bill should be extended to cover stakeholder agreements and collateral guarantees.

179. I will now hand over to Councillor Joanne Bunting, who will outline further concerns, particularly in relation to work carried out by policy development panel A.

180. The Chairperson: Thank you, Councillor Gallagher.

181. Councillor S Gallagher: It was very technical.

182. The Chairperson: It has to be heard. Thank you.

183. Councillor Joanne Bunting (Northern Ireland Local Government Association/Arc21): Thank you for this opportunity. NILGA members, through their work on policy development panel A, developed proposals to inform the content of clause 14, entitled "Statutory transition committees: constitution". We are pleased that the Minister took the proposals on board and that he has reflected the panel's views in that clause. We fully support its implementation. That is all I have to say on the matter, so I will pass you to Nora Winder, who is the director of policy and strategy for NILGA.

184. The Chairperson: Thank you, Councillor Bunting. This is the point at which a number of us have to declare an interest. [Laughter.]

185. Ms Nora Winder (Northern Ireland Local Government Association/Arc21): With respect to clause 17, "Severance payments to councillors", at this stage, I would like to recognise that the National Association of Councillors (NAC) is taking the lead in lobbying for and agreeing a severance package for councillors. NILGA supports the NAC's position.

186. NILGA supports the provision in the Bill, but our members strongly endorse a centrally funded severance scheme, which must be introduced simultaneously with amended co-option legislation to allow councillors to make informed choices on the way forward. NILGA's members would urge the Department to liaise, as necessary, to ensure that the required legislation is put in place as a matter of urgency, and NILGA supports the view that the scheme should apply during the period from January 2010 until the date of the local government elections in May 2011. I shall pass you to Councillor Gallagher, who will sum up and finish the presentation.

187. Councillor S Gallagher: Much of the detail of the outworkings of the legislation will be set out in subsequent subordinate legislation. NILGA would strongly urge the Department to ensure that local government bodies are consulted, in accordance with good practice, in the drafting of relevant, detailed regulations.

188. We hope that our submission is considered favourably by the Committee, and our delegation is happy to answer any questions. If they are difficult ones, we will give them to John Quinn.

189. On behalf of the local government sector in Northern Ireland, I again wish to record our appreciation for the invitation to submit evidence to the Committee and, obviously, I thank you for the opportunity to address members today.

190. Mr Boylan: Thank you for your presentation. Nora, you are very welcome. Nora and I worked together on Armagh City Council. As I was co-opted out, I was wondering whether you have looked into that in the severance package. [Laughter.] I take that as a flat no, so there is no need to respond.

191. In light of the presentation concerning NILGA reporting back to councils and councillors properly understanding what is coming down the track, how is that relationship working and are you delivering on those goals? We need a proper, fit-for-purpose service, and we need people to be properly trained to deliver the new functions. I was wondering, therefore, whether all local councils are tied into the process from NILGA's point of view and how it is working. You may respond generally.

192. Councillor S Gallagher: In fairness, most councillors rely on NILGA to keep them informed about goings-on. Presently, there is good communication. Once a month, through NILGA, each elected member gets an update on what is happening in all the Committees and strands of government at Stormont. Since those updates have been introduced, it has been a lot easier to understand exactly what is going on.

193. Mr Boylan: Is there still a gap in filtering information from central government down, or is the body of work continuous?

194. Councillor Bunting: The strategic leadership board (SLB), which comprises members from central and local government, has developed a communication strategy. We recognised that there were some weaknesses in that area, so we developed a communication strategy, which should filter down to everybody. Obviously, we have no control on whether people read and pay heed to what they are given, but we have taken steps to ensure that as much information as possible is circulated and that people are afforded the opportunity to feed back. Likewise, we hold events; a capacity-building programme is envisaged. We hope that all those actions will address what has not been great communication to date, but which should now be greatly improved.

195. Mr Boylan: You have just raised another point. You are right: whether or not people read information, there are group leaders in each council, and they have a responsibility to report back.

196. Mr Weir: I see a lot of familiar faces here. Shaun, you spoke about additional powers and amendments. Am I right in thinking that your first preference would be for those additional powers to be incorporated into the Bill, and if the Department, for whatever reason, thought that that was not possible, the fallback position would be to put them in the proposed waste Bill? Is that the pecking order?

197. Councillor S Gallagher: Yes.

198. Mr Weir: OK. The Committee is dealing with the issue of enabling powers for the statutory transition committees, which do not go into great detail. The more detailed stuff about transition committees will be in the regulations. Could Joanne or Nora comment on what would constitute detailed transition guidance that would form the basis for regulations; what work has been ongoing on with policy development panel A and the SLB on how transition committees would be constituted and operate? What has been the level of local government involvement? What is the extent of political consensus on those issues?

199. The Chairperson: Easy questions there.

200. Councillor Bunting: Just those minor issues? NILGA looked at a number of issues. We considered the level of membership of transition committees and how people should be appointed. At one stage, the Minister asked us to consider whether the membership was producing the appropriate proportionality. He also asked us to look at whether the membership should follow the initial guidance, which was that each constituent council should have equal representation. We produced proposals, which said that our view was that there should be proportionate representation if we are to go forward in partnership and if there was not to be a feeling of one council taking over another.

201. That was not the position of all parties, but we stipulated in our discussions that, where a party position differed, that was recorded and sent further up the line, because it was important that party positions were recorded. We also looked at inclusivity in representation and ways to address that with regard to membership. We were acutely conscious that a democratic election had taken place, so we were trying to ensure that there was inclusivity and proportionality in accordance with a democratic election, and it was important that that principle was enshrined. To that end, we proposed a menu from which councils could choose: d'Hondt, Sainte-Laguë or single transferable vote (STV). Councils need to agree how they will progress that, and choose an option. If they cannot agree, the default mechanism is d'Hondt.

202. Another issue that arose during discussions about voluntary transition committees was that councils were using potentially different d'Hondt mechanisms, which caused concern. Therefore, NILGA recommended that whatever divisor method was used, it was applied consistently across each council in Northern Ireland.

203. The Chairperson: Did you say that one of the options that the Minister initially suggested was that each party be represented at a council level, but that you decided to produce a different menu? Did I pick that up correctly?

204. Councillor Bunting: It was not necessarily parties, but that there was proportionate representation of the membership of each constituent council.

205. Mr Weir: At one stage, there was an issue about, for instance, Coleraine being a lot bigger than Moyle, and whether there should, therefore, be five or six members from Coleraine and only two or three from Moyle. However, there is also the view that if councils of different sizes are merging, they are, nevertheless, all separate and different entities, and membership should be level. Was that the issue to which you were referring?

206. Councillor Bunting: Partly; yes. Part of the issue was that there was a maximum number of members on a transition committee, because, as you can appreciate, the larger the committee, the more difficult it becomes to have efficient and effective decision-making. Therefore, transition committees had a maximum of 16 members. That, for example, allowed Lisburn and Castlereagh to have eight members each. Where three councils were merging, it allowed those

councils to have a minimum of five members each. However, four councils were merging in the Causeway Coast group, and they were only afforded perhaps four members each. We moved to a position that allowed the Causeway Coast group to have 20 members, so that each council was afforded the equivalent minimum number of members.

207. The Chairperson: Gender balance was mentioned at a conference yesterday, but I am very pleased to see you here today.

208. Councillor S Gallagher: We are very balanced. [Laughter.]

209. The Chairperson: We are talking about reflecting the wider population, and 51% of the population is female. I appreciate that it is up to parties to put forward candidates, but what steps will councils be encouraged to take to ensure gender balance?

210. Councillor Bunting: It is not for us to dictate who parties and councils nominate. We like to think that people consider issues such as gender balance, but that is not in our gift.

211. Mr Weir: In addition to discussion on composition, there has been discussion on the powers, operation and checks and balances of the transition committees. More broadly, I appreciate that there may occasionally be differences of opinion across the five political parties that are involved. What is the level of overall consensus on the issues?

212. Councillor Bunting: Are you asking about consensus on the checks and balances?

213. Mr Weir: I am asking about consensus on the general operation of the transition committees, because, presumably, that will be the basis of the regulations.

214. Councillor Bunting: There are a number of issues tied in with that, and I will try to make my answer as brief as possible. It is quite detailed, so bear with me.

215. The Chairperson: If you want, you can supply the Committee with the detailed answer later.

216. Mr Weir: It would be useful to get that detail in writing. However, has there been broad consensus on the general powers and work streams of the transition committees, or has there been a wide divergence of views?

217. Councillor Bunting: It has, more or less, been agreed by everyone. There were a couple of very minor exceptions, and those were recorded. Where there were exceptions and party positions were recorded, it is important to note that any agreement was cross-community. To date, there have never been circumstances in which unionists have taken one view and nationalists have taken another. There were general differences in party views, but those were minimal. By and large, the panel has worked extremely well on governance. We have, generally, found consensus.

218. The Chairperson: I think that that answers Mr Weir's question. I am happy to accept a more detailed response later.

219. Mr Kinahan: We raised concerns with the previous witnesses about the gap in the information reaching councils. I congratulate you on your very good circulation of information. However, in Antrim Borough Council, we have quite often found that not every councillor was up to speed when we reached a council meeting. Not every councillor had read everything, and decisions were being overturned or stalled. It meant that a thorough summary was required at

every main council meeting, and I assume that that happens elsewhere. You may have sent the information to Antrim Borough Council in every conceivable form, but it had not been read, and the debate often got carried by whoever was in attendance. We need a thorough way of briefing.

220. My second point concerns the acceptance of joint and several liability, although I am not a fully trained lawyer such as Mr Weir and others. A council may not want to agree to something, but they will all have to act as part of Arc21. Surely that council will have to agree, because all the councils will have signed up to joint and several liability?

221. Mr Quinn: That point is academic as far as the current regime is concerned. It affects joint committee structures, which concerns two of the three groups. The arrangement in both those groups is to have a supplemental agreement to the collaboration agreement, which is the joint committees' constitution. That has already been agreed by the member councils. Those points have already been addressed in the current governance arrangements; it is simply a matter of copper-fastening them in statute.

222. The Chairperson: Ms Winder, do you want to address the issue of communication? That is what Mr Kinahan was addressing; he was asking for a better summary. Will Councillor Bunting answer that question?

223. Councillor Bunting: Just so that I am clear, Chairperson: I presume that members are referring to decisions that are made by the voluntary transition committee. The minutes go back to the relevant council, which then decides whether the committee has gone too far.

224. Mr Kinahan: It takes various forms. It also applies to decisions about waste that are coming through from Arc21 and the transition committees. The danger always seemed to exist that if certain councillors were there and others were not, decisions were being overturned. Therefore, communication is vital; we must find a means by which everyone knows what is happening. It comes down to a briefing at the relevant council meeting.

225. Councillor S Gallagher: In fairness, Chairperson, waste management can be an emotive issue for councils. In my experience, every sore head has an opinion and expertise on waste management. Unfortunately, if that agenda gets ahead of the real agenda, it can create serious delays. The waste management groups and people like me have to remember that Europe has put down stringent deadlines for recycling and environmental impact measures, and rightly so. We should not get away from that. There will be difficulties and delays, but the bottom line is that there are no landfill sites left. We cannot throw waste on the ground anymore; we have to process it and learn to recycle. Government could do more to get that message out, because there is a gap there.

226. One example that I gave the Minister is that the Wake up to Waste campaign of a few years ago increased recycling by 7.5%. That is value for money in my opinion. In order for us to reach our targets, central government must come up to the mark. I know that there is a credit crunch, but people must be educated. Following that, councillors will realise what the broader issues are, and will hopefully get the message. I agree what has been said; if the message falls in the wrong place, it can get lost.

227. Mr Ross: Not being a councillor, I am happy to talk about severance pay.

228. Mr Weir: You might get lynched outside.

229. Mr Ross: I might.

230. You said that you were happy to run from January 2010 until the date of an election. In part, severance is designed to recognise the service of councillors throughout the years, which is the correct thing to do. However, there is also the issue of those who were not going to stand for election to the new councils. Obviously, there must be co-option legislation in place to allow them to stand down, but then we can get new people in and build their capacity and knowledge in readiness for the new councils to go live.

231. Is there not a danger that, in running severance pay right up to the date of an election, councillors who have no intention of standing for the new councils will not stand down, even if the co-option legislation is in place? Was any thought given to making that window smaller, so that, if the co-option legislation is in place, those who are not going to stand will step away before the election so that new blood can be brought in?

232. Councillor S Gallagher: Most of the political parties will go through a selection process during that period. For example, SDLP councillors are required to say whether we wish to stay on or take whatever package is available. Most political parties will work in the same way. The argument about the time period also allows political parties to bring in new people and give them an opportunity to see what they are getting into. That is a good idea, because I worry that we could lose all our good people in local government overnight if they all decide to go. A lot of experience could walk out the door. My point of view is biased, but over the past 30 years of the Troubles, local government kept the Province going.

233. Very few elected councillors have not experienced some impact on their private and home life. Some have experienced threats and so on. The bottom line is that we must recognise that. We all know that it is not a nine-to-five job and that in the past few months some people have adopted a kick-a-politician attitude. The bottom line is that an awful lot of people work very hard in local government; unfortunately, that is overlooked. That message has been lost during the past six months.

234. My worry is that people who make a positive contribution to local government will have had enough and will walk away from their role. The political parties have a job to do to convince the people whom they want to keep in local government to stay. It is in the interests of the Assembly to have strong local government. Once the situation beds down, the Assembly will benefit from strong local government.

235. Mr Ross: I am not disputing the fact that we need strong local government, nor am I disputing the severance scheme. I am asking whether it would be beneficial to narrow the window of opportunity. Parties, of course, have responsibilities. However, we must ensure that new members receive training for the new councils, which have a responsibility to be up to speed on matters once the new system goes live. Would narrowing the window not be beneficial?

236. Ms Winder: There is an issue of capacity. We are embarking on a major reform process in local government. If we lose all our councillors in one swoop, in January 2010, many people will need to get up to speed very quickly. We must not underestimate the size of the reform programme and the short time period. Therefore, by phasing in the severance scheme throughout 2010 and up to May 2011, the sector retains the capacity to oversee the change process for as long as possible.

237. The Chairperson: A couple of members want to comment on the same point; please keep your comments brief.

238. Mr Kinahan: I know that we are held back by being councillors. I am a councillor in Antrim Borough Council. However, I have only been there for four years, so am not included in the

severance package. I take on board your comments that people who have been there for years know why councils made decisions and know the route that they have taken. We should, perhaps, consider a way to allow them to remain in a council as, for example, honorary members. That would allow them to remain in the system but not have a vote, allowing the councils to call on their experience, at least. That way, you would not kick them out the door and lose them.

239. Mr Dallat: My understanding is that the severance arrangement has more to do with creating space for new members who plan to spend a lot of time in new councils, rather than simply to reward those who have been there for a long time. I am somewhat confused about that now. It is best to resolve the severance issue as soon as possible to allow those who want to leave to do so.

240. Earlier, we mentioned the fact that the proposed Causeway Coast and Glens district council will have four extra representatives. Two of those four councillors are currently nationalist, but will become one big unionist. It is not often you get the opportunity to plan your own funeral; perhaps the extra places were deserved.

241. Councillor S Gallagher: We must recognise long-term service in local government. The balance must be found to allow new blood to come in and to create new opportunities. Hopefully, politics will be appealing enough to attract the right kind of new blood.

242. Mr Beggs: I have a question for John Quinn. Aspects of the Bill were designed to give confidence and assurances to the contractors and financiers who will build the new waste-management infrastructure. It has been indicated that it all needs to be finalised by June 2010. Earlier today, Ciaran Quigley from Belfast City Council said that Arc21 could proceed with a site only with the approval of individual councils. That is his interpretation of the guiding rules of Arc21. Does the current arrangement in which you have to operate enable a site to be established?

243. Will the necessary confidence be available for — [Inaudible due to mobile phone interference.] If you do not have a site, you do not have a plan, and nothing can happen.

244. Mr Quinn: We have a raft of sites at our disposal. The issue about our governance relates to the issue of consensus around any major decision, including that of releasing a site that is in council ownership for waste-management purposes. That is only one of a range of decisions that require consensus. In a democratic process, the converse is that any council has a veto for those major decisions, including contract award.

245. That, I guess, can militate against an expeditious decision-making process in one organisation in which there are 11 — [Inaudible due to mobile phone interference.] To date, those governance arrangements in all three groups have worked very well. The issues specific to — [Inaudible due to mobile phone interference.] The Belfast situation as referred to by Ciaran Quigley relate to the authority of a council to make available a site. In this case, Belfast City Council decided not to make its site available. However, that does not mean that there are not other sites in the public or private domain.

246. Mr Beggs: Are you confident that you will be able to get approval for sites from owners so that the deadlines can be met at affordable prices?

247. Mr Quinn: Yes.

248. Mr Boylan: I have just one issue on which I need clarification, because the Committee will discuss in a moment how the Assembly can help his process.

249. Mr Kinahan said that reform is a major body of work, and we need to have local government staff fully trained in order to implement it. The Chairperson spoke about the role that local government has played. I am mindful that people out there are very busy, especially during the evenings. However, I am seriously concerned that the message seems not be getting across.

250. Is the greater part of the message getting across, whether through group leaders or whoever? I know that individual councillors will dispute different issues, but it is important for the Committee to have an understanding, because we will make a decision whether the message is being effectively communicated and how we can help in the communication process.

251. The Chairperson: With regard to communication and getting messages across, I have been informed that someone has their mobile phone on, and it is continuing to affect the recording system.

252. Mr Dallat: Chairperson, I can tell you every occasion that a phone rings, because I cannot hear anything. Under Section 75, and the provision of the loop system, I am entitled to know what is going on here, and I cannot hear because there is constant buzzing in my ear. That is unfair.

253. The Chairperson: I hope that the guilty party will take note, if any, but that message came from Hansard. People must turn off their mobile phones, please — not only for Hansard, but in order to allow Mr Dallat to hear.

254. Mr Dallat: Well, if it continues, I will have to find out what my rights are in here. This is the only Committee in which I have experienced the problem.

255. The Chairperson: OK.

256. Ms Winder: I will give an overview of the way in which NILGA has attempted to include people. From a local government point of view, a lot of member and officer time has been devoted to policy development when working with the strategic leadership board on the reform process over the past year. We have tried, as far as possible, through the communication strategy, to ensure that the detail of what has been agreed is available for access by everyone involved with the process. There is information on the DOE and NILGA websites.

257. In addition, a monthly update on the reform programme is sent to all councillors and all councils, as well as a NILGA update, which gives a general overview of what is happening in local government.

258. A 12-month review was carried out of the strategic leadership board and the policy development panels. Although final agreement has to be reached on that report at the next SLB meeting on 16 October, there is general agreement on the development of a regional transition committee that will come into effect when transition committees become statutory. The regional transition committee would have a representative from each of the new 11 council areas. We hope that that will build the capacity and improve the communications flow so that messages go directly back to the transition committees that will have to make decisions.

259. Throughout the process, we are continually trying to improve on communications, and we take on board the point that was made earlier, which I will bring back as a summary. Unfortunately, however, some of these matters are very detailed, and some of that detail is lost if it is summarised too much.

260. Councillor S Gallagher: I find the Assembly's website a bit difficult to use. It could be a lot more user-friendly. I admit that I am not very IT literate, but perhaps that website could be looked at.

261. The Chairperson: The Committee agreed earlier to write to the Department about communication issues, and we will mention the website.

262. I thank you all for coming along and for your contributions.

24 September 2009

Members present for all or part of the proceedings:

Mrs Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr David Ford

Mr Danny Kinahan

Mr Ian McCrea

Mr Alastair Ross

Mr Peter Weir

Witnesses:

Ms Sonya McAnulla

Councillor Ross

Hussey

Councillor Sean

Clarke

Omagh District Council

Mr Jim Stewart

Mr Tommy McCormick

Mr Ivan Gregg

Ms Oonagh Warke

Department of the Environment

263. The Chairperson (Mrs D Kelly): I invite the witnesses from Omagh District Council to come forward. They are Sonya McAnulla, policy officer for Omagh District Council; Councillor Ross Hussey from the Ulster Unionist Party; Councillor Clive McFarland from the Democratic Unionist Party; and Councillor Sean Clarke from Sinn Féin. We have received an apology from Councillor Pat McDonnell who was to have been here. You are all very welcome. You will have between 10 and 15 minutes to brief the Committee and then take questions from members.

264. Mr Kinahan: I declare an interest as a substitute member of Arc21. I am also a member of Antrim Borough Council.

265. Mr Beggs: I declare an interest as a member of Carrickfergus Borough Council.

266. Mr Weir: I declare an interest as a member of North Down Borough Council, as vice chairperson of the Northern Ireland Local Government Association (NILGA) and as a member of policy development panel A.

267. Mr I McCrea: I declare an interest as a member of Cookstown District Council.

268. Mr Ford: I declare an interest as a member of Antrim Borough Council.

269. The Chairperson: I declare an interest as a member of Craigavon Borough Council.

270. Councillor S Clarke (Omagh District Council): Councillor McFarland is not here, although he works in the building for one of the parties, so he may turn up yet.

271. Mr Weir: I sincerely hope that it is our party that he is working for. [Laughter.]

272. Councillor S Clarke: On behalf of Omagh District Council, I thank the Committee for the Environment for inviting us to present oral evidence on the Local Government (Miscellaneous Provisions) Bill. As you are aware, Omagh District Council responded to the public consultation on the Local Government (Miscellaneous Provisions) Bill. This morning, we will reiterate some of the points that are set out in our written submission, and we will amplify some of the council's comments and recommendations.

273. Omagh District Council notes the need for the legislative framework, but it will be the regulations that will fully inform the implementation of the Bill's statutory duties. We are keen to establish how and when consultation on the regulations that relate to the Bill will take place. The council wants to be consulted on those regulations, as, indeed, I am sure that all councils will want to be consulted.

274. Ms Sonya McAnulla (Omagh District Council): We will present oral evidence in accordance with the three Parts of the Bill. Councillor Hussey will deal with Part 1: "contracts of councils" and local government reorganisation.

275. Councillor Ross Hussey (Omagh District Council): Omagh District Council notes the content of part one of the Bill and recognises the need for a robust statutory basis on which to procure the significant contracts that will be required, particularly in relation to waste infrastructure. The proposed legislation sets out the powers that permit councils to enter into contracts in connection with the discharge of their functions. Those will include contracts for the provision of waste management infrastructure. We believe that it is imperative that the necessary waste infrastructure is put in place to ensure that councils meet European targets and avoid punitive fines. That is also necessary to ensure that the procurement process takes place in a competitive market environment in which bidders can be assured that contract uncertainty is minimised.

276. Regarding local government reorganisation, Omagh District Council notes that, in order to regulate the implementation of the review of public administration (RPA), the Department is taking considerable powers to itself without any formal commitment to listen to the views of local government. Those powers relate to a range of matters such as governance, finance and staff; a specific example is governance for transition committees in new councils.

277. The policy development panels have given careful consideration to those matters, and there is broad agreement on the use of proportionality in governance structures. However, the draft legislation gives no commitment to that fundamental principle. The council recommends that the Local Government (Miscellaneous Provisions) Bill should give a clear commitment to the principle of proportionality. The details of that can be developed further after appropriate consultation on the regulations.

278. Ms McAnulla: Chapter 2 relates to the control of disposals and contracts of existing councils. Omagh District Council strongly recommends that the transition committees have a consultative

role, rather than the power to direct, in the business and finances of the constituent councils in the year preceding the establishment of the new councils.

279. The existing 26 councils were elected to make decisions in the best interests of their communities and to develop and see plans through to fruition. Therefore, where councils have taken corporate decisions on land disposal, or made significant progress towards capital or non-capital contracts as part of a corporate or business plan, they should be allowed to proceed in a proper, democratic way without the Minister, the Department or the statutory transition committees having the power to veto such established plans. Any decisions taken by a constituent council which are within its plans and identified as continuing to meet the needs and priorities of its community, and which pre-date the Minister's announcement of 31 March 2008, should be permitted to proceed, with transition committees being informed rather than being given a veto.

280. In respect of Chapter 3, Omagh District Council notes clause 14, relating to the constitution of the statutory transition committees. The council reiterates its support for committees to comprise equal representation from each constituent council, and it believes that 16 members is the optimum requirement — with the exception of Belfast City Council and the Causeway group, whose unique circumstances indicate an optimum number of 20.

281. Omagh District Council supports proportionality and inclusivity in the representation on the transition committees and recommends the use of d'Hondt, in the first instance, or Sainte-Laguë to ensure inclusivity. We do not support use of the single transferable vote. The council would like further clarity on what provisions the regulations will make regarding the election of the chairperson and his or her tenure.

282. Omagh District Council opposes the chairperson having a casting vote and advocates that agreement on decisions or recommendations should be by consensus. The council would support the use of call-in and qualified majority voting as a check-and-balances safeguard.

283. Omagh District Council agrees with the statutory transition committee functions set out in clause 15. We would, however, point out the importance of including in the legislation a provision to empower statutory transition committees to develop new plans that incorporate the vision and priorities for the new council, particularly the power to prepare a community plan and a pilot area plan for the new municipal area. The council recommends that the legislation also provides the powers for the statutory transition committee to take decisions on naming the new council and to determine its headquarters.

284. I will hand over to Councillor Hussey to talk about the provisions relating to severance payments to councillors.

285. Councillor Hussey: Omagh District Council welcomes a severance scheme for councillors to recognise the time spent serving the public, in some cases for decades. Local government was the only democratic forum that operated throughout the Troubles, with significant decision-making and progress falling to local representatives. It is, therefore, fitting to recognise their significant contribution in bringing Northern Ireland to where it is today. It is also fitting to recognise that local government is now opening up to new and challenging responsibilities that demand different skills and attributes from councillors. It is, therefore, allowing new people to enter and to contribute to local government in a new era.

286. Although the council recognises that the detail of the severance arrangements will be in the regulations, it requests an amendment to Clause 17(1), which states that the regulations:

"provide for the making by an existing district council of payments ("severance payments")".

287. Although the Council notes that the detail of the severance arrangements will be set out in the regulations, Omagh District Council recommends that clause 17 should be amended to recognise that — as the reorganisation of local government is a central government initiative — the cost of the severance scheme should be met by central government.

288. Omagh District Council awaits the details on criteria, the methods of calculating payments and the procedure for applying for the severance payment. However, with reference to the detail, the council recommends that a minimum of one council term, or four years, should be the period of service required for someone to be eligible for a severance award. The council also recommends that the next of kin should receive the severance reward where a councillor has died in post and that MLAs, MPs, MEPs and members of the House of Lords should not be eligible for a severance award. However, it advocates that consideration should be given to an incentive for MLAs to vacate their council posts.

289. The council agrees with clause 17(3), which inserts a new paragraph (f) into section 4(1) of the Local Government Act (Northern Ireland) 1972, meaning that persons who receive severance payments are disqualified from being elected or from being a councillor. Furthermore, the council recommends that a clause be inserted into the Bill that would mean that if the recipient of a severance award wished to return to local Government at a future date as an elected representative, he or she would have to repay the award in full.

290. Ms McAnulla: Omagh District Council notes and agrees with the clauses as set out in Part 3 of the Bill which is entitled "Miscellaneous and Supplementary." The council particularly welcomes the inclusion of clause 18 which relates to giving councils powers to vest land for the purpose of Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997. Indeed, the need for such a provision was originally raised by Omagh District Council, and the council welcomes the swift and appropriate action that the Department has taken to amend the legislation in that respect.

291. Councillor S Clarke: On behalf of Omagh District Council, I would like to again thank the Committee for inviting us here today and for listening to our oral submission. The Council hopes that the Committee will give careful consideration to its written submission and oral evidence in its final deliberations on this very important piece of legislation. The Council also asks that the progression of the Bill to statutory status is dealt with quickly, because any delay its implementation would be detrimental to the social and economic development of our existing communities.

292. In conclusion, I remind the Committee of the council's request that further consultation takes place with local government prior to the finalisation of the subordinate regulations. We will now be happy to take any questions from the Committee. Thank you very much.

293. The Chairperson: Thank you for a very concise presentation. I note with interest the council's concerns on the relationship between the transition committees and the existing councils, and I am sure that Committee members will have some questions to put to the witnesses.

294. Mr Ross: Councillor Hussey spoke about the severance element of the Bill and said that severance should be paid for two reasons: long service and to encourage people to step down and allow new blood into the councils. On the first reason, Councillor Hussey stated that he believed that someone should be in post for one term to be eligible for severance pay. Will the public really accept that a councillor who has only been in post for four years will have given long service?

295. Councillor Hussey: The length of, and what constitutes, a term is what we are talking about. Our argument is that someone must have served at least one term, and someone who has come in for six months would obviously be excluded from any formal recompense. We are arguing for one full term.

296. Mr Ross: So, if you were elected in 2005 —

297. Councillor Hussey: The decision of what constitutes a term must be made by the Committee and the Assembly.

298. Mr Ross: What is your council's view? Are you saying —

299. Councillor Hussey: The council has recommended that anyone who has served for at least one term should be considered and given the opportunity to apply. It is highly unlikely that such a person will do so, because that may be his or her first foot on the ladder. However, we have recommended one term.

300. Mr Ross: As regards getting new blood into the councils, if severance payments were to be introduced by the Assembly, should eligibility run right up to the date of the next election, or should the window of opportunity be much tighter?

301. Councillor Hussey: The council did not set a scale on that, but I, personally, believe that it is something that should be done sooner rather than later. People who wish to leave should be given a set date and allowed to leave on that date, thereby allowing someone else to gain some experience of local government before an election. That is my personal opinion. The council has not given that as an answer.

302. Mr Ross: Would the closing date be before the next election?

303. Councillor Hussey: The closing date would have to be before the next election, because someone might say well maybe I will run, but if I do not get elected, I will apply for the severance package. That is not to say that people would do that; all politicians are, of course, very honourable people.

304. Mr Weir: The Chairperson called me after a reference to "honourable people". I thought that I had switched on to an episode of 'Family Guy', but it is actually Omagh District Council. [Laughter.]

305. Councillor Hussey: Go for it, Peter; do anything that you can to help my profile. Of course, you are called Peter.

306. Mr Weir: I am not sure who would volunteer to be Stewie or Brian, but that is another matter.

307. Thank you for the comprehensive coverage of the various aspects of the Bill. You mentioned the role of transition committees. In the next year or two, we will all have to tackle the inevitable level of tension that will arise from the transitions committees' role vis-à-vis the existing councils and how they fit into the new councils. I note that you responded to the consultation document with the idea of a consultative role, rather than a veto role, on the budget for the year preceding the establishment of the new council.

308. I note that the legislation, if I am reading it correctly, does not tie down a particular timescale. Clause 10 states:

"The Department may direct that, with effect from a specified date, an existing council shall not".

309. The legislation considers that the approval of the transition committee will kick in at an unspecified date. Do you feel that the transition committees should have only a consultative role on the budget for the year before transition, or is there a point at which the consultative role should morph into a veto role? Should the existing councils have complete powers to set budgets and capital contracts in the future right up to the day of their dissolution, or do you simply feel that it is premature for transition committees to have a role in the agreement of the budget for the year preceding the new council?

310. Councillor Hussey: I will express my opinion and, if my colleagues disagree, Sonya will kick me and Sean will hang me. Omagh District Council was elected to serve for a term. That term has been extended until May 2011, and the council should have authority to exercise its role until that date. That answers the question.

311. Mr Weir: Leaving aside the fact that next year's budget will be dealt with by the existing 26 councils, including Omagh, some budgetary decisions will, presumably, have to be taken for the financial year that begins in April 2011. The new councils will be responsible for the implementation, oversight and development of that budget. The work on setting the budget for 2011-12 must be done prior to the establishment of the new councils. However, that budget will, effectively, be the responsibility of the new councils. Will that work be done by the transition committee or Omagh District Council?

312. Councillor Hussey: Again, the transition committees will have a role. Had a shadow council had been elected prior to transition, it would have resolved a lot of those issues, because it would have had authority to move forward. There must be an element of consultation and we must work together on that issue.

313. Mr Weir: You mentioned — I suppose it is a slightly separate issue — the range of issues as regards governance of transition committees. You highlighted your views on several areas of government, which will be subject to regulations. However, I note that you questioned the way in which the chairperson's position would work. This perhaps relates to the concern about communication, and I appreciate that the regulations have not yet been released. However, policy development panel A, which deals with governance, has reached agreement on how that chairpersonship would operate. One of the Omagh councillors is a vice-chairman of that panel. Is it the case that you wish to know which items of governance have been agreed on by the parties to be put into the regulations? Is that the position with regard to governance, as opposed to, in a sense, not knowing what would happen?

314. Councillor Hussey: Yes, that is the case.

315. Mr Ford: I welcome the delegation. I wanted to follow up Peter's point about clause 10 and the references to the powers of transition committees. I am not a member of the Antrim/Newtownabbey transition committee, but I know that informal discussions about the capital programmes of both councils have taken place and that there has been a measure of agreement. It seems to me that, in most cases, there is an acceptance that there is a role for the transition committee. Omagh District Council is the key voice that is saying that there should not be such a role. Are there reasons particular to Omagh that have led you to identify problems that other people have not?

316. Councillor S Clarke: We are not saying that transition committees should not have a role; we are saying that they should not have a veto. There are developments that we would like to take forward.

317. Mr Ford: There are developments that we in Antrim would like to take forward, but we accept that, in the current circumstances, we will discuss them with our Newtownabbey colleagues. Do you foresee particular problems? Is Fermanagh District Council opposed to capital programmes going ahead in Omagh? What is the issue?

318. Councillor S Clarke: I do not think that Fermanagh District Council would be opposed to anything that we do.

319. Ms McAnulla: It is probably more to do with the fact that both councils have a corporate plan in place and that we have told our constituents that we will follow that plan until 2010. Some of those projects, in both council areas, were agreed last year or the year before and have not yet come to fruition. It is a case of wanting to take those projects to completion, rather than having a statutory commission making decisions in favour of either Fermanagh District Council or Omagh District Council, or being unable to make progress for financial reasons or other issues. It is from that perspective that we are saying that a consultative role would be appropriate; we would, however, be concerned about a veto.

320. Mr Ford: Turning to governance, it appears that there is a similar muddle. As I understand it, you specifically said that you did not want the chairperson of a transition committee to have a casting vote and that you wanted the transition committee to proceed by consensus. We all appreciate that working by consensus is a good thing if it can be achieved. However, it is not always achieved, whether in a district council, the Assembly or this Committee. There has to be some mechanism, if there is no consensus. Yet you seem to be saying, "let us have consensus", without recognising that it might not be possible.

321. Councillor S Clarke: In our presentation to the Committee we said that there can be consensus, and that we would consider call-in or qualified majority voting. We are saying that a simple majority of one should not be enough to make a decision. There should be a mechanism by which a decision can be reached that is not simply 50% plus one.

322. Mr Ford: In the context of a transition committee, which has to go through business in a relatively short time, if a decision cannot be achieved with 50% plus one, a two-thirds majority will probably not be achieved either. That is a recipe for delay when there is already an enormous number of significant and serious decisions that have to be taken in a very short timescale, over the next 18 months.

323. Mr Boylan: Thank you for your presentation. Each council area has a corporate plan, but I can see a problem emerging if a decision is made about a project at one end of the district council area that is linked to a neighbouring district council. A super council may take in three former council areas, and a community at one end of a council area may end up being excluded from a decision-making process because it does not form part of the corporate plan.

324. You have your own corporate plan, and that, perhaps, is where the transition committee role is important. It is OK if you are dealing with issues that are right bang in the centre of your own district at present, but if those issues border on another district council area, and you were to decide, for example, to vest land, then the people on the periphery would have issues.

325. Councillor S Clarke: We recognise that there could be a problem. We are not saying that that is why we are only councillors while others are MLAs, and it is up to them to work it out. However, we are still convinced that a veto is not the way forward. We would consult with Fermanagh council about matters on the Omagh/Fermanagh border. For example, it does not make sense to have something in Dromore and something in Irvinestown. Councils have to be sensible about that, too. The other end of the district, for example, is totally divorced from Fermanagh.

326. Mr Boylan: Obviously, you have considered that.

327. Mr Dallat: Again, I welcome the delegation. I could not agree more that vetoes are a disaster, no matter where they are. The council is entirely justified in ensuring that they are not introduced. When I was, rudely, out getting the correct files, you referred to the Causeway group.

328. Ms McAnulla: We said that we accept that 16 representatives would be optimum number for most transition committees, with the exception of Belfast City Council and the Causeway group, which would have up to 20.

329. Mr Dallat: You are aware, of course, that the Causeway group includes two councils that are currently under nationalist control, which will be gerrymandered into a new unionist council. Anyway, we will skip that. I am defeating my own argument here: the severance scheme or scrappage scheme — which is it?

330. Councillor Hussey: Severance scheme. [Laughter.] If we scrap them, do we have to cremate them?

331. Mr Dallat: Well, Belfast is the only place where you can do that at the moment.

332. Councillor Hussey: Maybe a special deal can be arranged.

333. Mr Dallat: Scrappage is a terrible term, but it was used unfairly in the South about long-standing councillors who gave a lot of service. You referred to MLAs — this is not of a personal interest whatsoever; it means nothing to me — but what is your view on someone who sat for 20 or 30 years on a council and came into this wonderful place for, let us say, a couple of years? Would they qualify for severance or have they immediately ruled themselves out?

334. Councillor Hussey: Our understanding or opinion would be that they rule themselves out automatically once they become an honourable MLA.

335. Mr Dallat: It is highly questionable whether we use the term "honourable". That could cause more political problems. [Laughter.]

336. Mr Weir: Speak for yourself, John.

337. Councillor Hussey: I was, of course, speaking only about the members of this Committee.

338. Mr Dallat: Chairperson, I am wasting your time. Please continue.

339. The Chairperson: Thank you very much.

340. Mr Beggs: Again, thank you for your presentation. Is it the case that you thought that the Department should not have a role in determining expenditure if the council decided to buy certain assets?

341. Ms McAnulla: We felt that there should be a consultative role rather than a veto role by the Minister, the Department or the statutory transition committee.

342. Mr Beggs: There are significant safeguards in having that considerable role. The Department has that role at present, and, for that matter, if any government Department wants to have any significant expenditure, it must be approved by DFP and checked out by the

Gateway Review process. Why is Omagh District Council opposed to an independent review? Councils, or anyone, can make mistakes and get carried away with their projects and perhaps not see a bigger picture. Sometimes, there are advantages in having someone independent coming in and double checking things, because expenditure will have a significant effect on ratepayers. Why do you oppose that role being continued under the RPA?

343. Councillor Hussey: Did you not receive a copy of the script, Roy?

344. Mr Beggs: I said that it was in your oral presentation; I did not see the answer in the written submission.

345. The Chairperson: We do not have your oral presentation. However, today's session is being recorded by Hansard, and a transcript will be available later. If you are unable to answer any questions today, you can forward additional information to the Committee for consideration.

346. Councillor Hussey: We will do that.

347. Mr Beggs: As a local councillor who is not on a statutory transition committee, I have a degree of resentment that those committees will have budgetary authority. I prefer the shadow mode that was mentioned earlier. Nevertheless, I understand the position. That budgetary responsibility should be a key role because, without that deciding role through the transition committee process, we run the risk that each council will push ahead with its expenditure plans and, in two years time, will reach a point where pricing mechanisms for leisure centres or commercial bin collections are suddenly out of kilter. At that point, significant differences between council areas will be unjustifiable because the councils will have amalgamated and the same pricing regime will have to apply throughout the whole new areas.

348. There are less than two years to run in this council term. A new capital expenditure asset on property will be expected to last for 25 to 30 years, and all ratepayers in the new area will pay for that expenditure. Therefore, is it not reasonable for transition committees to have a role in agreeing future capital expenditure and disposal of assets that may be required by the new joint authority?

349. Ms McAnulla: We would prefer that the transition committees do not have the power to veto a capital expenditure project that has been significantly advanced by an existing council. By all means, we expect the statutory transition committees to have an input into decisions that are taken for the new council areas. We are talking specifically about projects that are well advanced.

350. Councillor S Clarke: We are talking about projects that we have prioritised. We are not saying that we should go crazy and start spending. The council has unanimously agreed certain priorities, which, unfortunately, will not be started by 2011.

351. The Chairperson: I presume that part of the difficulty is that the council does not want the transition committee to have a veto over proposals such as those for Lisanelly barracks or the educational centre of excellence. However, Mr Beggs has a valid point. If you decide to build a huge swimming pool —

352. Councillor Hussey: I want to return to Mr Beggs's earlier point. I understand where the Committee is coming from, but we have made our position quite clear: the 26 councils were elected to make decisions in the best interests of their communities, to develop plans and to bring those plans to fruition. Omagh District Council believes that, if a council has already taken corporate decisions on the disposal of land, or has significantly progressed capital or non-capital contracts as part of the corporate plan or business plan, it should proceed in the proper

democratic way without the Minister, the Department or the statutory transition committee having the power to veto such established plans. Therefore, we believe that there should be no interference if we have already progressed to that point.

353. We accept that the transition committee should take on some matters that we have on the long finger. However, if we are in the middle of refurbishing something, we will not stop. Moreover, if we are about to award a contract, we would find it very difficult to cope with interference, because we were elected to do that, and we want to deliver it.

354. Mr Beggs: I have no doubt that contracts that are already signed will have to be honoured. However, are councils not required to seek departmental approval at the moment?

355. Councillor Hussey: We know that we must get permission for all proposals, such as to apply for a loan. The Department still has that veto. All councils want to finish what they have started; Omagh District Council is no exception. We do not want anything to be blocked, because that would create animosity between the two councils before the new structure comes into place. We could return to the argument that a shadow council should have been in place in the first instance. However, that is politics, and we could spend all day arguing that matter.

356. Mr Boylan: You have made a valid point, and I do not disagree with the essence of what you are saying. However, if a project has been undertaken that will affect ratepayers in the other council district, we need to look at that process. We support the projects, and I do not think that anyone wants to stop them. All I am saying is that you have to sell the project for a particular district to the people in that district who will have to pay for it in the future.

357. The Chairperson: Thank you all very much for your presentation and for taking questions this morning. We invite you to provide the Committee with any additional relevant information. Thank you all very much.

358. The Chairperson: Members have been provided with a table that explains each clause of the Local Government (Miscellaneous Provisions) Bill and outlines the issues that have been raised in submissions to the Committee. Members will now have the opportunity to consider each clause. Members can decide whether they are content with each clause as drafted, whether they need additional information, or whether they wish to seek an amendment. Departmental officials will provide an overview of each clause that relates to waste, namely clauses 1 to 8 and clauses 18 to 19. They will also answer any queries that members have on the clauses.

359. I welcome the officials to the meeting. They are Jim Stewart, deputy principal in the local government policy division; Tommy McCormick, local government policy division; Ivan Gregg, planning and environmental policy group; and Oonagh Warke, planning and environmental policy group. I ask the officials to go through clauses 1 to 8 and 18 to 19 one by one, briefly explaining the practical meaning of each and then to answer members' questions on each clause.

360. I remind members that today's session is not a formal clause-by-clause analysis of the Bill. It is a consideration of each clause, which will make us familiar with them when we come to the formal clause-by-clause analysis. If members are content to proceed, I invite Mr Jim Stewart to begin.

361. Mr Jim Stewart (Department of the Environment): Clauses 1 to 8 are, essentially, contracts provisions. Clause 1 clarifies the powers of district councils to venture into contracts for the purpose of their functions. It also enables a council, when it is entering into a certified contract, to enter into a secondary or collateral contract with the financier or bankers associated with that contract.

362. Clause 2 is, effectively, the first stage of a two-stage approach. It provides safe-harbour protection to private sector contractors and financiers who enter into certified contracts. It does that by introducing a presumption that such clauses cannot be challenged other than by public law process; they cannot be challenged in private law.

363. Mr Weir: I am happy to be guided by the Chair on when we should ask questions on each clause. Arc21 suggested adding two additional points to clarify those powers. Do you feel that it is necessary to incorporate those? What are your views on that suggestion?

364. Mr Stewart: Those are the additional vires issues that —

365. Mr Weir: I think that Arc21 wants the vires to be expressly clarified.

366. Mr Stewart: Those are additional vires issues that are particularly related to waste contracts. Policy development in that area is dealt with my colleagues in the planning and environmental policy group. Therefore, perhaps Ivan could respond on those issues.

367. Mr Ivan Gregg (Department of the Environment): The Department intends to include additional vires matters in the waste Bill. We were unable to include them in this Local Government Bill when it was drafted. We felt that the timescale was sufficient to allow the waste Bill to become statute by next summer. There has been representation from ARC 21 and others on such provisions, and the Department is content to bring them forward if the Committee is also content.

368. The Department is currently liaising with the Office of the Legislative Counsel on the drafting of those revisions and whether such revisions are technically possible in the time available. The Department is conscious that it does not want to delay the passage of this Bill by extending its Committee Stage. Therefore, it is doing its best —

369. Mr Weir: It is no one's desire to hold-up legislation — particularly legislation on which everyone agrees. However, let us be absolutely clear, is the Department drafting possible amendments on those issues —

370. The Chairperson: I would draw members' attention to the table of clauses. It might help members with some of the detail of the provisions in the Bill.

371. Mr Weir: OK. If it is technically doable within the allowed timescale, is the Department happy enough to draft those amendments, and does it see sense in doing that?

372. Mr Gregg: Yes.

373. Mr Beggs: I am trying to understand the issue of certified contracts. The Bill gives guarantees to the financiers that are required in the waste infrastructure. I can understand that part of it, but it appears to me that any other contract that was signed by councils prior to the commencement of RPA may also be included. Those contracts may be inappropriate, and they may not have been subject to the same level of scrutiny and Gateway Review processes as this major waste Bill.

374. That is my reading of the proposed legislation; is that interpretation correct? Furthermore, why is the Department wishing to guarantee all contracts that have previously been signed? Those contracts, generally, would be honoured, but there is a potential risk that some contracts may have been inappropriate.

375. Mr Stewart: The legislation applies only to contracts entered into after the legislation is brought into operation. I am not sure what you mean by contracts entered into prior to that date; I am not aware of local government having entered into any PPP/PFI projects.

376. Mr Beggs: Where in the Bill does it stipulate that that provision applies only to PPP contracts — specifically to waste PPP contracts?

377. Mr Stewart: It does not. Clause 1 covers all contracts. The remaining contract provisions in the Bill cover contracts that are certified contracts, including PPP or PFI contracts, where councils have gone through the unique certification process.

378. Mr Beggs: Can you expand on that unique process? I find it very convoluted and difficult to understand.

379. Mr Stewart: It is a convoluted legal process, but its whole purpose is to ensure that private-sector contractors and their financiers are given safe-harbour protection when entering into contracts with local authorities.

380. The legislation mirrors that which was introduced in Great Britain via the Local Government (Contracts) Act 1997. That was enacted after several private sector contractors entered into PPP or PFI contracts, which, when challenged in the courts, fell down, and gave local authorities wriggle room to get out of those contracts. The certification process was introduced to avoid contracts being challenged in private-law proceedings, and they can now only be challenged in public-law proceedings by means of judicial review or audit review.

381. The Chairperson: Some councils have not traditionally tendered for contracts such as legal services provision. Indeed, there may not be a contract in place, other than an appointment made by a decision of council, or the use of a consultant. Where does that sit, because surely some of those decisions could be subject to equality challenges?

382. Mr Stewart: I am not sure what you mean.

383. The Chairperson: For example, Craigavon Borough Council, of which I am a member, decided on its legal services provider by a unionist majority vote. A substantial amount of money is spent on that service. Are new councils going to be tied into honouring contracts that were never tendered for or were never subject to a procurement procedure?

384. Mr Stewart: Those types of contract procedures are outside the scope of the Bill. The Bill simply clarifies the power of councils to enter into any contract for the discharge of any of its functions, including, for example, legal services. The certification procedures outlined in clauses 2 to 8 of the Bill are for the more complex legal transactions, in which councils are entering into contracts of a significant size, and which are worth, perhaps, as much as £20 million to make them viable. The issues that you mentioned fall outside the scope of the Bill. The Bill simply clarifies that councils have a power to enter into any contract to discharge any of its functions. If a council wishes to enter into a PPP or a PFI contract, it will have to follow the rigorous certification procedures, as outlined in the Bill.

385. The Chairperson: At some later stage, when councils examine those other contracts for service provision and other legislation, and how those contracts are —

386. Mr Stewart: Each council should have its own standing orders for awarding contracts. It is not for the Department to delve into the details of such standing orders. However, they ought to comply with equality legislation and any other appropriate legislation.

387. The Chairperson: Thank you. Shall we move on?

388. Mr Stewart: Clauses 3 and 4 of the Bill set out the procedures that councils — or councils-to-be — must satisfy in order to certify a contract. One of the requirements deals with contracts that are intended to operate for a period of at least five years. They are intended to be long-term service contracts, in the main. Clause 3 also allows the Department to make regulations concerning certain certification requirements. It is our intention to make such regulations; we will present them to the Committee shortly along with an SL1 letter that will advise members of the regulations that we intend to make.

389. Mr Beggs: I am confused. Clause 3(2) states:

"the district council must have issued a certificate (whether before or after the contract is entered into) —".

390. It is not clear how restrictive that special process is. It would appear, on the surface, that that requirement will also apply retrospectively to a wide range of contracts, as I said earlier. That is what I do not understand.

391. Mr Stewart: I missed your reference.

392. Mr Beggs: It is at clause 3(2). That could be a retrospective requirement, which would cover many other types of contracts that it does not need to cover.

393. Mr Stewart: The certificate is not required to be issued on the date on which the contract is entered into. The certificate can be issued up to six weeks after the contract has been signed. Does that answer your question?

394. Mr Beggs: I have not found where the legislation prevents the certification of other contracts that are totally unrelated to the specific issue of waste and which may already have been signed. Why are we preventing litigation, if it is appropriate in the case of contracts that have not been entered into correctly? Why are we giving that guarantee? I have not found where it restricts the certification of other contracts, whether for cleaning services or anything else, that may be up and running today and have not been tendered for properly. I am trying to find in the legislation a provision for restricting contracts in future and, specifically, for those that deal with waste. Can you enlighten me?

395. Mr Stewart: As far as I am aware, no PPP/PFI contracts have been entered into by councils. As regards future contracts, the only immediate ones that I am aware of that might be PPP or PFI are those associated with the waste infrastructure. Clause 1(3) of the Bill states:

"This Part applies to any contract which a district council enters into after 22nd June 2009."

396. When the Bill was originally drafted, we anticipated that it was likely that some waste-management contracts might have been entered into between the date of the Bill's introduction and the date of its legislative provisions becoming operative. That is now not the case. At the moment, the word is that the contracts will be entered into some time in 2011.

397. We intend, subject to the Minister's agreement, to delete clause 1(3) and to amend clause 2(5)(a), so that it would, in effect, provide that the certification procedures apply only to those contracts entered into after the legislation comes into operation. Therefore, any contract that is operational at present will continue. As I said, I am unaware of any PPP/PFI contracts.

398. The Chairperson: Thank you, Mr Stewart, for that clarification. We will move on.

399. Mr Stewart: Although, clause 2 introduces the presumption that the certified contract is lawful, clause 5 preserves the right to challenge the lawfulness of any such contract. However, such a challenge is restricted to public law challenge by means of judicial review and audit review. Clause 5 also provides the second stage of giving safe-harbour protection to private sector financiers and contractors. It does so by providing that where, on public challenge, a court takes the view that a certified contract is unlawful because the council did not have the power to enter into the contract or had exercised any power incorrectly, the court may nevertheless decide that the contract can continue to have effect.

400. Clauses 6 and 7 provide for special terms — relevant discharge terms — of a certified contract, whether it is the main contract or a collateral contract, that will come into play in the event that a court finds the contract to be unlawful and that it should be set aside.

401. The Chairperson: So clauses 6 and 7 only come into play if clause 5, concerning the judicial review, is enacted?

402. Mr Stewart: Yes. Clause 18, entitled "Acquisition of land otherwise than by agreement", is solely to provide vesting powers to councils so that they can acquire land for waste-management purposes under the Waste and Contaminated Land (Northern Ireland) Order 1997. Those powers were inadvertently omitted from the 1997 Order.

403. Clause 19 provides that the contracts provisions in Part 1 of the Bill and the vesting powers of the councils apply to local government joint committees constituted as bodies corporate, that is Arc21 and the Southern Waste Management Partnership (SWaMP).

404. Mr Weir: I appreciate that the papers that the Department has submitted deal with various waste-management issues. Both Craigavon Borough Council and Belfast City Council have queried why that additional power to vest land is restricted to waste management and does not apply to wider —

405. The Chairperson: Community planning?

406. Mr Weir: Yes. Why is it not a power of general well-being?

407. Mr Stewart: The Bill was originally drafted purely to rectify the omission from the 1997 Order. At the beginning of this year, we carried out our original consultation on the Bill on that basis. Any proposal to extend the compulsory acquisition powers of councils would require further policy development by the Department and, in fact, consultation with other Departments that have responsibility for local government functions.

408. The need for wider vesting powers was raised by local government members at policy development panel C, and, because of the extent of local government legislation that was to be brought forward prior to 2011, the former Environment Minister decided that the Department should legislate for only those provisions that were crucial to the reform of local government. The extension of the vesting powers is not so crucial. The former Minister did, however, give a commitment that any necessary legislation on wider vesting powers would be brought forward as soon as possible after 2011.

409. The Chairperson: Can the Committee seek clarification from the current Minister on whether he holds the same view?

410. Mr Stewart: We certainly could do that.

411. Mr Weir: If wider vesting powers are being considered, perhaps we could also ask about the potential timescale. I can accept that there cannot be wider vesting powers in this Bill because that was not part of the original intent and was not consulted on. It goes beyond a bit of tweaking, as we saw with some other parts of the legislation. There would, potentially, be a case for another full consultation if such powers were sought. If it was decided, for better or worse, to have wider vesting powers in the Bill, could that not be included in other local government legislation that is coming up between now and 2011?

412. Mr Stewart: A more appropriate Bill for it would be the local government reorganisation Bill, which will provide community planning powers and the power of well-being.

413. Mr Weir: I agree with that, but you said that the previous Minister indicated that such powers may be considered for legislation post-2011. If wider vesting powers are felt to be a good thing, why can that not be part of a reorganisation Bill? The current Minister's view may or may not be different, but could those powers be incorporated in one of the pre-2011 pieces of legislation?

414. Mr Stewart: We can certainly take the Minister's view on that. We are, however, expected to begin consultation very shortly on that draft local government reorganisation Bill, and whether we could include proposals or develop policy in time would be another matter. That said, however, presumably if the current Minister was content, we could introduce provisions at a later stage as an amendment to that Bill. We will certainly follow it up with the Minister.

415. Mr Beggs: Clause 19 refers to two of the joint committees that are constituted as bodies corporate. I understand that the third committee, the north-west group, is not included because it operates on a different basis and that there is a lead council. Is that the case, or, if not, why was the north-west group not listed in the legislation?

416. Mr Stewart: Although it is not a matter for local government policy division, I understand that the waste infrastructure is being procured on a different basis in the north-west region, namely, on a lead-council basis. Presumably, Derry City Council, as a lead council, could use the vesting powers to acquire land compulsorily for the north-west regional waste management group.

417. Mr Beggs: Can you confirm that it could vest land in areas other than its own, because that might be where the facility is needed? Will the lead council that is providing the function be able to vest land for that purpose elsewhere? How would such land be obtained?

418. Mr Gregg: One of the additional vires matters that will be included in the draft waste Bill, assuming transfer over, relates to the north-west specifically. That group had asked for power for the lead council to hold and acquire property on behalf of other councils. That was an issue that they had identified and which we were trying to address in the draft waste Bill. It may be possible to include an amendment on that. As things sit, however, Derry City Council can vest land on its own behalf. It is not an incorporated body, so it does not have the same powers as Arc21 or SWaMP.

419. The Chairperson: The Committee was concerned about the Strategic Waste Infrastructure Fund (SWIF), which was raised by Arc21 and SWaMP. Is that your area of expertise, Oonagh?

420. Ms Oonagh Warke (Department of the Environment): Yes.

421. The Chairperson: That is good. I will ask The Committee Clerk to keep me right, but I seem to remember that there were concerns about moneys in capital and procurement. There was an issue about moving the money around.

422. Ms Warke: Yes, the reprofiling.

423. The Chairperson: There is a lot of underspend, and we are concerned about the infrastructure, particularly in waste management. Those bodies told the Committee that they need the ability to reprofile the money in order to drive forward their proposals.

424. Ms Warke: I will explain the background. When the Executive approved the creation of that fund, they had to approve it as a capital fund for the groups. It subsequently emerged that resource money is the main money that the groups require to forward their procurements. The Department, as members know, submitted a bid in the May monitoring round to have an element of the SWIF capital reprofiled as resource. That was unsuccessful, but we have submitted a new bid to have it reprofiled in the current monitoring round. We are hopeful that it will be successful, because it is essential to enable the groups to engage with all the advisory services that are required to drive the procurements forward.

425. The Chairperson: When do you hope to receive an answer?

426. Ms Warke: We hope to know as soon as the Executive have determined the September monitoring round, which is scheduled for the end of September.

427. The Chairperson: It strikes me that it will have to be done if we are to move forward and tackle waste management.

428. Ms Warke: Absolutely.

429. The Chairperson: Will you clarify any amendments that the Department is considering in respect of clauses 1 to 8 and clauses 18 to 19?

430. Mr Stewart: Subject to the Minister's agreement, we will propose an amendment to omit clause 1(3). We will also propose an amendment to delete subparagraph (a) from clause 2(5).

431. The Chairperson: That amendment will get round the issue of the time frame, is that correct?

432. Mr Stewart: Yes, that is right.

433. The Chairperson: That is fairly straightforward. Thank you all very much for attending. We will, no doubt, see you much more in the coming year.

1 October 2009

Members present for all or part of the proceedings:

Ms Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr David Ford

Mr Danny Kinahan

Mr Ian McCrea
Mr Adrian McQuillan
Mr Alastair Ross

Witnesses:

Mr James Whitten
Ms Julie Broadway
Ms Angela Fitzpatrick
Mr Ian Maye
Mr Jim Stewart

Department of the
Environment

434. The Chairperson (Mrs D Kelly): In according with the guidance received, I remind members who are councillors to declare an interest. I declare an interest.

435. Mr Beggs: I declare an interest.

436. Mr McQuillan: I declare an interest.

437. Mr Dallat: I declare an interest, and I will not be participating in the questioning.

438. Mr Kinahan: I declare an interest.

439. The Chairperson: Mr Whitten, thank you for coming along.

440. Mr James Whitten: Thank you for rearranging the evidence session; I was not able to make it to the meeting last week.

441. I am a retired director of finance for Crawley Borough Council in Sussex. I am making my submission solely as an interested resident and taxpayer. I am not a representative of any political party or other organisation.

442. I have submitted written evidence to the Committee as part of my response to the public consultation. I want to make a minor change to my submission, where I refer to Dr Hall as the chairman of a working group which reported to the Councillors Commission. Dr Hall was not the chairman of the working group; he was the author of the report.

443. My submission is in relation only to clause 17 of the Bill, which deals with severance payments to councillors. I do not want to go through all the submission, because the Committee will have already read that. I am looking at the draft Bill, on which the Committee will make comments to the Assembly in due course.

444. It seems to me that, as it stands, clause 17 confers a power on the Department to make regulations for those payments, but it does not provide discretion to individual councils to determine whether such payments should be made. It appears that the Department has not yet determined what the payments will be or how they will be funded; whether they will come from departmental resources, or from the councils. In either case, it is certain that the taxpayer will pick up the bill through either the local council tax or the charge that is made from the centre.

445. Therefore, it is important that local councils be given the opportunity to have their own view on this matter, rather than it being prescribed to them. The working group report on

councillor remuneration found that when a severance scheme was introduced in Wales in 2003, individual authorities had discretion as to whether they implemented such a scheme, and some did not. In Scotland, however, the centre directed that payments would be made. A choice has to be made, and the legislation ought to provide the opportunity for local influence to be brought to bear. I am not a parliamentary draftsman, but I think that clause 17 should include an element of local discretion.

446. The public are concerned about the cost of, and the justification for, the severance scheme. The review of public administration (RPA) proposed a substantial reduction in the number of councils. Originally, the number of councils was going to be reduced to seven, with a reduction of around 160 councillors. That was supposed to happen in 2008; however, given the local revisions, we are now looking at 11 councils and a reduction of 120 in council posts.

447. It is pertinent to reflect on the situation that existed before devolution. The fact that there are now 108 MLAs involved in public administration must also be taken into account. The overarching number of public representatives for which the taxpayer pays is being reduced by only 12. That does not warrant a severance scheme, and it certainly does not warrant one that has been estimated to cost from £2 million to £5 million, as was considered in the consultation paper.

448. It is also relevant to compare the situation here with the substantial reorganisation that has taken place in England. In April, seven county areas in England, with a combined population of 3.2 million residents, were reorganised so that the original 44 county and district councils became just nine unitary councils. All of those authorities undertook a broader range of services than most of the 26 district councils in Northern Ireland. It is interesting to note that there were no severance payments for the councillors who stood down. An analogy can be drawn from that.

449. Perhaps more importantly, given the present state of public finances, it appears to be somewhat of an extravagance to go ahead with a severance scheme which was first proposed in 2005. Public finances were more buoyant then than they are now. As we all know, the world has moved on financially. Front line services are now under greater pressure, and there can be little justification for incurring additional major costs through a severance scheme. I am asking that clause 17 be deleted; however, that is a matter for the Assembly to consider.

450. I do not want to finish on that note, because councillors provide a valuable service to their communities, and their contribution to public life should be recognised. Local councils have been doing just that for a very long time, and my view is that they should be left to make their own arrangements, as the cost to the public purse would be much more modest.

451. Mr McQuillan: You say that the local councils should make the arrangements. Will you elaborate on that? In which way do you see that happening?

452. Mr Whitten: Every council has its own arrangements for celebrating the service of councillors who leave following an election. The ultimate accolade that can be given to someone who has given exceptional service over many years is the freedom of the borough or equivalent for whatever type of council it is. However, there are other ways in which people's contributions can be rewarded. Lots of organisations reward long service with a memento of the person's time working there, such as a bowl engraved with the coat of arms or a silver salver.

453. Mr McQuillan: Someone who serves on a council for 30 years or more will have given up a lot of their family life. I have served two terms on my local council, and my son has grown from a four-year-old to a 16-year-old in that time. I have not seen him, and I hardly put him to bed at night even once. I do not think that being presented with a glass bowl would be worthwhile after all that.

454. Mr Dallat: I have no sheep to graze in the town centre. [Laughter.]

455. Mr Ross: Part of the idea behind the severance package is to reward long service. However, another reason is to encourage people who are not going to stay in local government to move on and make way for new blood to build capacity for when the new councils go live. In previous weeks, I have said that the window for the severance package should be shorter, so as to encourage people who have no intention of standing again to leave local government and let new people in. Making sure that the new councils have the adequate capacity when they go live is a big issue. The severance scheme is partly aimed at doing that. How do you see councils being able to build capacity with new members, and getting people who do not want to stand again to move away, without it?

456. Mr Whitten: That is a relevant point. The first thing is divide responsibilities between the Assembly and local councils. I noted that quite a lot of Members had to declare an interest because they wear two hats. That is the first thing: to free up room for new blood to come in at local council level. In Wales, part of the justification of the scheme was just that. However, anecdotal evidence of the Welsh experience showed that there was not much change in the age profile of members of the authorities after the introduction of the severance scheme. The majority of local councillors, particularly in England and Wales, are older, maybe because they have more free time to contribute.

457. To some extent, the severance scheme is a disincentive to existing members who may want to serve one of the new authorities. Some of those people may take the money rather than lending their long experience to the new authorities. That may happen if the scheme is too generous, so a balance has to be struck. It is down to individual members to make their own value judgements. I do not have any specific suggestions on how to get younger people and new blood into councillors' roles.

458. Mr Ross: I do not want to appear ageist. I was not necessarily saying that younger people should be brought in. I was just talking about the people who will be there, because —

459. The Chairperson: New faces.

460. Mr Ross: Yes. A certain amount of training is needed because the new councils are going to have new powers. It is not necessarily about younger people.

461. Mr Whitten: No; it is not. In your earlier discussion, the point was raised about the equality agenda and involving a broader cross-section of people in local councils and other organisations. I refer the Committee to an excellent report that was produced for the Councillors Commission in England. It addresses that very issue, particularly with reference to getting women into community empowerment and involving minority ethnic groups in what goes on in their communities. There are things in there that could be done. Access to community empowerment is the problem. All councils need to reflect on how they acquire new people to stand for election.

462. Mr Boylan: Dr Robert Eames received the freedom of Armagh city, and I do not see him chasing sheep round the Mall every Saturday morning, which was the tradition.

463. You referred to other areas, but I think that the North is unique in what it has gone through. I was a councillor, and I will not be receiving any payment. I am co-opted now. The amount of work must be put in context. I worked nights, which Mr McQuillan referred to. Outside of severance pay, what else can be given to those councillors for all the work that they have done down through the years? I am glad that you did not finish on your proposal to take the severance package out altogether. How can those people — some of whom have given 30

years of their lives — be compensated? You can talk about Wales, Scotland and elsewhere, but the North is unique.

464. Mr Whitten: That has been addressed through the remuneration package, which reflects the time that people devote to local council duties in the wider sense. The basic allowance system that was introduced in the 1990s was designed to reflect the time commitment involved in undertaking those duties.

465. The Chairperson: I have to tell you that it is well below the minimum wage.

466. Mr Boylan: I do not think that the public have the right perception about the amount of hours that councillors put in. A lot of good work has been carried out, despite what has gone on in the media for the past 12 months, and that has to be appreciated.

467. Mr Whitten: Certainly. I know that, because I have worked in the system.

468. Mr Kinahan: I take on board the current climate and all that has been said in the media. I did not plan, five or six years ago, to be a politician. I was asked to join a council and thoroughly enjoyed it. However, I cannot believe how much work councillors put in. I was told that it would take up a day a week, and maybe one evening.

469. The Chairperson: I was told that too.

470. Mr Kinahan: However, it ended up being two full days and every evening, plus attendance at other events. What staggered me was the fact that there were people there who had done that for 30 years — most of that time without any pay. They now get some pay, although it is a tiny amount for the pressure, the time and the effect on family life. I saw the severance package as working through for councillors with long service. There is no pension system. A gold watch or an etched bowl is almost the biggest insult possible. I worked at Shorts for three years and saw people being given a gold watch after 40 years' service, and I was appalled. However, they did get a pension. They had had a career and they had had a job all their life, and all that must be borne in mind.

471. Wales and England have different payment systems. I am nervous about the idea of leaving it to councils because then they end up with pressure from the press, which distorts all that goes on. I take Mr Whitten's point: yes, we must look at the severance package, but I am afraid that we need to praise the old councillors — "old" is the wrong word; I mean those who have given long service and have given lots of time.

472. Mr Whitten: Of course, that point is relevant. However, as I understand it, the severance scheme is a one-off payment and will not continue, while your point applies in perpetuity.

473. The Chairperson: Yes, it is. At risk of running afoul of any guidance on the contribution that I am allowed to make, although the severance scheme is a one-off, there will be different payment structures with regard to ongoing financial reward for people who choose to enter public life. Therefore, there is a difference between the situation in the future and that of the past.

474. Mr Whitten, thank you for your presentation; your points were well made. I hope you feel that you have been heard. We will see how the Bill proceeds in its Committee Stage and in the Assembly.

475. We have a letter from the Rural Community Network outlining its views on the Bill. We also have the Northern Ireland Council for Voluntary Action's views on the Bill, presented after I spoke at the local government event that it hosted on 16 September. As I reported to the Committee last week, I spoke at the annual general meeting of the National Association of Councillors (NAC) last Friday evening. The major concern there was around finance and whether there is enough money to see through the RPA. As additional powers are moving across to local councils, the NAC is concerned about whether the appropriate budgets will move across. The Committee may want to put that to the Department, either this morning or by writing to the permanent secretary or the Minister.

476. Mr Boylan: I agree. The issue of the funding package is raising its head, so we must try to get some answers.

477. The Chairperson: We also have letters from the Women's Ad Hoc Policy Group on the gender breakdown of statutory transition committees. We could incorporate the key issues raised in those letters into the Committee's report on the Bill. We could also forward the letters to the policy groups on the RPA, and to local councils. It will be a matter for political parties as to who they nominate at council level to sit on the committees.

478. Mr Kinahan: That is the way to deal with the issue — leave it to the councils.

479. The Chairperson: We have an updated table which outlines each clause of the Bill and explains the issues that have been raised in submissions to the Committee. We have an opportunity to consider each clause and decide whether we are content with them as drafted or need to get further information or seek amendments. Officials are present to provide an overview of clauses 9 to 17 and 20 to 23, which relate to reorganisation, and to answer any queries that Committee members may have on the clauses.

480. I welcome Ian Maye, the deputy secretary from the Department, who was mentioned earlier; Julie Broadway, a grade 7 officer in the local government policy division; Jim Stewart, a deputy principal in the local government policy division; and Angela Fitzpatrick, a deputy principal in the local government policy division. I invite you to take us through each clause, explaining briefly what they mean in practice, and take any questions that members have on a clause-by-clause basis.

481. Mr Ian Maye (Department of the Environment): I want to make a couple of opening points before I pass over to my team, who will deal with the detail of the issues. I will be involved throughout the discussion.

482. Important points were just raised about the funding of the programme, whether it would go ahead on time and whether it was worth taking forward. Those questions are increasingly being asked, and the Minister is aware of them. As members know, the Minister is going round each statutory transition committee, and those issues are being put to him.

483. On the issue of funding, we have almost completed a full economic appraisal of the programme. That is a major piece of work, on which we have been supported by PricewaterhouseCoopers (PWC). We will bring that to the strategic leadership board on 16 October. It needs some polish applied to it, but it demonstrates that if certain choices are made — made by you, as politicians — the programme will yield significant future cash and non-cash benefits for citizens, ratepayers and taxpayers. Critically, however, those dividends will only be delivered if choices are made over the next few months about how local government will be brought together from May 2011 and beyond, and what it does in that period.

484. The strategic leadership board will be faced with some important issues. We look forward to having a full discussion with the board. The Minister will want to take those views away and present them to the Executive. The next stage in the process will be to take a proposal to the Executive: first, to get their continued commitment to delivering the programme — my Minister is absolutely committed to that; and secondly, to tie down how it will be funded. We need precise information on funding mechanisms, and we need clarity on that before the beginning of the next financial year. The statutory transition committees will need that information and will need to know where the money is coming from to get the job done.

485. Those are the general points that I wanted to make. Things are beginning to come to a head, and we are reaching a point in the process where we will be taking concrete advice to the Executive so that they can agree a funding mechanism and a funding programme to take the work forward. Today, we are talking about the detail of the Local Government (Miscellaneous Provisions) Bill, which will also take that work forward, particularly since it gives us the enabling provisions to put the statutory transition committees in place.

486. Increasingly, as we move the programme forward, the statutory transition committees will make key decisions and take forward key work at the local level to bring the new councils into being. They will modernise the councils, drive out efficiencies and savings in the long term and drive out improved services for citizens. It is critical that the transition committees be set up at the earliest possible opportunity next year to deliver the programme. My Minister is absolutely committed to that; he will take the package to the Executive and seek their continued support for the programme. I know that he has had discussions with individual Executive colleagues over the past few weeks and that they are committed to taking this forward.

487. The Chairperson: Thank you for your presentation. Those are important points to make, and it was important for us to hear them. We look forward to seeing the outworkings of the economic appraisal. However, previous Ministers gave commitments to ensure that the representation on the statutory transition committees would be subject to checks and balances. Some parties are not represented on some councils, and I am sure that members of other parties would like to hear how that will be addressed, because it is not addressed in the legislation before us today.

488. Mr Maye: That is one of the issues that we want to explore in detail with the Committee. The Minister was conscious that the then Minister had asked policy development panel A, which focuses on the governance arrangements for the new councils, to consider how the governance package that the policy panel agreed and brought to the strategic leadership board could apply to the statutory transition committees, and could ensure, as far as possible, that there was proper proportional representation on those committees. The panel recommended that the new model, which was designed for the 11 new councils, should be used to the maximum extent possible in populating the new statutory transition committees. The detail of that model will be in the local government reorganisation Bill. This Bill gives us the first taste of what that will be.

489. The policy development panel's core proposals, which have been agreed by the strategic leadership board and which the Minister is taking to the Executive in the local government reorganisation Bill, involve tying down the mechanisms and providing flexibility and options for the new councils to choose from three models in particular: d'Hondt, Sainte-Laguë and single transferable vote (STV). The flexibility to choose the precise method of applying d'Hondt, Sainte-Laguë and STV is reduced, and we do the same as is the case in the Assembly. The subordinate legislation that supports the new governance arrangements will specify in detail how those mechanisms will be applied. It will then be for the new councils to choose which allocator method meets their needs, and that choice will be a matter for political discussion in each council.

490. That is the broad model, and there is a lot of detail around how it will work. The Department is seeking to bring the elements of that model into the construction and composition of the statutory transition committees, so that they operate in almost a shadow sense, and use to the maximum possible extent the governance arrangements that will apply to the new councils.

491. The Chairperson: It might be useful for the Committee to receive a briefing paper on that at an early stage.

492. Mr Maye: We will be very happy to do so.

493. The Chairperson: Thank you.

494. Ms Julie Broadway (Department of the Environment): Clause 9 defines certain terms that are used in Part 2 of the Bill in relation to the provisions of local government reorganisation. Clause 10, "Control of disposals and contracts of existing councils", sets out a system of controls on disposals of land and capital and non-capital contracts being entered into by the current 26 district councils in the period leading up to their dissolution and the establishment of the 11 new district councils. The Department will have powers to direct that councils must, from a specified date, obtain consent from their statutory transition committees before engaging in the specified activities, subject to minimum thresholds. Those activities are disposing of land and entering into capital and non-capital contracts.

495. The Chairperson: A number of councils have raised concern about that. You may have heard the issue of veto raised earlier in the meeting.

496. Ms Broadway: Yes.

497. The Chairperson: What cognisance is the Department taking of the presentations and submissions which Belfast City Council and Omagh District Council?

498. Ms Broadway: It is important in the run-up to reorganisation that statutory transition committees be given a right to have some view on the disposals of land and contracts. After all, contracts that are entered into now could affect all of a new district. That is why the Department thinks it important that the statutory transition committees should have a view.

499. Mr Maye: That view came directly from one of the policy development panels. The panel was conscious that, because we are not going to have a shadow period, that the statutory transition committees, which will be asked to strike the rate for the new councils for their first year and set their budgets, need to have some control over spending, particularly in the constituent councils' last year. It is, in a sense, protecting the interests of the new councils in that first year, and acting almost as the angel on their shoulder watching over the existing councils, and, to a degree, bringing some control and coherence to the preparations for the new councils.

500. The Chairperson: Some people are not of the view that there are many angels sitting on shoulders. [Laughter.] More like a monkey on your back.

501. Mr Boylan: Obviously, there are corporate plans and projects ongoing. What are we looking at with regard to time frames and vetoes? Obviously, we are looking at putting the Bill through, but I am sure that there are councils that are trying to get projects up and going. There are obviously concerns. Last week, I mentioned one end of the district compared to the other. But

what is the time frame? When can that start, when will it stop, and is it part of the ongoing work?

502. Mr Maye: It is very much so. Individual councils are bringing their capital programmes and individual projects to transitional committees, not with a view to the transition committee having a veto in its current voluntary phase, but to share information, and to make sure that everybody is comfortable that that project or programme makes sense in the run up to the creation of the 11 new councils in May 2011.

503. The Minister's intention is to put in place the new statutory transition committees as early as possible in 2010. We have issued guidance to the existing voluntary transition committees and set out a fully detailed implementation timetable, which we will be adding detail to as time goes on. However, some of the key tasks that we have asked those transition committees to deliver can only happen when the statutory transition committees come into being and assume their new powers.

504. The first critical task for each committee is to appoint a chief executive designate. The view that we are getting from the strategic leadership board, the policy development panels, and across the sector, is that it is important to get that person in post as early as possible next year. The current intention is that the statutory transition committees will appoint chief executives designate for the new councils by around March next year. Therefore, it is important that those committees are in place before that so that they can take control of the selection process and make the final choice as to who they want to take charge of their new council. That is the starting point, and we want those chief executives designate in place as early as possible.

505. The last year or 14 months in the run up to May 2011 is absolutely critical in converging the work of the existing councils, for bringing together programmes, and for looking at the systems and human resources issues. The statutory transition committees needs to play a very strong role in driving that process, supported by the chief executives designate and the new senior management teams designate, and working with the existing teams and the existing councils. Increasingly, however, the statutory transition committees will be providing the glue that holds those preparations together.

506. Mr Beggs: I declare an interest as a local councillor. I can see that the transition committees are a reasonable mechanism to regulate future investment that has implications for future councils and in allowing some projects to go forward. I understand that, at present, the Department has to approve significant investment. Could the Department regulate such significant investment without giving that authority to the transition committees? Does the Department have the power to refuse any major new investment because the councils are going through a period of change? Will the Department continue to have a role, and could it regulate that without the transition committees?

507. Mr Maye: In theory, it could. However, I think that it would be quite difficult for the Department to take a view, based on what is happening at local level, on whether there was a specific need for a project to be taken forward. Some of the work that is already under way needs to be carried forward and completed.

508. In a sense, the proposition that the Minister is putting on the table is for the statutory transition committees and the Department to play a role in the process, to provide the necessary checks and balances and ensure that the decisions made are in the interest of the new council and are fully considered, not only by the individual councils within the current 26 councils, but by the transition committee. When those projects come to the Department, they come with the benefit of that consideration. We think that the transition committee considering a proposal makes sense in the context of the new council, and makes it easier for the Department and the

Minister to decide whether a loan sanction is provided. Equally, if there is no agreement, that puts the Minister and the Department in a position to consider whether a loan sanction is not granted for a particular project.

509. Mr Beggs: Do you need to legislate for that? In the future, could the Minister or the Department decide that if councils wish to have major capital expenditure approved, the Department will have to be satisfied that it is a reasonable investment and that there is support in the transition committees? Could that be regulated without the need for legislation?

510. Mr Maye: The difficulty with the system that is currently available to the Minister and the Department is that it is difficult to enforce. The ultimate sanction is the withholding of loan sanction, as the project cannot then go ahead. Equally, however, that could give rise to legal issues and the Department could be challenged by an individual council in those circumstances.

511. The Department feels that the transition committees must be given a statutory role in the process, because of the nature of the work that they are being asked to deliver for, and in advance of, the new council. [Inaudible due to mobile phone interference.]

512. Indeed, concerns have already been raised by neighbouring councils within the transition committees that things are happening that really should not be happening, and that liabilities could be incurred that carry forward into the new councils. It was with those issues in mind that the Department suggested both statutory provision and the backstop of strong intervention by the Minister through the loan sanction arrangement.

513. The Chairperson: Mr Dallat, did you indicate that there was interference in the hearing loop system?

514. Mr Dallat: I could not hear a word that was being said. Someone's mobile phone was going constantly.

515. The Chairperson: Can everyone please turn their mobile phones off? They are interfering with the hearing loop system. Phones must be turned off and should not be on silent or on divert.

516. Mr Ford: First, I must apologise for being out of the room, and for now being in the position of having to redeclare my interest as a member of Antrim Borough Council. Secondly, and in the context of clause 17 I also state that, as an MLA, I do not expect to take advantage of any severance payments.

517. Mr Maye, you appeared to refer to the benefits of the Department consulting the transition committees, and yet clause 10 of the Bill prescribes that they will be given statutory powers of veto. I cannot disagree with a word that you said about the benefits of the transition committees being consulted, but I can conceive of a situation where the majority of a transition committee might take a short-term view of an investment that was felt to be quite important by representatives of a minority council within that committee.

518. You also appeared to downplay the fact that the Department, in exercising its loan sanction decision, actually has the ultimate play, which we have all understood that to be the statutory position for many years. You almost implied that loan sanction did not really count, because it could be legally challenged, but also suggested that the provisions of clause 10 could not be challenged in such a way.

519. Mr Maye: There is always a risk with the current loan sanction regime. The Department must demonstrate that it has good reason to turn down loan sanction for a project, because a project will only have been forwarded by a council after full consideration of its merits. We feel that we need a bit of both. We need to be able to use the loan sanction arrangement to the maximum degree possible as a control mechanism, but the statutory transition committees must also have a strong role in the process — not just a consultative role but a strong role.

520. However, I take the Member's point that that could militate against some councils in a particular group, and I am very happy to take away any ideas the Committee has, and discuss those ideas with the Minister and the policy development panel concerned. We believe that we have a reasonably balanced package on the table, but we welcome any proposals that the Committee may have to make that package even better.

521. The Chairperson: The Committee may come back to you on that.

522. Clause 1(3) says that clause 1 will apply to contracts entered into after 22 June 2009, and that date has now passed. Does the Department have another date in mind for that?

523. Mr Jim Stewart (Department of the Environment): As was mentioned last week, the Department is considering omitting that clause from the Bill, subject to ministerial agreement. When the Bill was originally drafted, the Department envisaged that some risk-management contracts could have been let in the intervening period between the Bill's being introduced and its being passed. Those contracts have slipped a little, so that date is not a key date and, with the Minister's approval, we hope to be omitting that particular provision.

524. Ms Broadway: Clause 11 clarifies the powers of statutory transition committees when giving consent for the purposes of a direction, and makes provision for contracts where the consideration is not wholly in money. Where the value of a consideration is questioned, and the council and the statutory transition committee fail to reach agreement, the Department will have the power to determine the value of the consideration.

525. Clause 12 provides that a statutory transition committee considering an application from a council for a disposal or contract shall take into consideration any other disposals or contracts undertaken by the council from a date specified in a direction from the Department.

526. The Chairperson: Has the Department indicated yet when that date might be?

527. Ms Broadway: No, not yet.

528. Clause 13 covers the contravention of directions. It provides that, where an existing council makes a disposal or enters into a contract without obtaining the consent required under the terms of a direction made by the Department, the disposal is void and the contract cannot be enforced against the successor council.

529. The Chairperson: Belfast City Council commented on that. Do you have a note of that?

530. Ms Broadway: Yes, I have a note of it, and we are seeking legal advice. We will come back to the Committee on the issue of voiding.

531. The Chairperson: Yes. You can come back to us on that.

532. Ms Broadway: Clause 14 provides that the Department shall, by regulations, establish a statutory transition committee for each of the new councils and that such a committee will be a

body corporate. The regulations will provide that statutory transition committees will consist of members of predecessor councils, and may provide for the appointment of the chairpersons and other members of the committees; their tenure of office; procedures to be followed; the payment of allowances to committee members; and the making available to committees of the facilities, staff and premises of existing councils.

533. The clause also enables the Department to make payments to committees, and provides that they are local government bodies for the purposes of account and audit. That relates back to one of the points raised earlier. The Department will apply the same provisions on accounts and audit to transition committees that it currently applies to councils.

534. The Chairperson: There is significant unease about the shotgun weddings that are being proposed. For example, some of the larger councils, such as Derry, and some of the smaller councils, such as Strabane, are concerned about equal representation. Does the Department have a view on that?

535. Mr Maye: Those views were very carefully considered by policy development panel A, which considered a number of options. The proposal that the panel brought back was to stick with equal representation across the council groups. The panel felt that that was the best and most defensible option. It felt that none of the alternatives offered a better solution.

536. That was taken before the strategic leadership board. It was also taken back into Department leadership structures to be validated. That is the view that we have taken forward, and the model that we have applied to the construction of the current voluntary committees, and the one that we propose to apply to the new statutory transition committees.

537. Mr Ford: I cannot find reference in the Bill to the specific definition of "predecessor council". What happens to the representation of people from what one might call greater Dunmurry or greater Cregagh in the context of the new Belfast council? It is clear that, for 10 councils, there is no issue as to what the predecessor councils are, but it seems to me that setting up a transition committee for Belfast which ignores the interests of those who currently live outside the city of Belfast is not the way to provide good governance for those suburbs.

538. Mr Maye: To a degree, the issue is linked to how the new council boundaries will be settled. As you know, the Minister is currently considering the Local Government Boundaries Commissioner's report. In the not-too-distant future, he will bring forward a paper to the Executive and an Order to the Assembly. That complicates the issue a little. We recognise, however, that the two councils and the two transition committees will need to work together, because there are a number of issues.

539. First, there is the issue of how the interests of citizens and ratepayers who are due to transfer to the new Belfast council area are represented. Service delivery issues need to be considered, and those people need a mechanism that ensures that their voices heard are through their elected representatives. We are considering that issue.

540. Secondly, there are significant assets and liabilities in the ownership of Lisburn City Council or Castlereagh Borough Council that are due to transfer to the new Belfast council. Again, there needs to be a mechanism for discussion about what will happen to those assets and liabilities and about the impact that decisions about them will have on service delivery, not only in the area that is being transferred but in the area that is not.

541. For example, Castlereagh's major recycling and waste management facilities are located in an area that is due to transfer to the new Belfast council area. How then will the new council for Castlereagh and Lisburn deliver those services to the areas of Castlereagh that are not

transferring? The two council groups and the two statutory transition committees must consider, discuss and negotiate those types of critical issues.

542. On one level, all those issues can be dealt with by negotiation and through detailed discussion between the two statutory transition committees. This is really the only area where two neighbouring committees will have to work closely together. It is not just an issue for the elected representatives in the areas that are moving; there are broader service delivery and legacy issues to deal with.

543. Equally, people living in areas that are being transferred to a new council will need to have some sense that their voices are being heard. The Belfast transition committee cannot simply decide how that new population should be served; rather, the existing elected representatives in Lisburn and Castlereagh must be able to express a view on that and the Belfast transition committee must then take that into account when making its decision.

544. Therefore, we are looking at a number of options, ranging from simply providing detailed guidance — rules of engagement — to manage the discussion between the Belfast transition committee and the Lisburn-Castlereagh transition committee, to putting in place formal arrangements whereby the Lisburn transition committee is represented on the Belfast transition committee. That could involve either people being co-opted to the Belfast transition committee or a subcommittee being formed, drawn from both transition committees and reporting back to both. Something of that nature will be needed in order to allow those discussions to happen — and there is no doubt in anyone's mind that they should happen.

545. We are considering those options. We are also considering urgently whether the powers that we are seeking in the Bill are sufficient to provide for that degree of co-operation between the two neighbouring transition committees in order to deal with those issues.

546. Mr Ford: What you have set out is a perfectly logical way of discussing the issues of service delivery and asset management between the two transition committees for the two future councils. However, my question was more about the representation of citizens from the areas that are being transferred. I do not know who is currently on the Lisburn-Castlereagh transition committee or who will be on the statutory committee. The most logical option would be to have councillors representing the areas that will be transferring to the new Lisburn and Castlereagh council area.

547. How are people being directly represented on the Belfast transition committee, given the vast powers that are being given to it to set the direction for the new Belfast council? That can be resolved only by having representatives on the Belfast transition committee who are from the areas being transferred.

548. As far as I can see, this is not a significant issue; the only other boundary area that is really affected is a small corner of Banbridge. I suspect that its population does not warrant inclusion in the Newry and Down transition committee. However, there is a clear case for Lisburn and Castlereagh representatives to be on the Belfast transition committee if it is to perform the functions that the Bill proposes to give to transition committees — to set the future direction of Belfast for many years. That cannot be done simply by Lisburn and Castlereagh, with their other priorities, having occasional chats with Belfast.

549. Mr Maye: That is one of the options that we will consider as part of the process. It is one of the issues that we have to weigh up in the balance.

550. Mr Dallat: I hope to lighten this discussion a wee bit. Local councillors love their titles — Mr Mayor, alderman, and the cloaks and big chains of office. Has any thought been given to

borough status? Earlier, we were talking about freedom of boroughs and being able to graze sheep in town centres. During the last reorganisation in Coleraine, which was way back in the 1950s, the chains of office just disappeared — not that I particularly want one. Is there any thought about that?

551. Mr Maye: We have been thinking about those issues in relation to the status of the districts themselves — city status and borough status, because there are issues to address — and also whether we carry forward the alderman structure. If a council area is a borough, we have to think about what to do about the chains of office and all of those issues.

552. Mr Stewart: Where a council that currently has borough status is coming together with other councils, it is likely that we will include provisions in the statutory transition committee (STC) regulations to enable the STC to decide whether it wants to retain the borough status for the new council district. We are continuing to take legal advice on that matter, but that is the instance. There is one council — I think that it is Omagh and Fermanagh — that will be a district council because neither of those councils have borough status currently. All of the others will have the option of retaining borough status.

553. Our difficulty is in relation to the cities. Some of the city statuses that have been awarded in the past refer to the borough, and some refer to the previous town. We are having a little difficulty in sorting out the legal implications of that. However, generally it will be a matter for STCs to decide whether they wish to retain borough status for the new local government district, so they will be able to keep their chains of offices, and so on.

554. Mr Dallat: So there will not be a surplus of mayors or mayoral cars? [Laughter.]

555. Mr Stewart: There may well be.

556. Mr Boylan: I was going to make a remark about the sheep again, but that is OK.

557. The Chairperson: Well, enough about that. We have too much work to do. Clause 15?

558. Ms Broadway: Clause 15 provides that the functions of statutory transition committees are essentially — [Inaudible due to mobile phone interference.]

559. It also enables the Department, by regulations, to confer powers and impose duties on committees, in particular concerning the making of district rates and the appointment of staff.

560. The Chairperson: Or, indeed, redundancies. There will be redundancies in the new councils. They will not need all these directors.

561. Mr Maye: [Inaudible due to mobile phone interference.]

562. It will then be for the existing council and the statutory transition committee to determine who is accepted for severance. The severance payment would be paid on the first day of the new council. That is still being discussed. [Inaudible due to mobile phone interference.]

563. Whether it is in the interests of the existing councils or the statutory transition committees to allow individuals to leave early is a different matter. [Inaudible due to mobile phone interference.]

564. The Chairperson: Are people looking to hedge their bets? Surely, the appointments to the new positions will be made in advance of the first day of the new councils. In effect, there will be too many cooks in the one kitchen.

565. Mr Maye: [Inaudible due to mobile phone interference.]

566. It is not every member of staff; it is a very small proportion. However, it is still a significant number of people, and choices will have to be made about where they fit in the organisation. [Inaudible due to mobile phone interference.]

567. There will be some jobs that will need to be done in the new councils. [Inaudible due to mobile phone interference.]

568. There will be jobs for a small number of people to wind down the old organisation. [Inaudible due to mobile phone interference.]

569. It is quite a complicated mix, and it will come down to detailed negotiation with individuals within the context of the new structure being settled by the statutory transition committee.

570. The Chairperson: I will wish to return to that issue, because it must be done in the best interests of the ratepayer, as opposed to those of the public servant.

571. Another phone is switched on, and it is seriously interfering with the Hansard recording. Members, please turn your phones off.

572. Mr Beggs: Are there any estimates on the cost of the redundancy scheme? Can you provide any guidance on whether the transition committees will have the power to veto new appointments? There is little point in appointing a new chief executive to be in place for 18 months and then be given a redundancy package.

573. Mr Maye: The working assumption is that the people who are newly appointed by the statutory transition committees will TUPE across into the new organisation to do the job that they have been appointed to do. It is assumed that they will not necessarily be able to avail themselves of packages. The people who are at risk in the current organisations will be eligible to be considered for the severance package. We do not regard the statutory transition committees' appointments of chief executives designate, directors of human resources, directors of finance, or any other such positions that they feel are needed, to be in the at-risk group. Therefore, they will not be eligible for severance packages.

574. Mr Beggs: What role, if any, will the transition committees have in filling existing vacancies in councils as the RPA date approaches?

575. Mr Maye: The Local Government Staff Commission has issued a document that puts in place a new vacancy control system, with effect from today. That control system will be exercised and operated by the existing councils.

576. As time moves on, and as the new statutory transition committees are appointed and take up their roles, there will increasingly be discussions on the filling of vacancies. That will have budgetary implications, and it may mean that a post is filled by an individual who might have to draw down the severance package and leave the organisation in May 2011 or shortly after, so it is legitimate for a statutory transition committee to have a role in determining whether the post should be filled and, if so, how it should be filled. The local government reform joint forum will be considering how, when we reach that point, the statutory transition committees exercise a

role in vacancy control in the existing 26 councils, and how those negotiations and discussions happen in reality.

577. Mr Beggs: You seem to be saying that you see that evolving role being governed by Local Government Staff Commission guidance. Is that correct?

578. Mr Maye: The current arrangements have been agreed collectively by the local government employers, the Civil Service members who are on that negotiating forum, and the trade union side. The staff commission provides an independent and joint secretariat to that body. In a sense, we are using the staff commission as the vehicle to issue the vacancy control document, because it then attracts the potential use of the Minister's power of direction if a council wilfully ignores the guidance that has been issued. It does not mean that the staff commission has drawn that together: it did some of the legwork at an earlier stage, but the decisions on the final shape of that document were a matter for the local government employers who sit on the local government reform joint forum, and for trade union side. That is where that negotiation and agreement occurred.

579. Mr Beggs: You seem to be saying that it is the trade unions and senior council officials in the local government employers who are —

580. Mr Maye: No. The local government employers are represented by elected members and officers from the National Joint Council for Local Government Services and the Northern Ireland Joint Council for Local Government Services, so it has political representation and officer representation.

581. Mr Beggs: So long as there is no conflict of interest at that level in determining procedures.

582. Mr Maye: We are very conscious of the potential.

583. Mr Dallat: I do not want to wander away from the Bill again, but when all of these early retirements, severances, redundancies, enhancements and all are taken into account, is it not the case that no savings will be made?

584. Mr Maye: We do not think so — not based on the work that has been done so far on the economic appraisal, which, as I said, will be taken to the strategic leadership board. In the economic appraisal, we have identified as precisely as possible the upfront implementation costs, including severance for members, severance for officers, systems costs for designing new systems and putting them in place, and a whole range of other costs that will need to be met in creating the new 11 councils, and balanced them against the areas where savings will be driven out and the potential for savings to be driven out. All of that is set out in great detail in the economic appraisal, which will be brought to the strategic leadership board on 16 October.

585. The Minister has already said in response to an Assembly question that he intends to publish that economic appraisal. Once there is agreement on the shape of that economic appraisal, I suspect that the Minister will want to make a statement to the Assembly to set out what it means and seek to demonstrate that the programme makes sense for citizens, ratepayers and taxpayers.

586. Mr Dallat: So we can dispel the rumour that, because of financial restraints, there will be elections next year for another four-year term to the existing 26 councils?

587. Mr Maye: My Minister's firm intention is to deliver the programme, and that means that there will be elections in May 2011.

588. The Chairperson: Move on to clause 16.

589. Ms Broadway: Clause 16 will enable the Department, through regulations, to provide that any local government legislation or rating legislation that applies to an existing council will apply to statutory transition committees, with or without modifications, or that it will not apply in relation to that council or apply with modifications. The clause also defines "local government legislation" and "rating legislation".

590. The last time we were before the Committee, some concerns were raised that this seemed to be a very wide power for the Department. However, I will explain the Department's intention. We want, as far as possible, to apply the provisions of the current local government and rating legislation to statutory transition committees, with the necessary modifications to set the context. We will modify "council" to "statutory transition committee" and "councillor" to "member".

591. In relation to disapplying certain bits of the legislation to the current councils, perhaps I can give an example that will demonstrate the Department's intention. Statutory transition committees will be given a specific function to strike the rate for the first year of the new councils. However, the current local government legislation places that duty on councils. Therefore, we need to disapply that provision for the first year of the new councils.

592. The Chairperson: OK. We will move on.

593. Ms Broadway: Clause 17 provides that the Department may make regulations for a severance scheme for councillors that would set out when the scheme would be held; the eligibility criteria, such as length of service; the amount of the severance payments; and the method of calculating those payments. The clause also amends section 4(1) of the Local Government Act (Northern Ireland) 1972 to disqualify anyone who receives a severance payment from being a councillor in the future.

594. Mr Ford: Sorry Chairperson, I am a bit slow. Can I go back to clause 16 for a moment? Based on what you have just said, what functions will remain with the existing councils after the statutory transition committees are established? It seems to me that that regulation, even in the way in which you outlined it, will mean that, potentially, the councils could have no remaining functions other than to continue to manage existing services, with any significant change being implemented by the transition committees. Therefore, councillors who are not on that committee will have nothing to do.

595. Mr Maye: The critical issue, and the only area in which we seek to disapply the existing rating legislation, is in relation to the striking of the rate for the coming year, because the responsibility for striking the rate and setting the budget for the new councils when they take up their mantle in May 2011, and for that short period from the beginning of April to the election date, will fall to the transition committees rather than the individual councils. Therefore, for that year alone, the 26 councils will not strike the rate for the year ahead —

596. Mr Ford: You say that that is the only area, but you have already outlined the issues of approval for capital projects and the appointment of senior staff. Therefore, it is not just about the rate for one year; it is about anything that has significant, long-term implications for the council. When you consider the relatively low level of activity that may require a loan sanction, if that all goes to the transition committee, there is very little left for the existing councils to do.

597. Mr Maye: That is a consequence of the decision that was taken about a year ago not to have a shadow period but a sharp transition from the old councils to the new ones in May 2011. That, in a sense, transferred the onus for key decisions and actions in that final year, in

preparation for the creation of the new councils, to the statutory transition committees. I think that you are right —

598. Mr Ford: There will actually be a sharp transition from 26 councils to 11 transition committees at some date in the next few months. Some councils will then remain with no significant functions until May 2011.

599. Mr Maye: That is a fair and valid point. You are absolutely right. The existing councils will continue to deliver and develop services and programmes, but they will do so in the context of the transition committee's work. It is a direct consequence of the decision not to have a shadow period after the election of the new councils. The view that was put to us by the policy development panels and the strategic leadership board, and which the Minister accepted, was that that was a necessary evil in the circumstances of not having a shadow period after the election.

600. The Chairperson: I have another meeting to attend briefly. I am indebted to the Deputy Chairperson, who will continue the meeting and oversee the formal clause-by-clause procedure. Thank you.

(The Deputy Chairperson [Mr Boylan] in the Chair)

601. The Deputy Chairperson: Do members have any other questions?

602. Mr Beggs: Mr Maye pointed out that the transitional committees will be given significant powers. Some of us were aware of, and concerned about, the lack of democratic accountability in this new structure as described, and therefore opposed it. Did the Department make everyone else aware of the changes that will result when the transitional committees are established?

603. Mr Maye: We presented some detailed proposals in the course of the public consultation, which was completed in May. We exposed the views and proposals that came from the policy development panels through the strategic leadership board, and put them out for public consultation. A number of councils and others responded to that consultation.

604. The Deputy Chairperson: Are we on clause 17, Julie?

605. Ms Broadway: I have read the responses to clause 17.

606. The Deputy Chairperson: Do members have any questions about clause 17?

607. Does the Department have any comments to make about the views expressed by Omagh District Council and the Northern Ireland Local Government Association (NILGA)?

608. Ms Broadway: The final decisions on severance payments to councillors have yet to be taken. We will feed the comments that have been received to the Minister when making the decisions on the format of the severance scheme and the eligibility criteria.

609. Mr Maye: The critical issue that the Minister is not yet in a position to determine is the timing of delivery of severance. That depends on continuing discussions that he is having with Paul Goggins about co-option, and the willingness of the Northern Ireland Office to change the law on co-option. Most of the parties would agree that they wish to avoid having a few hundred by-elections in the run-up to May 2011, not just because of cost, but because it would unsettle the political process.

610. Mr Goggins has yet to tell us what he is prepared to do. Our Minister met him a few weeks ago and pressed the case for a change in the law on co-option — not only for the short term, in order to deal with the transition issue, but as a long-term proposition for local government, given the arrangements that have been agreed for the Assembly. Mr Goggins agreed to consider those issues and bring back some proposals. We got a clear impression that he was not persuaded, at this point, that an early change in the law on co-option would be the way forward. We are still waiting for him to bring proposals to the table.

611. On the question of timing, therefore, it is not possible to predict whether it will be possible to provide for severance in advance of May 2011, but that is what the Minister would like to achieve, so that new people can be brought in as early as possible. He is not in a position to make that decision yet because of Mr Goggins's involvement and the decisions that he, as an NIO Minister, has to make.

612. Mr Dallat: I am a bit confused as to why Mr Goggins remains to be convinced. He must be aware that there has been considerable discussion about double-jobbing. Many of us who find ourselves on councils in which we are minorities desperately want to fulfil the principle of one man, one job, but we cannot do it. What is his reasoning for not doing that?

613. Mr Maye: He is not persuaded that he can deliver, in the time available, something that represents a fundamental shift in electoral law. He is responsible for electoral matters. That is the way he views the situation at the moment. As a longer-term proposition, his view is that it is potentially deliverable, but only after full public consultation. The short-term nature of what we need to do between now and May 2011 means that he has doubts as to whether significant change to the law on co-option could be delivered in the time available, with full public consultation, and in a way that ensures that the other parties at Westminster sign up to and row behind what is being proposed.

614. That is the view that he has expressed. I assure you that our Minister has made the strongest possible arguments for an early change in the law on co-option and a longer-term change, as did his predecessor. The arguments have been put. We have shared with the NIO and Mr Goggins the outcome of the consultation that we did in the spring, because it showed very strong support for early severance and for a change in the law on co-option to enable early severance. He has not ruled it out, but he is not persuaded — he has gone off to think about his options and whether there are other ways to allow severance to be delivered before May 2011.

615. Mr Dallat: I was not talking about severance in particular, because we have to be extremely careful about our comments on that. I was talking about co-option; you are saying that it is not going to happen.

616. Mr Maye: We do not yet know. However, we understand that Mr Goggins will come back fairly quickly to put proposals on the table for our Minister to consider, and we look forward to seeing those proposals.

617. Mr Ford: I know that it is unfair to ask a civil servant to interpret the mind of someone else's Minister, but you are doing so well that I will give it a try. Are we to take it that Mr Goggins does not regard your consultation as being adequate for him to move legislatively?

618. Mr Maye: That would be a fair inference.

619. Mr Ford: You also mentioned changing the law on co-option in the longer term, as opposed to merely dealing with the current issues of severance and reducing the number of councillors. I cannot see how your consultation did not cover the short-term issue adequately; whether or not

I like the results, I accept that you did the job. Is it because you have also raised the issue of changing the law permanently on co-option?

620. Mr Maye: No; Mr Goggins and his officials in the NIO feel that such a fundamental change to electoral law for local authorities would require full and explicit consultation. Our consultation did not put forward concrete proposals for changing the law on co-option — it could not, because it would not be within the gift of the Assembly or the Department to do so.

621. Mr Ford: The responses to the consultation covered that.

622. Mr Maye: What proposals are put forward and what happens will be the call of Mr Goggins. That means that we have to wait until he puts forward his proposals to the Minister. My Minister has asked him to do that as soon as possible, because he does not want the issue to drift. He knows that parties, individuals, the NAC, NILGA and others want an early resolution so that we know what will happen on severance and co-option as quickly as possible.

623. Mr Ford: Given that co-option is possible with unanimous agreement from remaining councillors, could the severance package that you are working on be implemented unchanged under the current law if co-option was agreed?

624. Mr Maye: Yes, it could.

625. Mr Ford: Therefore, if there was good will from all councillors, we would not need a decision from Mr Goggins. That is a challenge to the 562 councillors in Northern Ireland.

626. Mr Dallat: It is also an act of faith.

627. Ms Broadway: We covered clauses 18 and 19 last week.

628. Clause 20 provides that regulations under clause 3(7), which deals with certification requirements for contracts and the statutory transition committees, are to be made by affirmative resolution. All other regulations are to be made by negative resolution.

629. Clause 21 defines certain words and terms that are used in the Bill.

630. Clause 22 provides that clause 3 of the Bill, which provides the power to make regulations concerning certification requirements, and the remainder of the Bill will come into operation the day after Royal Assent. The other provisions in Part 1 will come into operation by means of a commencement Order.

631. Clause 23 is the short title.

632. The Deputy Chairperson: Are members happy with those clauses? Do they require any further information or wish to suggest any amendments?

633. Given that no one has responded, I thank the departmental officials, Ian Maye, Julie Broadway, Jim Stewart and Angela Fitzpatrick. We will now commence the clause-by-clause scrutiny of the Bill, and I want members to pay attention, because this stage is very important.

634. The Committee Clerk: I remind members that [Inaudible.]. If members do not have enough time to discuss certain clauses, they can be parked and come back to at a later date. In the meantime, members can go through the more straightforward ones to see whether some form of acceptable agreement can be reached.

635. The Deputy Chairperson: If we require further information about any clauses, we can put them on hold.

Clause 1 (Functions to include power to enter contracts)

636. The Deputy Chairperson: There is an issue with clause 1, so are members agreed that we park it until we receive further information?

637. Mr Ford: Could we agree that we accept clause 1 if the Department were to suggest deleting subsection 3?

638. The Committee Clerk: Yes, you certainly can do that.

639. Mr Ford: Then I am quite happy to accept what the Department is saying.

Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 2 (Certified contracts to be intra vires)

640. The Committee Clerk: The Department referred to a possible amendment to delete subsection 5(a). I do not know whether members have an opinion on that.

641. Mr Ford: I think that we should park clause 2, because it is a bit more complicated.

642. The Committee Clerk: In addition, Belfast City Council mentioned clause 2 with respect to [Inaudible.].

643. The Deputy Chairperson: Do members agree that we park clause 2?

Clause 2 referred for further consideration.

Clauses 3 to 8 agreed to.

Clause 9 (Introductory)

644. Mr Ford: I had an exchange with Ian Maye about the expansion of Belfast City Council, which is not covered by this clause. I would not be happy to approve this clause today, given that there was talk about the Department looking at its implications. The Committee needs to hear further from the Department.

Clause 9 referred for further consideration.

Clause 10 (Control of disposals and contracts of existing councils)

645. Mr Ford: Again, this was a clause about which the Department said that it would welcome the Committee's further thoughts. We should park this clause, too.

Clause 10 referred for further consideration.

Clauses 11 and 12 agreed to.

Clause 13 (Contravention of direction)

646. The Committee Clerk: The Department's advice is that it is seeking more information.

Clause 13 referred for further consideration.

Clause 14 (Statutory transition committees: constitution)

647. Mr Ford: I am not sure about clause 14. To some extent, this hangs on my concerns about clause 9. The Committee needs to park clause 14 until it hears more about clause 9.

Clause 14 referred for further consideration.

Clause 15 (Statutory transition committees: functions)

648. The Committee Clerk: There were a range of concerns about this clause, too

Clause 15 referred for further consideration.

Clause 16 (Power to modify existing legislation)

649. Mr Ford: Again, this hangs on the same point.

Clause 16 referred for further consideration.

Clause 17 (Severance payments to councillors)

650. Mr Ford: Do we have a quorum capable of taking that decision, if members are ruling themselves out on that point?

651. Mr Beggs: I think that we need guidance on that.

652. The Deputy Chairperson: OK. Is the Committee agreed to get more information and guidance on that matter?

Clause 17 referred for further consideration.

Clause 18 (Acquisition of land otherwise than by agreement)

653. The Committee Clerk: Several organisations had concerns about the width and power of the clause.

654. Mr Beggs: Someone wanted it widened; was that not it?

655. Mr Ford: Someone wanted to widen it for other purposes, but the question was whether there had been adequate consultation to cover anything other than waste management issues.

656. The Committee Clerk: There was an issue with community planning.

657. Mr Beggs: Yes, it struck me that there was no balance, or anything to demonstrate an overall community benefit, because community planning is not there. Waste is a clear issue where there will be — personally, I am satisfied.

658. The Deputy Chairperson: OK. Would the Committee like to park clause 18?

659. Mr Ford: I think that we could agree this clause. The evidence on the lack of consultation showed that we could not widen it at this stage.

Question, That the Committee is content with the clause, put and agreed to.

Clause 18 agreed to.

Clauses 19 to 23 agreed to.

Long title agreed to.

8 October 2009

Members present for all or part of the proceedings:

Ms Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr David Ford

Mr Danny Kinahan

Mr Ian McCrea

Mr Alastair Ross

Witnesses:

Ms Julie Broadway

Mr Ian Maye Department of the Environment

Mr Jim Stewart

660. The Chairperson (Mrs D Kelly): We move to the formal clause-by-clause scrutiny of the Local Government (Miscellaneous Provisions) Bill. Members have been e-mailed a copy of the draft Committee report, and a copy of the key issues from the report has been tabled. I apologise for the late tabling of so many papers, but our visit to Brussels meant that our deadline was moved forward. We will ask that papers not be given to members on the day of the Committee meeting so that they will have an opportunity to read through them.

661. The Committee Clerk: Where possible, papers are e-mailed to members when we receive them.

662. The Chairperson: Are members content to agree the key issues paper that has been tabled?

663. Members will be aware that concerns have been raised by local government councillors' representatives and by the community and voluntary sectors about funding and communications, as well as the Department's position on the inclusion of provisions for community planning and well-being. There is concern that that seems to have fallen off the scale. There is a need for local authorities to be consulted before the introduction of subordinate legislation. Concerns, which are detailed in the paper, have been raised about some clauses.

664. The Committee Clerk: Most of those were issues that the Committee did not feel informed enough to agree last week, and further information was sought from the Department. I will update the key issues. I wanted to be satisfied that the Committee felt that all the issues raised during the scrutiny of the Bill had been included in the paper and that we had captured the Committee's concerns about them, because that paper will form the key part of the Committee's report on the Bill. I will amend or update the paper before members see it again as part of the full report.

665. The Chairperson: Are members content at this stage?

666. Mr Ford: I have one technical point; there is mention in the document of the three mechanisms for selecting representatives on statutory transition committees: d'Hondt, Sainte-Laguë or alternative votes. Surely the third mechanism is the single transferable vote?

667. The Committee Clerk: I read something to suggest that it is.

668. The Chairperson: Subject to that amendment, we will agree it at this stage. We will return to it.

669. The Committee Clerk: This is not a full agreement to it; it is just to agree that we have covered all the key points that were raised last week. Those will change.

670. The Chairperson: Members have copies of letters from the Department of the Environment with details of the mechanisms that the Department is using to brief local councils on local government reform, and a Northern Ireland Local Government Association (NILGA) reply on statutory transition committees (STCs). Members may wish to take those into account when discussing the clauses with officials. There is also an offer — if members are so inclined — to be included in the DOE/NILGA communications strategy. I think that that would be advisable. Do members have comments or questions? Are members content that this information be incorporated into the final Committee report on the Bill?

Members indicated assent.

671. The Chairperson: As members will recall, on 1 October the Committee commenced its formal clause-by-clause scrutiny. Members agreed 14 clauses and the long title, and one clause subject to amendment. Eight clauses were left pending further information from the Department and, perhaps, for discussion. Today the Committee will consider the clauses that it did not formally agree at the meeting on 1 October: clauses 2, 9, 10, 13, 14, 15, 16 and 17. We now have an opportunity to consider each clause and decide whether we are content with it or whether we wish to seek an amendment to it. I invite the departmental officials to come to the table.

672. The Committee Clerk: I advise members that the Department has provided a table of responses to the issues raised by the Committee. Presumably the officials will give us more information on those responses.

673. The Chairperson: Mr Maye, I welcome you and your colleagues, Jim and Julie, back to the Committee.

674. Mr Ian Maye (Department of the Environment): It is good to be back with you today. We have been working hard in the last week to address the issues that were raised by the Committee in discussions. We discussed several of those issues with the Minister before he left for the USA. We will take you through the considered responses. The Committee's suggestions

were very constructive, and we have dealt with them as such. I will now pass over to Jim Stewart to take you through the responses line by line, and we will then be happy to answer questions.

675. Mr Jim Stewart (Department of the Environment): The first issue was in relation to clause 2, "Certified contracts to be intra vires". The Department proposes to delete clause 2(5)(a) at Consideration Stage. The other issue that you raised was waste vires. The Department intends to bring forward additional waste vires provisions to be included in the Bill at Consideration Stage. I think that you are already familiar with those provisions.

676. Mr Beggs: Will you clarify exactly what you mean by that? One area of concern that I had was the issue of unintended consequences that the certification process could go much wider than the waste contracts potentially than it was originally intended for to give confidence to those who would be involved in the considerable new waste infrastructure which is required.

677. How can we be certain that it cannot go much wider than that and give legal protection when it should not be given?

678. Mr Stewart: I am not sure of the member's point. Would you like to expand on it?

679. Mr Beggs: I have asked questions on the subject before. A certification process is applied to contracts after a certain date; that was the extent to which certification was required in order to prevent a challenge or make one more difficult. I want clarification on how that will apply specifically to the waste-infrastructure process, which will be under considerable scrutiny and which must therefore be more trustworthy rather than possibly being applied to many other signed contracts.

680. Mr Stewart: In theory, the process could be applied to any contract entered into after the Bill becomes law. However, the Bill is aimed specifically at large waste infrastructure projects that are online at the moment and the contracts for which will be signed in 2011. Those contracts are being dealt with by the three local government joint committees: Arc21, SWaMP and the North West Region Waste Management Group.

681. There are clauses that apply contracts' provisions to Arc21 and SWaMP. Those provisions apply to the North West Region Waste Management Group as a council because Derry City Council, as the lead council, will take forward those contracts for the group.

682. Mr Beggs: That has triggered a declaration of interest on my part: I am a member of Carrickfergus Borough Council.

683. The Chairperson: Several members will want their interests to be noted.

684. Mr Maye: The principle is that those clauses relate to waste-management issues; their scope is limited to waste-management matters.

685. The Chairperson: I have asked the Committee Clerk to note the interests of all members who are members of local authorities. That has been done. Do members have any other questions on clause 2?

686. Mr Ford: The Department's proposal to delete 2(5)(a) at Consideration Stage is fair enough, and the Committee can agree to that. However, I am not sure how our clause-by-clause scrutiny deals with the Department's statement that it intends to include additional waste vires in the Bill at

Consideration Stage. Are we now also agreeing to the Department's making unspecified amendments in future that it has not shown the Committee at this stage?

687. The Clerk of Bills: I will return to the Committee after considering that point in detail to provide formal advice. However, the Committee's primary responsibility is to agree its position on the clauses, subject to specific amendments from the Department. Therefore, the Committee can agree clause 2, subject to the Department's proposed amendment.

688. The Committee cannot take a position on other forthcoming amendments until it has seen them, but it may wish to note that it has discussed matters related to such amendments with officials and recommended that certain things be done. However, in respect of the detail, a formal position would be adopted after those amendments have been produced.

689. Mr Maye: The Department intends to bring those proposed amendments to the Committee before Consideration Stage so that members can debate them and give the Department their views before the amendments are tabled.

690. Mr Ford: I appreciate Ian's point, but at this stage we are approving only the clause, subject to the deletion of 2(5)(a).

691. The Chairperson: Yes, and as per the amendments proposed.

692. Mr Ford: As per the specific amendments, but we cannot give formal approval to anything else.

693. The Chairperson: No.

694. Mr Stewart: Clause 2 will not include the vires amendments; the vires will be included in separate clauses. I mention that because the issue has been raised in connexion with clause 2, but members may wish to consider clause 2, with the proposed deletion of 2(5)(a).

695. Question, That the Committee is content with the clause, subject to the Department's proposed amendment, put and agreed to.

Clause 2, subject to the Department's proposed amendment, agreed to.

696. The Chairperson: We note that there will be further consideration of waste vires.

Clause 9 — (Introductory)

697. Mr Stewart: Clause 9 was parked pending further information from the Department on the implications for the citizens and resources of Lisburn and Castlereagh councils and their incorporation into the new greater Belfast local government district. Since our last meeting, officials met the Minister, who concurs with the Committee's views and has asked us to introduce proposals to ensure the direct representation of Castlereagh and Lisburn councils on the Belfast statutory transition committee. Any necessary amendments will be included at Consideration Stage. Lisburn City Council, Castlereagh Borough Council, the Belfast voluntary transition committees and, when established, the statutory transition committees need to continue to engage in order to address the transfer of assets between councils and to ensure the continued delivery of public services.

698. Mr Maye: The principal point that the Minister wants to address is establishing a mechanism to allow district electoral areas (DEAs) that are directly affected by the Boundaries Commissioner

report to be represented on the Belfast transition committee. Not necessarily every member should be represented, but a proportionate number from each of those two councils should be included.

699. The Chairperson: The voice of the elected representatives has been heard, and the Minister has asked you to introduce a mechanism that meets the needs of the DEAs and that is in the best interests of the new committee.

700. Mr Ford: That is an extremely helpful response to the points that we made last week. However, I am confused about the status of this clause, even more so given Ellis's earlier answer. On that basis, we cannot agree the clause even though I am happy with the Department's sentiments.

701. The Clerk of Bills: It is open to the Committee to agree the clause subject to the Committee's recommendation that the clause be amended to take account of its concerns. The Committee can note the Department's willingness to take the issue on board. The Committee cannot formally agree the clause subject to an amendment, because there is no amendment yet. However, the Committee can agree the clause subject to the Committee's recommendation that the clause be amended.

702. Mr Ford: The Committee can accept the clause subject to the amendment rather than reject it or say that we have seen the specific wording. Is that right?

703. The Clerk of Bills: I have not been terribly clear. The Committee can agree the clause subject to its recommendation that an amendment be produced to allay the concerns that councils raised and which are discussed elsewhere in the report. The Committee would not be agreeing the clause subject to an amendment, because there is no amendment. Furthermore, it is not possible for the Committee to agree to an amendment that it has not yet seen. The Committee can only agree the clause, subject to a recommendation that it be amended to reflect certain concerns. The Committee should set out those concerns, which are included in the papers, in its report.

704. The Chairperson: We are agreeing the clause in principle, subject to the Committee's recommendations being incorporated into it. We look forward to the new amendment.

705. The Clerk of Bills: The Committee will have a chance to read the amendment in the draft report, which the Committee Clerk will bring to the Committee. The Committee can leave that for a while, but that will have implications for the deadline.

706. Mr Ford: How quickly can the sentiments that Ian expressed this morning be turned into a formal amendment?

707. Mr Maye: We spoke to the legislative draftsmen this morning.

708. Mr Ford: I presume that, apart from anything else, the amendment has to be agreed between the Department and the legislative draftsmen before being submitted to the Executive. We know how long that might take.

709. Mr Beggs: Can the Committee suggest an amendment?

710. The Clerk of Bills: It is open for the Committee's draft report to reflect that. I could work with the Committee Clerk on the draft report to reflect that, subject to the Committee's recommendation, an amendment be provided to achieve that objective. It is normal for a

committee report to do that. It is also normal for Committees not to have received the wording of amendments that have been agreed at this stage from Departments. It is normal for a committee to reflect what it is recommending, to note a willingness on the part of the Department to take it forward, and to set out in the report what it wants to achieve by the amendment.

711. Mr Ford: That is probably the best that we can do at this stage. I suspect that the Committee can probably agree an amendment more quickly than the Department. If the Department is willing to consider the amendment that we might propose, it might be the speediest way of resolving the matter. I am not sure whether Hansard will record that Ian is nodding at that point. [Laughter.]

712. The Chairperson: Fortunately, I do not think that we are on camera this morning.

713. Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 9, subject to the Committee's proposed amendment, agreed to.

Clause 10 (Control of disposals and contracts of existing councils)

714. The Chairperson: We move to clause 10.

715. Mr Stewart: Clause 10 is parked pending further information from the Department regarding the powers of statutory transition committees and the role of the Department during the transition period. When the statutory transition committees are established and the Department has made regulations under this clause, statutory transition committees will be responsible for considering applications from the constituent councils to dispose of land or to enter into contracts above specified sums. Statutory transition committees may give consent to such applications with or without conditions. Such consents are in addition to any other necessary statutory requirements.

716. During the transition period, the Department will mediate with statutory transition committees where agreement is not reached regarding the value of any consideration. The Department will also continue, subject to any necessary statutory transition committee consents, to consider applications for loan sanctions from existing councils.

717. The Chairperson: Are members content with clause 10?

718. Mr Ford: I have a question about when mediation will occur. Jim said that the Department will mediate with statutory transition committees where agreement is not reached regarding the value of any consideration. Can you tease that out a bit for me?

719. Ms Julie Broadway (Department of the Environment): It is where consideration is other than the monetary terms.

720. Mr Maye: If a disagreement between a council and a statutory transition committee comes to the attention of the Department, the Department can make a determination and mediate between the two, as it continues to have the final say on loan sanction applications.

721. The Chairperson: What happens should the stalemate remain?

722. Mr Maye: The Department will determine the outcome.

723. Mr Ford: Is that what the clause says or would that be the effect of a departmental amendment?

724. Mr Stewart: That is what the clause states at present.

725. The Chairperson: It is simply further information; it is not an amendment.

726. Mr Ford: Sorry, I may be particularly thick this morning, but clause 10(1) states that: "The Department may direct that ... an existing council shall not, without the written consent of a specified statutory transition committee".

727. What is being said is that the Department retains final powers.

728. Mr Maye: Mr Beggs raised that at last week's meeting. The fact that loan sanction approval is involved means that the final determination on whether the loan sanction is granted rests with the Department. However, the Department seeks to achieve agreement and consensus between the statutory transition committee representing all the councils involved in that group and an individual council. It seeks to blend the best of both approaches: encouraging local agreement on issues before they are brought to the Department, in which case the Department should be able to reach a decision and grant approval to loan sanction very quickly, while giving the Department the ultimate power, which it has at present, to consider whether the loan sanction is granted where there is continuing disagreement between the statutory transition committee and an individual council.

729. Mr Ford: As I read it, 10(1) imposes on councils the additional burden of getting the approval of the statutory transition committee, without specifying the grounds on which the Department could overrule the transition committee.

730. Ms Broadway: That provision relates to clause 11(3), which states that if a contract is disputed, the Department can mediate:

"Where the consideration or any of the consideration under a contract is not in money".

731. Mr Ford: I accept that. However, I mean where the consideration relates specifically to money and a capital programme. The concerns expressed — particularly by Omagh District Council — do not seem to have changed. If there is no agreement from the transition committee for capital expenditure, councils cannot go to the Department for loan sanction. Is that not the meaning of clauses 10 and 11?

732. Ms Broadway: Yes.

733. Mr Ford: Given what the Department has said about mediation, does that indicate willingness for it to consider an amendment that would allow an appeal to the Department by a council that felt aggrieved by a decision of an STC?

734. Mr Maye: We will have to think about that and discuss it with the Minister.

735. Mr Ford: It is a situation that we all hope will not arise. However, we are legislating for what might arise, not for what we hope will arise.

736. Mr Maye: If a statutory transition committee attached conditions with which a council was not happy, the council would still be free to engage with the Department. When the Department receives the proposal from a statutory transition committee, with the attached conditions, it will

automatically be up to the Department, if representations are received, to determine the outcome.

737. Mr Ford: That is the irony: if conditions are attached, an appeal is possible; if there is an outright refusal, an appeal is not possible.

738. Mr Maye: That is a valid issue.

739. Mr Ford: That seems to me — to use the technical term — cockeyed.

740. The Chairperson: Rather than Mr Ford's proposing an amendment for next week, will the Department reflect on his comments and bring clause 10 back for further consideration? Does Mr Ford wish to propose an amendment to the Committee next week?

741. Mr Ford: I would like the help of a legislative draftsman. [Laughter.]

742. Mr Maye: As with the previous clause, it might be helpful for the Committee report to express those views, and we could work with them.

743. The Clerk of Bills: Once again, it is open to the Committee to agree the clause, subject to a recommendation that the clause be amended to reflect members' concerns. We can work on the wording of that, and I offer my services in that regard for next week's draft report.

744. Mr Ford: I am happy with that.

745. Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 10, subject to the Committee's proposed amendment, agreed to.

Clause 13 (Contravention of direction)

746. Mr Stewart: The Committee asked for further information regarding the enforcement of clause 13. The legal effect of clause 13 is that any disposal without the requisite consent would be unlawful. That reinforces that the proposed disposals must be referred to statutory transition committees for such consent.

747. The Chairperson: Do members have any comments?

748. Mr Ford: "See clause 9". This is rehashing the same argument.

749. Question, That the Committee is content with the clause, subject to the Committee's proposed amendment as discussed in relation to clause 9, put and agreed to.

Clause 13, subject to the Committee's proposed amendment, agreed to.

Clause 14 (Statutory transition committees: constitution)

750. Mr Stewart: Clause 14 was parked, pending further information from the Department on representation on STCs, specifically the Lisburn/Castlereagh STC. An associated paper accompanies our clause-by-clause analysis; it was compiled by the Department and NILGA and sets out the representation on STCs.

751. The Chairperson: We received that paper only this morning.

752. Mr Maye: At last week's meeting, I undertook to share the papers that were produced by policy development panel A. We sought and have acted on advice from policy panel A on the composition of the transition committees, so it was important to share papers that it produced.

753. Mr Stewart: The paper is dated March 2009, so it does not reflect recent conversations of the Minister's in which he agreed that there should be representation from Lisburn and Castlereagh on the Belfast STC.

754. The Chairperson: Who produced the paper?

755. Mr Maye: Policy development panel A, after which it was considered and agreed to by the strategic leadership board. The paper forms the basis of our policy development; we stuck closely to the recommendations of the policy development panel, because it represented the consensus view across the five parties involved in the process.

756. The Chairperson: Was the view unanimous or was there a majority vote?

757. Mr Maye: In every respect, there was a consensus view across all the parties. There were one or two areas of slight disagreement on very minor issues, not on the principal points.

758. The Chairperson: Thank you; it is helpful to know that.

759. Do members want to park clause 14 until next week, or, given that it has a consensus of support from all the political parties that are represented on the panel, are they content with the clause?

760. Mr Beggs: I would prefer to park it.

761. Mr Kinahan: I agree.

Clause 14 referred for further consideration.

Clause 15 (Statutory transition committees: functions)

762. Mr Stewart: Clause 15 was also parked, pending further information from the Department on the cost to ratepayers of a staff redundancy scheme and the timing and the role of the STCs in the process.

763. The cost of staff redundancies is being considered as part of the business case being prepared by PricewaterhouseCoopers (PWC) on the reform of local government. The local government reform joint forum has been discussing the detail of a redundancy package and the respective roles of STCs, existing councils and the new councils in the decision-making process. That discussion will also address the timing of the scheme.

764. The Chairperson: Do you have an answer on the cost to ratepayers?

765. Mr Maye: Not yet. The PWC report will go before the strategic leadership board, and it will be shared with the party representatives on the board either tomorrow or Monday. At that point, we will have a much clearer idea of the scale of costs involved in officer severance.

766. In response to an Assembly question, my Minister said that he intends to publish the report once the strategic leadership board and the parties represented on it have given it consideration.

Clause 15 referred for further consideration.

767. The Chairperson: Could members of the Committee be circulated with the PWC report as soon as possible?

768. Mr Maye: Yes. We would be happy to do that.

Clause 16 (Power to modify existing legislation)

769. Mr Stewart: This clause was parked pending further information from the Department about the strength and range of the powers that will go to the STCs and the role of local authorities after STCs have been set up. The main functions of STCs will be the appointment of chief executives designate and key staff for the new councils. They will be involved in, and have responsibility for, the setting of rates for 2011-12. They will also, where appropriate, determine the future status of some councils; in addition, they will be responsible for developing a short-term implementation plan for them. When STCs are established, existing councils will, apart from the functions that I mentioned, continue to be responsible for the day-to-day delivery of public services.

770. Mr Boylan: I am sure that Mr Ford does not want to sit on the steps of Stormont to discuss the matter.

771. Mr Ford: I notice that the Department still does not list setting the capital programme for existing councils as one of the main functions, but I think that we have covered that issue adequately.

772. The Chairperson: I think so.

773. Question, That the Committee is content with the clause, put and agreed to.

Clause 16 agreed to.

Clause 17 (Severance payments to councillors)

774. The Chairperson: We remind ourselves of the guidance on this matter that was provided to members of the Committee who are also councillors.

775. The Committee Clerk: The Clerk Assistant advised that this could in no way be seen as advocacy. The Committee is, in fact, merely agreeing the provision of the power to introduce a severance scheme if that remains the position of the Executive.

776. Question, That the Committee is content the clause, put and agreed to.

Clause 17 agreed to.

777. The Chairperson: Thank you all very much indeed.

778. Mr Stewart: I think that clause 1 still needs to be agreed.

779. The Chairperson: I wondered whether we had agreed it.

780. The Committee Clerk: We agreed that last week.

781. The Chairperson: No; we did not.

782. Mr Maye: It was subject to deletion.

783. The Chairperson: Yes, I wondered. Clause 1 was agreed, subject to the deletion of 1(3). The advice of the Office of the Legislative Counsel was that it will not be deleted but will be amended at Consideration Stage.

784. Mr Stewart: It will be amended to read that:

"This Part applies to any contract which a district council enters into after the commencing of this section."

785. The rest of the provisions in relation to the contracts will apply to any contract that is entered into after the date that that section has commenced.

786. Mr Beggs: Earlier, I asked how it was restricted purely to the waste sector. That wording would apply to any contract, so can you highlight where the certification process could limit it to waste contracts?

787. Mr Stewart: Certified contracts will not apply solely or specifically to waste-management contracts. The legislation is to deal with the extensive waste infrastructure schemes; it is purposely designed for those contracts. However, there is nothing to prevent a council from entering into a PPP contract and using those provisions if it needs to. However, PPP contracts require critical mass, perhaps as much as £20 million, to be viable.

788. It is unlikely that councils over here will have the same scope as local authorities in Great Britain to enter into such contracts. I am unaware of any contracts of that magnitude that councils might have that would make a PPP or PFI scheme viable. There is nothing to prevent them using those provisions for purposes besides waste if it were appropriate and if it were value for money.

789. Mr Beggs: I am not aware of any such contracts either; but there is talk of an educational campus in Omagh, and a PPP arrangement of that scale could be put through in that instance. Does that mean that if it is signed after this date, it is legal and one cannot challenge it?

790. Mr Maye: The provisions are specifically limited to the actions of councils and bodies associated with them; the previous management of councils, in particular, not the other bodies.

791. Mr Beggs: What if the council negotiated such a contract?

792. Mr Maye: If the council wished to do so, that would be all right. The PPP or PFI powers would be available for its other functions. This clause is to give a degree of comfort to the organisations that would be providing a service and the financial institutions that would be providing the money to make it happen for those companies. It is primarily a matter of giving comfort to those who would be providing services to councils.

793. Mr Beggs: Will the Department also have to approve any borrowings?

794. Mr Maye: At present, we envisage that the clause will be needed only for major waste-infrastructure contracts. However, it is there for possible future use if there are other major contracts or if the new councils decide that they want to engage in PPP or PFI contracts.

795. The Chairperson: Is this is an amendment or a deletion?

796. Mr Maye: It is an amendment.

797. Question, That the Committee is content with the clause, subject to the Department's proposed amendment, put and agreed to.

798. Clause 1, subject to the Department's proposed amendment, agreed to.

799. The Chairperson: That concludes our scrutiny of the Bill. Thank you all very much for attending.

13 October 2009

Members present for all or part of the proceedings:

Ms Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr David Ford

Mr Danny Kinahan

Mr Daithí McKay

Mr Adrian McQuillan

Mr Alastair Ross

Mr Peter Weir

Witnesses:

Mr Ian Maye

Mr John Murphy Department of the Environment

Mr Jim Stewart

800. The Chairperson (Mrs D Kelly): I thank members for accommodating this meeting, which has been brought forward to 11.00 am. We have a quorum to proceed and to make decisions. I remind everyone to switch off their mobile phones. That is important for Hansard's purposes and for anyone who uses a hearing aid. I invite members of the public to come into the room.

801. The agenda comprises one main item of business: to complete the formal clause-by-clause scrutiny of the Local Government (Miscellaneous Provisions) Bill. We shall proceed to the clause-by-clause scrutiny of the Bill.

802. Members will recall that on 1 and 8 October 2009, the Committee formally considered the Bill's clauses. The clause-by-clause consideration table has been provided at tab 1 of members' meeting packs. Also provided in members' packs is a copy of policy proposals from policy development panel A, at tab 2; and a copy of the draft Committee report, at tab 3. The report will be amended following the outcome of today's meeting and tabled for further consideration for the meeting on 15 October.

803. At our meeting on 8 October, members decided to refer clauses 14 and 15 for further consideration. Those clauses are at the top of the clause-by-clause table that provides the departmental response to Committee concerns. Members need to decide whether they are content with the response and content to agree to the clauses.

804. Departmental officials are present at today's meeting. I invite them to join us at the table. They are available to answer questions and to provide further information. I also note for the record that some Committee members are also members of local authorities. With the exception of Mr Boylan and Mr Ross, every other member who is present is a member of a local authority. Are members happy for that to be noted?

Members indicated assent.

805. The Chairperson: Before we look at clauses 9, 10 and 13, we shall consider clauses 14 and 15. I welcome departmental officials Mr Ian Maye, Mr Jim Stewart, and Mr John Murphy to the meeting.

Clause 14 (Statutory transition committees: constitution)

806. The Committee Clerk: Clause 14 was parked at our previous meeting. Information on it had been provided at the last moment. Members decided to park the clause until a future meeting so that they would have time to read that information. The clause deals with the composition of statutory transition committees (STCs). The information provided more details on the structure of those committees. The question is whether members are happy to agree to the clause, now that they have had a chance to read the information.

807. The Chairperson: I think that that was in relation to Lisburn and Castlereagh authorities having representation on the statutory transition committees of Belfast and Causeway authorities. Mr Maye, would you like to add anything?

808. Mr Ian Maye (Department of the Environment): We are working with our lawyers and legislative counsel to develop a model, and we propose to bring forward amendments at the Bill's Consideration Stage, if the Committee has not done so, to enable the affected district electoral areas (DEAs) in Lisburn and Castlereagh to be directly represented as full voting members on the Belfast transition committee.

809. The Chairperson: Members should take some comfort from the fact that it will be subject to draft affirmative proposals, not a negative resolution. Therefore, at Consideration Stage, there will be an opportunity to agree or disagree with the amendments that are brought forward.

810. Mr Kinahan: Does that mean that we are parking this until we hear more?

811. The Chairperson: We will agree the clause, but we will recognise that the amendment will be tabled and that it will be subject to affirmative approval. Is that the case?

812. The Committee Clerk: That is not quite correct. The powers that clause 14 will bring forward will be subject to draft affirmative procedures. Therefore, any secondary regulations that come under that clause would have to go to the Floor of the House for affirmative approval, rather than by the negative procedure. That will enable Members to have more of an opportunity to make a decision on those regulations.

813. The real problem is that members wanted more information on how the decision in respect of membership of the transition committees would be made. Information that you received from

the strategic leadership board, which emanated from policy development panel A, provides information on that.

814. Mr Kinahan: There is a good example at paragraph 17 of the paper, which describes how the SDLP made sure of its representation. That is good and should be kept in mind.

815. Mr Ford: I have a problem with discussing clause 14 before we have agreed clause 9. Clause 14(4) states that:

"Those regulations shall ensure that the statutory transition committee in relation to a new council consists of members of the predecessor council or councils."

816. "Predecessor council", as defined in clause 9, does not deal with the Castlereagh/Lisburn problem within Belfast. We need to agree clause 9 before agreeing clause 14.

817. The Chairperson: That is a helpful way forward. If members agree, we will move to clause 9 and come back to clause 14.

Clause 14 referred for further consideration.

Clause 9 (Introductory)

818. The Chairperson: Clause 9 was parked on 1 October, pending further information from the Department regarding the implications for the citizens and resources of Lisburn and Castlereagh being incorporated into the new greater Belfast council. It was agreed on 8 October, subject to a recommendation, that the clause be amended to reflect the concerns of the Committee, and it was noted that the Department was willing to adopt that approach. Are we any further forward on that?

819. The Committee Clerk: Based on your discussion last week, the Bill Clerk and myself, have made the suggested recommendation. You will find the recommendation for clause 9 in the table. Due to the shortage of time, it will be difficult to come forward with an amendment to the clause during Committee Stage, but the Committee will make a recommendation for an amendment to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast statutory transition committee.

820. Between now and the Bill's Consideration Stage, I will work with the Bill Clerk and bring to the Committee for discussion an amendment based on that recommendation.

821. The Chairperson: A point was made about the strategic leadership board, and Mr Kinahan mentioned shortfalls in the representation of some areas.

822. The Committee Clerk: Mr Ford's particular concern on the Castlereagh/Lisburn issue was that there would not be assimilation of four councils, but rather parts of existing councils.

823. Mr Ford: There is a problem, because the current definitions of a successor council and a predecessor council assume that whole councils will merge. That does not apply to the new greater Belfast local government district. If we do not get that definition right, there will be problems with clause 14. For that purpose, I wondered whether we could add "except in relation to Belfast" to clause 9(2). However, the definitions for successor councils in clause 14 will still cause problems unless clause 9 is worded carefully. There are people who are paid more than me to work out such wording.

824. Mr Weir: It may be useful to get the Department's view on the issue. If we tabled an amendment to clause 14 about the greater Belfast situation, I suspect that a similar amendment would be needed to clause 9 to deal purely with the greater Belfast situation. It should not be beyond the wit of the Committee or the Department to come up with a form of words to cover that situation. I am not asking the Department to write a blank cheque, but if there were amendments to both clauses that dealt specifically with the Belfast/Castlereagh/Lisburn situation, I presume that it would be happy to accommodate them.

825. Mr Jim Stewart (Department of the Environment): We are in touch with our colleagues in the Office of the Legislative Counsel about the necessary amendments. Although we have not received any definite instruction, the need to include representatives from Castlereagh and Lisburn councils on the Belfast STC will almost certainly require some amendments to clause 9 and clause 14. However, we have not yet received any details.

826. Mr Maye: We are also very happy to work with the Committee Clerk and the Bill Clerk to work out the detail of the proposed amendments.

827. The Chairperson: The concern about the assimilated parts is that the representatives who move onto statutory transition committees reflect the ward, rather than the whole council. That is an important principle.

828. Mr Weir: That is a sensible way forward. There is also the quid pro quo: if the Belfast STC is to reflect the wards that it is assimilating, there should not be representatives of those wards on the Lisburn/Castlereagh STC. We cannot have a situation in which people get two bites at the cherry.

829. The Chairperson: I have heard the concerns of both the strategic leadership board and the Committee.

830. The Committee Clerk: Last week, the recommendation was that an amendment would reflect the concerns of the Committee. The hope was that the recommendation in front of members would reflect those concerns, but I sense that it is not specific enough. Can we reword it now, or in time for Thursday's meeting?

831. Mr Ford: Clause 9(2)(a) and clause 9(2)(b) refer to:

"the whole or the major part of the district".

832. In a non-legal way, although I look to my left to see if there is an instant legal response free of charge, I suggest that it may be possible to change that to:

"the whole or a substantial part of the district".

833. Mr Weir: There would then need to be a definition of "substantial". For example, in my area, there are approximately 300 constituents for whom council representation will move from North Down to Belfast.

834. That would be more of a minor tidying-up than a substantial amendment. Therefore, "substantial" must be defined. I do not know the figures from Castlereagh and Lisburn, but to deal with this particular set of circumstances, it may be that "substantial" is defined as consisting of at least 15%, or 20% of the area from which it is moved.

835. Mr Ford: I think that something around 10% would do.

836. Mr Weir: Whatever it may be, a definitive figure must be agreed.

837. Mr Kinahan: Is that proportionate?

838. Mr Weir: No; it not just a question of that. There is no problem with introducing terminology. The issue is that there must be a definition of terminology such as "substantial" or "proportionate", because one person's view of "proportionate" may not be another's.

839. The Chairperson: The devil is in the detail, as usual.

840. Mr Weir: From what I have gathered from Mr Ford's suggestion, the definition is needed to deal specifically with the Belfast/Castlereagh/Lisburn situation. That is the only case involving a proportionately large area.

841. Mr Ford: It is to include the Lisburn and Castlereagh segments, while excluding the minor boundary tweak between Holywood and Belfast, or the minor issue around Banbridge with Newry/Down.

842. Mr Stewart: I think that the Department can address that sort of detail in the statutory transition committee regulations, which we can produce later. If the Committee agrees that the Department can make the necessary amendments to allow the inclusion of representation from Castlereagh and Lisburn on the Belfast STC, we can address the detail of where those representatives should come from in the STC regulations.

843. Mr Ford: That is fair enough. However, we must be absolutely sure that we properly define "successor" and "predecessor" councils, or the Department will be unable to draft the regulations.

844. Mr Maye: The legislative draftsman is considering precisely that issue: how we circumvent that definitional problem.

845. The Committee Clerk: The Committee may want to have another go at suggesting an amendment with which members are happy. Then they can agree the clause, and the amendment will be proposed between now and Consideration Stage.

846. Therefore, we could recommend an amendment to clause 9 that provides for direct representation of the existing parts of the councils of Castlereagh and Lisburn moving to Belfast City Council on the Belfast statutory transition committee, if not already represented.

847. Mr Ford: At present, they are not already represented, so the last few words are not needed. Bearing in mind Peter Weir's point, must the primary legislation, as opposed to the regulations, take into account the issue that only the parts of Lisburn and Castlereagh that are moving to that new council should be represented on the Belfast statutory transition committee?

848. The Committee Clerk: We could cover that in the proposed amendment, which will be brought back to the Committee when there is more time for discussion. What the Committee is debating is just a recommendation.

849. Mr Weir: I am relaxed about whether a direct amendment or affirmative resolution covers specifically how representation will be drawn from particular wards or a district electoral area. In the case of Lisburn, I think that the bulk of a DEA is involved, so at some stage it may be necessary to list the wards.

850. Once the principle is established, I believe that the regulations should spell out the exact detail. If I understand it correctly, about six wards from Lisburn and nine or 10 from Castlereagh are affected. However, neither case involves complete DEAs. I believe that the Lisburn case involves six out of seven wards at Dunmurry Cross. The Castlereagh example takes in a DEA that is split between Castlereagh and Belfast. To take account of that may require a level of detail that is better included in regulations or by way of an amendment that introduces the principle, rather than the Committee's getting too specific in its recommendation. Does that make sense, or is that clearer?

851. The Committee Clerk: On that basis, will you look at the recommendation as written?

852. The Chairperson: Yes?

853. Mr Ford: Sorry, will you just read it? Everybody else wanted me to say it, so I have said it for you.

854. The Committee Clerk: It is the suggested recommendation that you have in front of you:

"For an amendment to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Transition Committee."

855. Mr Boylan: That reads better.

856. The Chairperson: It is clear anyway.

857. Mr Beggs: Perhaps it should say:

"direct representation from the relevant boards".

858. Without making that explicit, the representation could be from irrelevant wards.

859. The Chairperson: It should be direct representation from the relevant wards, rather than from the council as a whole.

860. Mr Weir: I am persuaded of the general logic of it being purely the wards. The only issue that might slightly muddy the waters is if, in one sense, Belfast is to almost absorb the representation from those councils. In which case, are there any implications for Castlereagh and Lisburn councils themselves? For example, would that affect roughly a quarter or 20% of their council areas? Are there any institutional issues? What I mean is this: are we simply accepting that, for example, all of the assets of Lisburn and all issues that affect that remain with Lisburn? For example, there may well be an issue for Lisburn staff who work in the areas that may be related to the entire council.

861. The Chairperson: We are only discussing representation on the statutory transition committee. Ian, would you like to clarify this?

862. Mr Maye: The suggested recommendation is in addition to a direct discussion and negotiation between the two sovereign transition committees on matters affecting staff, assets and liabilities. Both need to happen. I will pick up on the point that Mr Ford raised; there needs to be a mechanism to allow the representatives of those wards and district electoral areas to put forward their views on how Belfast should develop, since those people are moving into Belfast. Equally, there still needs to be a direct negotiation between the two transition committees as a whole on issues that affect the councils as a whole.

863. The Chairperson: That seems rational. Are members content?

864. Mr Dallat: As I have only recently joined the Committee, I am not terribly au fait with it. Has the Committee been focusing on those councils that are moving as a whole, but are perhaps transferring from one particular allegiance to another, to put it broadly? For example, two nationalist-controlled councils and two unionist-controlled councils will be brought together to constitute the new Causeway and Glens council area. Is there a need for anything in the Bill to ensure that the rights and assets of those who will be undergoing quite a transformation are protected?

865. The Chairperson: That is not directly related to the clauses we are considering, but there are overall checks and balances that have to be addressed in the legislation.

866. Mr Weir: At a broader level, it may be useful for Mr Dallat —

867. Mr Dallat: You are always helpful to me.

868. Mr Weir: That is what I was born into this life to do. In relation to the statutory transition committees, it has been agreed at policy development panel A that protections for minorities be put in place in relation to things like call-in mechanisms and weighted votes in certain circumstances where something can be shown to be detrimental to one community or another. That has been agreed among all of the parties. The intention is for that to be in place for the establishment of the new councils, but it has also been agreed at policy development panel A that, whatever protections are put in place for the new councils would also, by way of regulations, cover the statutory transition committees. There is a nuclear option in case there is some attempt at some degree of abuse of position.

869. The Chairperson: The policy panel A's deliberations on that point are at tab 2 of the papers and a number of mechanisms are outlined.

870. Mr Dallat: I always rely on what Peter advises me, especially on such issues. It is unique, and the Committee understands that. So long as I have intimated my concerns about it, I will take all the advice that is available on how it will be achieved. It is better to mention it now, rather than have something happen in the future.

871. The Chairperson: It will come before the Committee for further deliberation.

872. Mr Boylan: I would like the Clerk to read over again where we are going to go with that issue.

873. The Chairperson: We are at clause 9. Do members want to include this specification to the wards or not? I was left in some doubt.

874. Mr Ford: There may be a technical difference in specifying wards or DEAs on the basis that the new boundaries do not coincide exactly with the old boundaries.

875. The Chairperson: Could we say "relevant areas"?

876. Mr Maye: DEA is probably the safest option, because individual members, as you know, are not elected to wards. The model that we are thinking of is that we identify the DEAs that are substantially affected and that then forms the pool from which candidates are drawn.

877. Mr Ford: I accept the principles of how you are trying to operate. To take one example: Castlereagh East is a seven-member DEA, two wards of which are transferring to Belfast and five are remaining in Lisburn and Castlereagh. I am not sure how one starts to define that in the primary legislation, but I am sure that we could give the draftsman the job of putting it into the secondary regulations, and give him longer to do it.

878. Mr Maye: It will be a matter for the regulations. The draftsman's job is to ensure that the clause is sufficiently wide to allow for specific arrangements to be put in place for Belfast, Lisburn and Castlereagh so that that issue can be addressed in the detailed regulations.

879. The Chairperson: We seem to be agreed on the principle of inclusion. It is just a matter of finding a form of words to achieve that. However, it will be subject to affirmative resolution when there will be an opportunity for members who are not content to vote against it.

880. Mr Ford: I still think that putting in the relevant DEAs is creating a problem. I think that, at this stage, it should be providing for representation from the councils, and the secondary regulations are words that should be precisely determined. There is not, strictly, a "relevant" DEA. I might know: am I not correct that all four DEAs of Castlereagh are affected, but only in small parts?

881. Mr Beggs: That is a valid point.

882. The Chairperson: So we are back to the original, where we started.

883. Mr Beggs: We have made a clear marker as to what we are expecting in the regulations.

884. The Chairperson: Yes.

885. Mr Ford: We have informed the thinking of the Department by having this discussion in front of them.

886. Mr Weir: I am glad that somebody is informed.

887. The Chairperson: The suggested recommendation is for an amendment to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast statutory transition committee.

888. Do members agree that form of words?

Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 9 agreed to.

Clause 14 (Statutory transition committees: constitution)

889. The Chairperson: We shall return to clause 14. Are members content?

890. Mr Ford: I am content, so long as the amendments to clause 9 cover the concerns that I raised previously about clause 14(4). The amendments will have to be done in a particular way to cover that, otherwise clause 14(4) may also have to be amended.

891. The Chairperson: There two ways of doing it. We can accept it on the basis that clause 9 covers it, or we can make a recommendation similar to that made for clause 9. Members will see it in blue font in the table.

892. Mr Ford: I am content with either option, so long as we recognise that it has to be done.

893. Mr Beggs: Does the Department acknowledge that there is a preferred option?

894. The Chairperson: We will check with the Department on that.

895. Mr Beggs: For the record, Mr Maye is nodding.

896. Mr Maye: It will need to be checked. I do not see any reason why you should not use the same form of words that you have agreed for clause 9.

897. The Chairperson: The suggested form of words is:

"For an amendment to provide for direct representation of the existing councils of Castlereagh and Lisburn on the Belfast Statutory Transition Committee".

Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 14 agreed to.

Clause 15 (Statutory transition committees: functions)

898. The Chairperson: We move to clause 15, which was parked on 1 October, pending further information from the Department on the cost to the ratepayers of the staff redundancy scheme and the time and the role of the statutory transition committees in the process. There was a commitment to share with the Committee the PricewaterhouseCoopers report, but we have not yet received that.

899. Mr Maye: Agreement has been sought from the Minister on the release of the report to the Committee. It is preferable that the Committee receive the report today, because it is also going to the members of the strategic leadership board today. Unfortunately, we did not hear back from the Minister in advance of the start of the meeting, but we hope to do so in the course of the day.

900. Mr Weir: My informed understanding of the PricewaterhouseCoopers report is that it stretches to about 200 or 300 pages. Even if we were to receive it immediately, the best speed readers among us would have difficulty going through it.

901. Mr Maye: The specific question was about the cost of redundancy for staff. Our best guess at this point in the economic appraisal is that it will be somewhere under £18 million. That is a worst-case scenario, and it is based on the premise that all of the people who are eligible will decide to leave or will not have a job in the new council.

902. Mr Weir: My understanding is that the PricewaterhouseCoopers report was drafted on the basis of a worst-case scenario. The report also suggests a range of funding models. Is it not also the case that, as well as the one-off cost of redundancies, the councils will need fewer high-level staff? The number of councils will be reduced from 26 to 11, so there will be considerable revenue savings. Have you any indication of what those savings will be?

903. Mr Maye: I have not seen the final version of the report, because it was going out only this morning. However, there were considerable offset savings, not only due to the need for less staff at senior levels across the new councils, but from other areas.

904. The Chairperson: We will await the details with interest and see if the proof of the pudding is in the eating. However, that has not been the experience in the review of public administration to date. We are concerned about who will pick up the tab for the £18 million costs. Will that be foisted onto the ratepayer? Will central government pick it up?

905. Mr Maye: We do not know yet. The purpose of commissioning the economic appraisal was to get a firm idea as to what the upfront implementation costs, the longer-term cash benefits and the known cash benefits would be. That will enable the Minister, with the benefit of advice from the strategic leadership board, to put a case to the Executive to put in place a funding mechanism and programme. Those decisions have yet to be made by the Executive, but the economic appraisal will stand at the heart of the case that our Minister puts forward to the Executive for a funding programme to be put in place.

906. The Chairperson: Clause 15 allows only for regulations to be put in place that will facilitate the RPA.

907. Mr Ford: To clarify, clause 15 does not prevent the Department from being the body that funds anybody's redundancy packages?

908. The Chairperson: No.

909. Mr Ford: Clearly, there is a particular issue for some cases of amalgamation of smaller councils where there could be quite significant costs, as opposed to, for example, Belfast, where, presumably, there should be no reason for redundancies at all. The application of those expenses is likely to be somewhat lopsided. If that is not picked up by the Department, it could create major difficulties in some areas.

910. The Chairperson: Ian, do you want to respond to that?

911. Mr Maye: I do not believe that there is much that I can add to what I have already said. The Minister and his colleagues in the Executive are conscious of all of those issues. Recent media reporting of the potential implications for ratepayers as a result of amalgamation have brought those issues into sharp relief for Ministers and others who are involved in the process, particularly members of the strategic leadership board.

912. The Chairperson: There is further clarification to come. It will not impact on that particular clause, which simply allows for the winding up of older councils and the formation of new transition committees.

913. Mr Maye: Mr Ford is correct: the clause does not determine who pays. It simply provides that councils act as the vehicle for paying redundancy costs to individual members of staff.

914. The Chairperson: On that basis, therefore, are members content with clause 15 as drafted?

915. Mr Beggs: Given the decision not to go with shadow councils, and to go with that route instead, I am content that that is appropriate.

Question, That the Committee is content with the clause, put and agreed to.

Clause 15 agreed to.

916. The Chairperson: We need to look again at clauses 10 and 13, which are in the table. Last week, the Committee agreed that those clauses be amended, subject to a Committee recommendation, to reflect its concerns. We now need to reach agreement on the recommendations for each of those clauses. Recommendations are in blue font in the central column of the table.

Clause 10 (Control of disposals and contracts of existing councils)

917. The Chairperson: It is recommended that clause 10 be amended to allow for an appeals mechanism by which councils could challenge decisions made by statutory transition committees under the clause. Members will recall that the issue was the power of veto and whether member councils could have an appeals mechanism, which seems to be fair. Are members, therefore, content with the clause subject to that proposed amendment?

918. Mr Ford: The only issue with that is whether the clause should specify to whom an appeal should be made, given that the final arbiters in those matters are the Minister and the Department. They have the responsibility to sanction loans. Therefore, obviously, appeals would be made to the Department. Perhaps it should be specified that appeals would be made to the Department, in effect, on the basis of the reasonableness of the transition committee's decision.

919. Mr Beggs: I concur with that.

920. Mr Weir: That could be done fairly easily. Presumably, part of that is the power of direction that is given to the Minister and the Department. In a sense, the Minister would be able to intervene at any stage. There is concern that there would be gridlock in some transition committees.

Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 10 agreed to.

Clause 13 Contravention of direction

921. The Chairperson: It is recommended that clause 13 be amended to provide clarification of the definition of "successor council", as per clause 9.

922. The Committee Clerk: The problem with clause 13 was directly related to the definition in clause 9.

923. Mr Ford: There is direct read-across.

Question, That the Committee is content with the clause, subject to the Committee's proposed amendment, put and agreed to.

Clause 13 agreed to.

924. The Chairperson: The Committee Clerk and the Bill Clerk will now prepare Committee amendments in accordance with those recommendations for discussion and approval by the Committee before the Bill's Consideration Stage. Members have also been provided with the draft Committee report on the Bill. That will be updated to reflect today's proceedings and tabled

for members' formal approval at our Committee meeting on Thursday 15 October 2009. Thank you very much.

15 October 2009

Members present for all or part of the proceedings:

Ms Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr David Ford

Mr Danny Kinahan

Mr Ian McCrea

Mr Adrian McQuillan

Mr Alastair Ross

Mr Peter Weir

925. The Chairperson (Mrs D Kelly): Members have been provided with an updated draft report on the Local Government (Miscellaneous Provisions) Bill, which is included in the Committee papers. We now need to agree each section of that report. Any changes made to the document since 13 October have been noted in red font for easy identification. We will go through each section of the report and ensure that Committee members are content.

926. Are members content with the executive summary?

Members indicated assent.

927. The Chairperson: Are members content with the recommendations?

928. Mr Beggs: Where are the recommendations?

929. The Chairperson: Page 8.

930. The Committee staff worked late last night, given that some of the decisions were made only on Tuesday. I want to thank them for their sterling work.

931. Are members content with the recommendations?

Members indicated assent.

932. The Chairperson: Are members content with the introduction, which is on pages 10 and 11?

Members indicated assent.

933. The Chairperson: Are members content with the consideration of the Bill by the Committee, on pages 12, 13, 14, 15 and 16?

Members indicated assent.

934. The Chairperson: Are members content with the key issues, on pages 17, 18, 19, 20, 21, 22 and 23?

Members indicated assent.

935. The Chairperson: Are members content with the clause-by-clause consideration of the Bill, on pages 24, 25 and 26?

Members indicated assent.

936. The Chairperson: Are members content with appendix 1, which comprises the minutes of proceedings, on page 27?

Members indicated assent.

937. The Chairperson: Are members content with appendix 2: the minutes of evidence?

Members indicated assent.

938. The Chairperson: Are members content with appendix 3: the written submissions?

Members indicated assent.

939. The Chairperson: Are members content with appendix 4: the list of witnesses?

940. Mr Ford: To my recollection, Councillor Clive McFarland did not appear, although he was expected to.

941. Mr Weir: As I understand it, from speaking to him, Omagh District Council did not tell him that he was supposed to appear. [Laughter.]

942. The Chairperson: Subject to that amendment, are members content with the list of witnesses?

Members indicated assent.

943. The Chairperson: Are members content with appendix 5: other papers submitted to the Committee, on page 31?

Members indicated assent.

944. The Chairperson: Are members content for the report to contain the relevant extracts of the minutes from today's meeting, and the minutes of evidence?

Members indicated assent.

945. The Chairperson: Members will be agreeing to the conclusion of the report without prior sight of those documents. However, most of the written submissions have been before the Committee.

946. The Committee Clerk: It is only the relevant minutes of today's meeting and the Hansard report that members will not have had prior sight of.

947. The Chairperson: There is little content in some of that. It is mostly noting the evidence to date.

948. The report of the Committee will now be ordered to be printed and submitted to the Business Office as the Committee's official report on the Local Government (Miscellaneous Provisions) Bill. That is the end of the Committee Stage. Members should congratulate themselves on a good piece of work, and on keeping to the timescale agreed with the Department.

949. If members recall, we sent the Committee on Standards and Privileges the guidance that we received from our Committee Clerk on handling potential conflicts of interest when considering the Local Government (Miscellaneous Provisions) Bill. We have been informed by the Standards and Privileges Committee that it is happy with that guidance, and happy that we adhered to it. Do members agree to note that?

Members indicated assent.

10 September 2009

Members present for all or part of the proceedings:

Ms Dolores Kelly (Chairperson)

Mr Cathal Boylan (Deputy Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr Danny Kinahan

Mr Ian McCrea

Mr Alastair Ross

Mr Peter Weir

Witnesses:

Ms Olga Murtagh
Mr Lewis Porter Craigavon Borough Council

950. The Chairperson (Mrs D Kelly): I invite Ms Olga Murtagh, the director of development for Craigavon Borough Council, and Mr Lewis Porter, the principal administrative officer on land and property for Craigavon Borough Council, to make their presentation. You are very welcome.

951. Mr Dallat: Madam Chairperson, I know that you are a member of that august body. Why are there no elected representatives in the delegation?

952. The Chairperson: I will put that question to the witnesses. I remind them that they have 10 to 15 minutes to make their presentation. Ms Murtagh, will you explain at the outset whether members of the council were available to attend?

953. Ms Olga Murtagh (Craigavon Borough Council): Thank you, Chairperson and Committee members. We welcome the opportunity to give oral evidence today. Due to operational issues, it was deemed appropriate for officers to attend to give evidence on the issue because we had already produced a written submission on behalf of the council.

954. Mr Lewis Porter (Craigavon Borough Council): I, too, thank the Committee for the invitation to give evidence following our submission of written comments on the Bill. Members will have noticed from the aforementioned response that Craigavon Borough Council was satisfied with the content of the Bill in all areas except clause 18, which pertains to the acquisition of land otherwise than by agreement. It is considered that that clause could be amended and extended

to cover more than Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997. Members will note that Craigavon Borough Council has suggested an amendment that reads:

"A district council may acquire land otherwise than by agreement for the purposes of any of their Statutory Functions (i.e. existing, transferring and/or new)."

955. At the March 2009 meeting of the regional finance and estates working group, on which I serve, it was reported that for new councils the powers pertaining to land and property would be as they currently exist, together with those powers that are associated with the transferring functions. I drew the working group's attention to the fact that no cognisance appeared to have been taken of the functions of community planning and well-being, which are new functions and, as such, are not transferring with the existing associated powers.

956. As a result of that comment, it was subsequently reported that the then Minister of the Environment, Mr Sammy Wilson, had considered the proposed amendment to cater for the new functions of community planning and well-being in relation to land acquisition but that it was his view that this was not fundamental to enable local government in 2011 and could be addressed at a later date.

957. No doubt members will be aware that when councils obtained powers to promote economic development under the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992, it was not until the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 came into force that councils acquired powers to acquire land for economic development. In other words, a period of 10 years had elapsed.

958. According to the commentary on the clauses of the Bill that are under discussion today, clause 18 gives provision to rectify the position left as a result of the provisions for councils to:

"vest land for any of their purposes in Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 — a provision that had been inadvertently omitted from that Order."

959. A period of 12 years has now elapsed since that original Order. Given the long period taken to amend Orders and/or grant councils the power to acquire land for those functions, councils are understandably concerned at the omission of such powers in respect of the new functions of community planning and well-being.

960. The power to acquire land otherwise than by agreement does not simply refer to lands acquired from the private sector. No doubt members will also be aware that, from time to time, Government Departments declare land surplus to their requirements. Details are then circulated to other Departments and councils by the central advisory unit of Land and Property Services in order to ascertain whether there is any interest in having the lands transferred to their ownership prior to the properties and lands being placed on the open market.

961. Should a council express an interest in acquiring the subject land, a case has then to be put to the Department including details as to the legislation under which compulsory purchase powers are available for the purpose for which the land is required. Without inclusion of enabling legislation in respect of community planning and well-being, councils will not be in a position to avail themselves of such a transfer opportunity. If, as was suggested by the then Minister, there is such a backlog in the legislative timetable, it is considered that it would be in the best interests of all concerned to make a relatively minor amendment at this stage, to the effect that a district council:

"may acquire land otherwise than by agreement for the purposes of any of their Statutory Functions (i.e. existing, transferring and/or new)."

962. That would cover any new function which might arise in the future.

963. Such an amendment would avoid any confusion as to what functions councils could acquire lands in respect of. It would also avoid any frustration, on the part of councils and third parties, at potential delays in delivering projects falling under community planning and well-being. Councils are being granted those functions without one of the essential tools with which to deliver. It would also assist the new Minister and the Assembly in avoiding any difficulties in that, having had the matter highlighted in advance of the enactment of any legislation, the proposed amendment was not made.

964. The Chairperson: Thank you for your thorough explanation of the need for the amendment. I would be grateful if you submitted your oral note to ensure accuracy in the Hansard report.

965. Mr Beggs: In the current wording of the Bill, one can see the clear community benefit in the acquisition of land. For instance, it might be required to meet European directives on waste facilities, and, without it, there could be problems in meeting those directives. Therefore, there is a clear community benefit. If the power were granted to councils, what requirement would there be on them to demonstrate clearly the community need and the community benefit? Does it need to be tied to community well-being in some way? What balance would be put on the power so that councils were not able to grab any land that they think that they need?

966. Mr Porter: That is a good point. The power of well-being is vague, as members will appreciate. We in Craigavon can provide a few firm examples of the need for community planning. Craigavon Borough Council had an opportunity to build a community development hub in Brownlow, which is quite a deprived area — as, I am sure, the Chairperson will agree. We had an opportunity to bring together a new health centre and a new community centre together with provision on a library, etc. That meant bodies other than the council acting together. If the council had not owned the land, we would not have been able to bring those disparate bodies together.

967. Councils need the power to respond quickly and vest land if an opportunity exists. As I said, the legislation is not to allow councils to go land-grabbing from the private sector; it relates also to other lands that are being made available from other Departments and on which councils need to respond quickly.

968. Mr Beggs: I specifically asked what gave balance to the power. I can see clear community benefit in the instance that you are talking about. It is a good way for planning and looking at the needs of the wider community and at how things could be done better. However, that is because you are applying that process. What is to stop an unreasonable council from using the power to grab land where it would not be able to demonstrate clear community benefit?

969. Mr Porter: As members will be aware, and as been referred to, planning is being reformed and local councils are being given powers in relation to the local development plans in the not-too-distant future — 2011. Those plans will set the framework and the pattern. In fact, they will stop unscrupulous councils from grabbing land. That will be part of the local development plan, into which the community plan will be feeding.

970. Mr Beggs: Would it not be better if enabling powers were put into this legislation? Subsequently, when those powers are transferred to local government, therefore, they could be implemented. You are saying that if the power were given today, there would be no balancing power.

971. Mr Porter: I am not saying that there would not be a balancing power; I am just saying that past experience tells us that it has taken 10 years for the economic development powers to get

the power to acquire land, and the waste management powers have taken 12 years to date. The previous Minister said that he wanted to wait until 2011 for the legislation to be put in place. We need to be prepared for the transfer of the functions. You are all public representatives and you know what it is like. There will be media coverage of community planning and other functions being given to councils, and local communities will immediately expect their district councils to deliver. If we have to wait years for the enabling legislation to be passed to allow the development of much-needed functions, we will have egg on our faces.

972. Mr Weir: You have made a persuasive case, but I want to keep an open mind. Some concerns immediately occur to me. To pick up on Mr Beggs' salient point, depending on the precise way that local area planning works, if there is a general power to acquire land, I am not sure that the existence of a local development plan is a complete restriction. Presumably, a council may say that the local development plan was agreed but has been overtaken by an event which means that it wants to do x, y and z — things that fall outside the plan. The council may have a very good reason for saying that, because circumstances may have changed. In planning and development issues, we have all seen how the recession has massively changed the landscape for housing and a range of other capital projects. Therefore, I am not sure that the restriction is that tight.

973. You mentioned your desire to tie in with community planning. However, community planning is really about the council being the leader in the community — getting bodies around the table may not hinge on the council being the enabler, which means that it may not be the body that needs to acquire the land. Presumably, being ready is also an issue; you said that you could have egg on your face if councils are given the function of community planning but do not have the power immediately. However, if the amendment were accepted in the way that you suggest, would that not mean that councils have the power ahead of community planning? Therefore, there would not be a community planning framework or anything of that nature, and councils could just jump in. If the Bill is passed by the end of the year, councils will have the power 18 months ahead of community planning and will be able to pre-empt community planning. How do you answer that?

974. Mr Porter: In the interim, every other function that councils have — and hopefully we will have a waste function if the Bill is passed — includes powers to acquire land other than by agreement. To my knowledge, no council has unscrupulously grabbed land under any of those other functions. All I am saying is that there appears to have been an oversight in relation to community planning and well-being in that those powers are not transferring, so there were no existing powers to acquire, hold or manage land for those purposes. That is why we need to have those powers in place.

975. One of the good things about the local development plan in the future — I know that we are not talking about that at this point — is that it will be subject to review on a more regular basis, which will enable the type of thing that you are talking about to be handled more readily. In the meantime, we have Peace III and EU funding, and there is a requirement on councils to deliver those to the best of their abilities. That is why we need to have those powers in place ready for when the funding is received, so that when an opportunity arises it is developed in the best way for the community.

976. Mr Weir: You are moving from a situation in which the proposed legislation has a specific change for a specific purpose, and I think that everyone will acknowledge that the reason for that specific purpose is to give a green light and move as fast as we can on waste management. From a technical point of view, does moving from a situation of simply repealing one piece of legislation to the inclusion of a general provision that covers everything potentially alter many pieces of legislation?

977. Secondly, the legislation has been put out to consultation on the basis of a specific power to deal with waste management. If the move from a specific to a general power were to enact something on which no real discussion had taken place, is there an argument that the consultation might be rendered null and void? Is there a danger that the amendment is too wide-ranging?

978. Mr Porter: I am not sure that it is. It is good practice to encapsulate as much as possible in one piece of legislation, rather than having to re-enact it every time there is a new function. If we can receive an assurance that the legislation will be moved up the pecking order and consulted on quickly in time for 2011, there is no difficulty. That is in the hands of the Assembly and the Minister. We regard the Bill as an opportunity to highlight the need for that type of legislation. If it can be amended now, so much the better.

979. Mr Kinahan: Yours is an extremely good idea, but we must consider how to balance that at the other side. My feeling is that it should not be included in this Bill. We should find out how to get things done quickly and perhaps add on that provision when we come to the consideration of local planning and development. I worry that, if the amendment were to be introduced now, a mass of people, including landowners, would get together to stop this Bill from going ahead. I know that it is in the Assembly's hands to push it through, but we would find ourselves facing a huge battle.

980. Mr Porter: Unless I picked it up wrongly in discussions that took place before we were due to give evidence, I understand that there may even be a delay to the Bill as it stands, to allow for provisions relating to swine flu.

981. The Chairperson: It is only a two-week delay.

982. Mr Porter: It is not to include that in the legislation?

983. Mr Beggs: No.

984. The Chairperson: The delay relates to Committee business.

985. Mr Porter: My apologies, then. Mr Kinahan, will you rephrase your point?

986. Mr Kinahan: To rephrase, it is the wrong time to include that enabling power in this Bill. It should be introduced during another phase when we are working out how to address the community development side. That would give us time to think it through and put in place the correct checks and balances to ensure that councils do not have too much power. At the same time, the whole process will be speeded up so that it works.

987. Mr Porter: I made it clear that we were not talking only about private land. We are, in fact, more concerned about the potential declaration of surplus land from within the Departments. Community planning and well-being has no sponsoring Department to act on councils' behalf in that regard. Even Departments' hands are tied at the moment. If a Department wanted a particular piece of surplus land to be developed for community planning, it could not, under current legislation, do so. That is our worry for the interim.

988. An assurance that the enabling powers would come into being in 2011 with the rest of the legislation would be most welcome. However, the information that has been fed back from the Minister, through the finance and estates working group, is that that may not happen. Instead, the legislative procedure will have to take the normal course and begin after 2011, and that is our concern.

989. Mr Kinahan: Shall we find out what the Department has to say?

990. The Chairperson: Yes. I was going to suggest that we write to the Department to ask why it turned that down the first time. We could also seek advice from the Bill Office.

991. Mr Beggs: If I picked up what you said correctly, Mr Porter, councils cannot bid for some of the surplus public land.

992. Mr Porter: At this stage, we cannot bid, because, in order to present a paper, an urgent need must be demonstrated and appropriate legislation must exist under which we could vest. The idea behind the central clearing house is that it circulates to Departments and councils, because they have vesting powers. There would be no point putting something on the open market if we, in turn, vested it.

993. Mr Beggs: We should pursue the Department with respect to that specific issue, because some well-located land may end up going outside the public sector when, in the long term, it might be put to some worthwhile use.

994. The Chairperson: The officials from Craigavon Borough Council also made the point that there is a limited window of opportunity for funding under Peace III, and some good projects could come to fruition if those powers were to be exercised.

995. If members agree with that approach and there are no further questions, I thank Ms Murtagh and Mr Porter for their presentation. If you have additional information, the Committee will be happy to receive it as soon as possible. Thank you both; you are welcome to stay or to return to Craigavon.

Appendix 3

Written Submissions

Antrim Borough Council response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill



Our Ref: DMcC/MA

13 August 2009

By email: doecommittee@niassembly.gov.uk

The Committee Clerk
Room 247

Parliament Buildings
BELFAST
BT4 3XX

Dear Sir/Madam

Local Government (Miscellaneous Provisions) Bill Consultation

Council has noted the above consultation and having already submitted views on the earlier consultation document^[1] will reserve further comments for the detailed implementation arrangements which will no doubt be provided for in subordinate regulations.

Yours faithfully



David McCammick
Chief Executive

[1] Local Government Reform - Establishment of Transition Committees in Statute Consultation - April 2009

arc21 Response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill

The Committee Clerk
Committee for the Environment
Northern Ireland Assembly
Room 247
Parliament Buildings
BELFAST
BT4 3XX

11th August 2009

Dear Sir/Madam

Local Government (Miscellaneous Provisions) Bill – Public Consultation Request to Consider Additional Powers Currently Contemplated in the Waste Bill

I refer to the invitation to submit written evidence to the Committee in respect of the above.

In this regard, arc21 would wish to comment on the provisions designed to remove any concerns that contractors and financiers might have about entering into long term service contracts. The Department is aware of our comments as we had previously submitted them in response to the written consultation on the current draft Bill and more recently to the consultation on the proposals for a Waste Bill.

These relate in particular to:

1. The granting of warranties, guarantees and indemnities; and
2. The granting of cross-indemnities and acceptance of joint and several liability.

The preamble in respect of the formal consultation regarding the Waste Bill made reference to pre-consultation discussions with Waste Management Groups (WMGs) prior to the earlier consultation on the draft Local Government (Contracts and Compulsory Purchase) Bill (now renamed the Miscellaneous Provisions Bill), in which the Department acknowledges that, "the Bill may not provide sufficient assurances for prospective contractors and financiers".

In addition, it explains the Department sought legal opinion which advised that, "It would be very prudent, if not essential, to make appropriate legislative provision in relation to these issues".

These comments relate principally to the subject matter of our current submission i.e. the issues of guarantees, warranties, indemnities, and joint and several liability.

Given the obvious criticality of these elements we are therefore disappointed that the provisions have been omitted from the current draft of the Local Government (Miscellaneous Provisions) Bill, being now contemplated in the later Waste Bill, despite strong representation by Local Government during the consultation. Unless there is a strong rationale for not doing so, we would encourage the Committee to consider inclusion herein, rather than incur the inevitable delay which would result by deferral to the Waste Bill.

Business Justification

We understand that Royal Assent for the Local Government (Miscellaneous Provisions) Bill is scheduled for November 2009, with the Waste Bill following by June 2010. Considering this in relation to the arc21 procurement, our most recent programme review indicates that by December 2009 we will have entered the most intense dialogue stage (potentially with two tenderers) prior to final tender call and by June 2010 a preferred bidder will be under consideration.

From a commercial / competitive perspective, we consider that while the June date is sufficient to allow subsequent financial close and award, the earlier date would potentially enhance the confidence of bidders / financiers selected to enter the final stage of the competition and hopefully therefore contribute to the most economically advantageous solution.

Furthermore, the earlier date would allow final bidders to undertake due diligence in a timely fashion and reduce the risk of timetable delay.

Consequently, unless this legislative process is deemed to be compromised or materially delayed by the inclusion of these elements in this Bill, we consider that there is commercial advantage in 'banking' the additional vires six months or more earlier in the procurement process.

Accordingly, we would seek the addition of the following elements into this Bill, subject to the inclusion not delaying or comprising the Bill's passage:

1. The addition of a paragraph to clarify that the Councils/Joint Committees have express power to grant warranties, guarantees and indemnities (or Part 1 of the Bill should be extended to cover Stakeholder Agreements and Collateral Guarantees); and

2. The addition of a paragraph to clarify that the Councils/Joint Committees have express power to grant cross-indemnities and to accept joint and several liability (or Part 1 of the Bill should be extended to cover Stakeholder Agreements and Collateral Guarantees).

I hope our letter receives favourable consideration by the Committee. We will, naturally, make ourselves available if members consider attendance at a meeting necessary or appropriate.

Yours faithfully



JOHN QUINN
Chief Executive

James Whitten, BSC, CPFA, response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill

Local Government (Miscellaneous Provisions) Bill Written Evidence of James Whitten, BSC, CPFA

My submission is in respect of the Chapter 4 – Severance payments to Councillors

I make this submission as a qualified public finance accountant who has worked in local government over many years. In my view there is no justification for this provision in the bill and in the light of present economic circumstances it is unaffordable.

There has never been any satisfactory examination of the reasons for this proposal. It stems from an announcement of the (direct rule) Minister of State in 2005 of the intention to introduce such a scheme. This was subsequently reiterated by the Minister for the Environment in a statement to the Assembly in March 2008 on the Review of Public Administration (RPA)

On the face of it the direct rule minister said it was to facilitate the reduction in the number of councillors in the new arrangements for local government. It is important to note that at that time the number of councillors in the proposed structure (7 Councils) was to be 420 and that no councillor would also serve in the Assembly. This was a reduction of 162 in the number of councillors compared with the current set up involving 26 councils (with 582 councillors)

However there are now to be 11 councils with some 462 councillors which means a reduction of just 120 councillors and dual mandates are still in place (for a large number of the 108 Assembly members).

There should be a separation of interests between the Assembly and the new Councils and, on that basis, there will now be 570 positions for representative government in the new public administration arrangements in Northern Ireland compared with the 582 positions under direct rule. The original stated intention of the scheme was to facilitate a more substantial reduction in the number of local representatives and one has to question whether the severance scheme is necessary to achieve such a small reduction.

It is pertinent to note that the Minister for the Environment emphasised a different rationale for the scheme in a statement to the Assembly in March 2008 on the Review of Public Administration. The scheme was now merely to recognise the contribution of long standing councillors who opt not to stand for re-election. In a later consultation document the Minister indicated that the detail of the scheme would be informed by the Councillors Remuneration Working Group report. (CRWG)

The CRWG was set up to facilitate the direct rule proposals for RPA and had reported in June 2006 ,inter alia, on severance schemes which had been implemented in other Devolved Administrations within the UK (and the Republic of Ireland) where there had been/was to be substantial reorganisation of local government. However there was one serious omission in their report – there was no exposition of the position affecting English local authorities where substantial reorganisation was taking place.

The stark fact is that there is no severance scheme in operation for English local councils which are reorganised and the UK government has no intention of introducing one.

Indeed in a report undertaken for the Councillors Commission (on Members Remuneration) in December 2007 a survey of Councillors showed that most respondents were opposed to severance payments on the basis that Councillors should be motivated by public duty and not by personal gain. They were also concerned about the cost of such schemes and its impact on the taxpayer.

It is interesting to note that the Chairman of the Working Group which produced that report was none other than Dr Declan Hall of the Institute of Local Government at Birmingham University. Dr Hall was also the Chair of the CRWG which had produced the earlier report for the RPA in Northern Ireland which contained no reference to the situation in England.

It would seem relevant in looking at the proposed scheme that the most recent research on councillor opinion should be further considered and also that the extraordinary change in the outlook for public finances should be taken into account. The severance schemes in Scotland and Wales, on which most of the severance proposals are based, were introduced at a time when public finances were more soundly based.

This scheme is estimated to cost around £5 million and with the current pressures on public finances it would be an extravagant use of financial resources which could be better spent on frontline services.

The Minister of Finance seems to recognise that fact himself in his statement of 10 August 2009 concerning payments to senior civil servants.

"I know that this decision will come as a disappointment to senior staff in NICS but would want to emphasise that it does not mean that I do not value their commitment and dedication. Rather it reflects the very difficult economic climate we find ourselves in where we must all make sacrifices for the greater good"

That sentiment should be followed by deleting the severance provision from this Bill and it falls to the Committee to make that point in its scrutiny of the Legislative proposals.

Councillors perform a valuable service to their communities and their contribution needs to be recognised but there are other ways in which this can be done at minimal cost to the public purse. Individual Councils should be left to make their own arrangements to celebrate the contribution that long serving members have made to community life.

Craigavon Borough Council response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill

Comments from Craigavon Borough Council

	Section of Bill	Council response
S1-8	Contracts for provision of assets or services Certified contracts	NO COMMENTS
S10-13	Control of disposals and contracts of existing councils	NO COMMENTS
S14 - 16	Statutory Transition Committees	NO COMMENTS
S17	Severance Payments to Councillors	NO COMMENTS
S18	Acquisition of land otherwise than by agreement	This clause rectifies the position left as a result of the provision for councils to vest land for any of their purposes under the 1997 Order having been "inadvertently omitted from that Order". Council is concerned at the time taken to rectify that situation and feels that this does not bode well for assurances given to Councils by the former Minister for the Environment that similar vesting powers in connection with the new functions of Community Planning and Well-Being cannot be included in legislation until after RPA in 2011 because of the volume of legislation currently before the Assembly. While welcoming the rectification, Council recommends that the Bill be amended to read "A district council may acquire land otherwise than by agreement for the purposes of any of their Statutory Functions (i.e. existing, transferring and/or new).
S19	Joint Committees	NO COMMENTS
S20-23	Supplementary	NO COMMENTS

Dungannon & South Tyrone Borough Council response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill

11 August 2009
The Committee Clerk
Room 247
Parliament Buildings
Belfast
BT4 3XX

Dear Sir/Madam

Re Local Government (Miscellaneous Provisions) Bill Public Consultation

I would advise that the above was presented to the Council meeting last night. Council have an interest in the Bill but it was agreed that the time frame for submissions was too tight and Members felt that the document needed discussed by the Transition Committee. I would request that the closing date be deferred to allow suitable time for consideration of the Bill. The next TC meeting for this cluster is planned for the 23 September 2009.

Yours sincerely

Iain Frazer
Acting Chief Executive

NILGA response to Committee Public Notice calling for Submissionsto Committee Stage of Local Government (Miscellaneous Provisions) Bill

Committee for the Environment - Submission to Local Government (Miscellaneous Provisions) Bill

Background

The Northern Ireland Assembly's Committee for the Environment is commencing the Committee stage of the Local Government (Miscellaneous Provisions) Bill. Any organisation or individual with an interest in the proposed Bill were invited to submit written evidence to the Committee by 14 August 2009.

Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. NILGA represents and promotes the interests of local authorities and is also supported by all the main political parties. Members welcome the opportunity to

respond to the Local Government (Miscellaneous Provisions) Bill issued for consultation by the Committee for the Environment.

Detail

Overall NILGA broadly supports the provisions within the Bill but would make the following specific comments.

Additional Powers Currently Contemplated in the Waste Bill

In relation to the provisions designed to remove any concerns that contractors and financiers might have about entering into long term service contracts. The Department is aware of our comments as we had previously submitted them in response to the written consultation on the current draft Bill and more recently to the consultation on the proposals for a Waste Bill.

These relate in particular to:

- The granting of warranties, guarantees and indemnities; and
- The granting of cross-indemnities and acceptance of joint and several liabilities.

The preamble in respect of the formal consultation regarding the Waste Bill made reference to pre-consultation discussions with local government prior to the earlier consultation on the draft Local Government (Contracts and Compulsory Purchase) Bill (now renamed the Miscellaneous Provisions Bill), in which the Department acknowledges that, "the Bill may not provide sufficient assurances for prospective contractors and financiers".

In addition, it explains the Department sought legal opinion which advised that, "It would be very prudent, if not essential, to make appropriate legislative provision in relation to these issues" i.e. the issues of guarantees, warranties, indemnities, and joint and several liability.

Given the obvious criticality of these elements we are therefore disappointed that the provisions have been omitted from the current draft of the Local Government (Miscellaneous Provisions) Bill, and are now being contemplated in the later Waste Bill, despite strong representation by local government during the consultation. Unless there is a strong rationale for not doing so, we would encourage the Committee to consider inclusion herein, rather than incur the inevitable delay which would result by deferral to the Waste Bill.

Business Justification

We understand that Royal Assent for the Local Government (Miscellaneous Provisions) Bill is scheduled for November 2009, with the Waste Bill following by June 2010. Considering this in relation to the local government waste infrastructure procurement, this is likely to coincide with the most intense dialogue stage of the tendering process for the waste management groups and particularly arc21.

From a commercial / competitive perspective, we consider that while the June date is sufficient to allow financial close and award, the earlier date would potentially enhance the confidence of bidders / financiers selected to enter the final stage of these competitions and hopefully therefore contribute to the most economically advantageous solution.

Furthermore, the earlier date would allow final bidders to undertake due diligence in a timely fashion and reduce the risk of timetable delay.

Consequently, unless this legislative process is deemed to be compromised or materially delayed by the inclusion of these elements in this Bill, we consider that there is commercial advantage in 'banking' the additional vires six months or more earlier in the procurement process.

Accordingly, we would seek the addition of the following elements into this Bill, subject to the inclusion not delaying or comprising the Bill's passage:

1. The addition of a paragraph to clarify that the Councils/Joint Committees have express power to grant warranties, guarantees and indemnities (or Part 1 of the Bill should be extended to cover Stakeholder Agreements and Collateral Guarantees); and
2. The addition of a paragraph to clarify that the Councils/Joint Committees have express power to grant cross-indemnities and to accept joint and several liability (or Part 1 of the Bill should be extended to cover Stakeholder Agreements and Collateral Guarantees).

In relation to Clause 14: Statutory transition committees: Constitution NILGA members, through their work on Policy Development Panel A, developed proposals which were designed to inform the content of this clause and presented these to the Minister for the Environment. Members are pleased to note that the Minister has reflected the Panels views in this clause of the Bill and would fully support its implementation.

Clause 17: Severance payments to councillors NILGA supports this provision but would add that our members strongly endorse a centrally funded severance scheme which must be introduced simultaneously with amended co-option legislation to allow councillors to make informed choices on the way forward. Members would urge that the Department liaises as necessary to ensure the required legislation is put in place as a matter of urgency. NILGA would support that the scheme should apply during the period from January, 2010 until the date of the Local Government elections in May, 2011.

It is clear that much of the detail around the out workings of this legislation will be set out within the subsequent subordinate legislation. NILGA would strongly urge, in accordance with good practice, the Department should ensure that local government is further consulted in the drafting of the relevant detailed subordinate regulations.

I hope our submission receives favourable consideration by the Committee. We will, naturally, make ourselves available if members consider attendance at a meeting necessary or appropriate. Should you require any further information or clarification please contact me at the NILGA offices: (helen.richmond@nilga.org) 028 9079 8972

Helen Richmond

Policy Officer
NILGA
Unit 5B Castlereagh Business Park
478 Castlereagh Road
Belfast
BT5 6BQ

Tel: 02890 798972
Fax: 02890 791248

Newtownabbey Borough Council response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill



The Committee Clerk
Room 247
Parliament Buildings
BELFAST
BT4 3XX

A/AC/94

14 August 2009

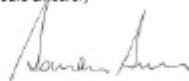
Dear Sir/Madam

Local Government (Miscellaneous Provisions) Bill Consultation

Council has noted the above consultation and would refer you to the views submitted by Antrim Borough Council in its letter of 13 August.

We will reserve further comments for the detailed implementation arrangements.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Norman Dunn".

NORMAN DUNN
Chief Executive



Mossley Mill, Newtownabbey BT36 5QA
Tel: 028 9034 0000 Fax: 028 9034 0200
Textphone: 028 9034 0109
E-mail: info@newtownabbey.gov.uk
Web: www.newtownabbey.gov.uk

Omagh District Council response to Committee Public Notice calling for Submissions to Committee Stage of Local Government (Miscellaneous Provisions) Bill



Your ref:
Our ref: MISC/14
Date: 14 August 2009
Being dealt with by: Chief Executive's Department
Email: daniel.mcSorley@omagh.gov.uk

The Committee Clerk
Room 247
Parliament Buildings
BELFAST
BT4 3XX

Dear Sir/Madam

RE: Local Government (Miscellaneous Provisions) Bill Public Consultation

Introduction

I am writing on behalf of Omagh District Council in response to the public consultation on the Local Government (Miscellaneous Provisions) Bill.

The Council notes the three Parts to the Bill which includes clauses relating to Part 1 - Contracts of Councils, Part 2 - Local Government Reorganisation matters and Part 3 - Miscellaneous and Supplementary matters and it acknowledges the need for this legislative framework to be established, however, the Council looks forward to the establishment of the regulations which will stem from the Bill as it within the regulations that issues of concern will be dealt with for the Council. The Council is therefore keen to establish if and when consultation will take place on the regulations relating to this Bill.

Consultation Response

The following comments are the Council's formal response to the consultation:-

Part 1 – Contracts of Councils

- The Council notes the content of Part 1 of the Bill and its application to any contract that a district council enters into after 22nd June 2009.

Part 2 - Local Government Reorganisation

- The Council notes Clause 10 of the Bill which sets out a system of controls on disposal of land, and capital and non-capital contracts being entered into by the current 26 Councils whereby in the lead up to the establishment of the 11 new Councils, consent must be obtained from the relevant Statutory Transition Committees. This Council in its response to the consultation on

'Transition Committees in Statute' recommended that the Transition Committees should only have a "consultative role" in relation to the budgets and business of the constituent Councils in the year preceding the establishment of the new Council. The Council believes that where constituent Councils have already taken corporate decisions on the disposal of land or have significantly progressed in work towards capital or non-capital contracts that the Statutory Transition Committees should not have the authority to veto such transactions.

- The Council notes Clause 14 relates to the establishment of the Statutory Transition Committees and wishes to reiterate its support for the proposal that Committees comprise a maximum of 16 Members with equal representation from each constituent Council, with the exception of the Causeway Group and Belfast City Councils with 20 Members.
- The Council notes and agrees with the functions of the Statutory Transition Committees as set out in Clause 15.
- The Council welcomes the introduction of a severance scheme for Councillors as set out at Clause 17. Many Councillors have given of their time serving the public over a number of years and indeed decades, and now wish to hand over to new representatives under a new regime. It is therefore fitting to recognise such Councillors contribution through a severance scheme. The Council awaits the criteria which the Department will use to determine the eligibility for and level of remuneration set out in the severance arrangements. The Council would recommend that a minimum of one Council term should be the period of service required for eligibility to a severance award. The Council also recommends that the next of kin should receive the severance award and that MLAs, MPs, MEPs and Members of the House of Lords should not be eligible for a severance award. However, it would advocate that consideration should be given to an incentive for MLAs to vacate their Council posts. The Council concurs with the provision that a person who receives a severance payment is disqualified from being elected, or being a Councillor. Alternatively, the Council would recommend that any recipient of an award who wished to return to local government at a future date as an elected representative should have to repay the award in full.
- With regard to the Financial Effects of the Bill, the Council notes that detail of the severance arrangements will be set out in the subordinate legislation including the detail of the costs of the scheme and who should meet those costs. This Council reiterates its previous response to the consultation on 'Severance Arrangements for Councillors' where it recommended that given the reorganisation of local government is a central government initiative, the cost of the severance scheme should be met by central government.

Part 3 – Miscellaneous and Supplementary

- The Council notes and accepts the clauses set out in Part 3, and particularly welcomes the inclusion of Clause 18 relating to giving power to Councils to vest land for the purpose of Part 2 of the Waste and Contaminated Land (NI) Order 1997, as it was this Council which brought to light this significant omission from that Order.

Conclusion

On behalf of Omagh District Council, I welcome the opportunity to make comment and recommendations on this consultation and await the final legislation and subsequent regulations.

Yours sincerely



D McSORLEY
Chief Executive

Belfast City Council response to Committee Public Notice calling for Submissionsto Committee Stage of Local Government (Miscellaneous Provisions) Bill

Our Ref: KH/RPA

Being dealt with by: Gerry Millar
Ext: 6217
Date: 11th August 2009

The Committee Clerk
Room 247
Parliament Buildings
Belfast
BT4 3XX

Dear Committee Clerk,

Written Evidence on the Local Government (Miscellaneous Provisions) Bill

Please find enclosed a copy of written evidence from Belfast City Council on the Local Government (Miscellaneous Provisions) Bill.

The Council's Strategic Policy and Resources Committee, at its meeting on 7th August, approved the attached written submission.

This decision is subject to ratification by full Council at its meeting on 1st September 2009, and I will advise you of any changes.

Yours sincerely,

Kevin Heaney
RPA Project Coordination Manager

Consultation on the Local Government (Miscellaneous Provisions) Bill

Belfast City Council Draft Response

1.0 Introduction

1.1 Belfast City Council welcomes the opportunity to respond to the Local Government (Miscellaneous Provisions) Bill issued for consultation by the Committee for the Environment and would hope that the comments outlined within this response are constructive in nature and add value to the future drafting of necessary subordinate legislation.

1.2 The Council have a number of general comments to make in regard to the content of the draft legislation as well as specific feedback on individual clauses where appropriate. The

2.0 General Comments

2.1 Whilst the Council would have no major issues, in principle, with the Bill, it is conscious that much of the detail around the out workings of this legislation will be set out within the subsequent subordinate legislation (regulations). Whilst the explanatory memorandum suggests that such regulations will take account of previous consultation exercises undertaken by the Department of the Environment (DoE) on the establishment of statutory transition committees and the introduction of a severance scheme for elected Members, both of which Belfast City Council has formally submitted responses to, it is unclear what level of further engagement will take place between the Department, the Committee for the Environment and local councils

during the Committee stage and the subsequent drafting of any subordinate legislation (regulations).

2.2 Belfast City Council feel that in accordance with good practice, the Department should ensure that local councils are consulted in the drafting of the relevant detailed subordinate regulations and, in particular, with respect to Clause 14 (constitution of statutory transition committees; Clause 15 (functions to be undertaken by Statutory Transition Committees; Clause 17 (severance payments for councillors).

2.3 Furthermore, the Council supports the intention that Clauses 14, 15 and 16 (and parts of Clause 3) be subject to affirmative resolution (i.e. to be debated) by the NI Assembly and would reiterate the need for the Minister, the Department and the Committee for the Environment to consult with all interested parties including local government in the drafting phase of any subordinate legislation related to these clauses.

3.0 Specific Comments on Clauses - It should be noted that Belfast City Council have not commented on all Clauses set out within the Bill.

Clauses 1-8: Contracts of Councils

Belfast City Council comments:

- In relation to the provisions set out in Part 1 'Contracts of Councils', arc21 has already responded to these on behalf of its member councils and Belfast City Council do not see the need to make any further response. arc21 had a number of concerns in relation to the provisions but these are not concerns in relation to any RPA issue and have, in any event, now been picked up by the Executive in the shape of initial proposals put forward for a Waste Bill which is now also out for consultation and to which arc21 has again made a response on behalf of its member councils.

Clause 9: Introductory section to Part 2 – Local Government Reorganisation

Belfast City Council comments:

- The Council has concerns that in relation to both the power to give directions and the power to make regulations, it is not sufficiently clear that the Department has the power to do so with specific reference to any particular council or transition committee. It may therefore be necessary for the Department to make particular provision in relation to the case of Belfast and/or the Lisburn/Castlereagh Transition Committee.
- It is recommended that the legislation should therefore be clear that the Department has such a power to make specific regulations and this could be achieved by including a new sub-paragraph under Clause 9 (2)(c) to the effect that the power of the Department to give directions in Chapter 2 and to make regulations in Chapter 3 will include the power to do so in relation to the circumstances of one or more specified Councils.

Clause 10: Control of disposals and contracts of existing councils

Belfast City Council comments:

- The specified statutory transition committee referred to should be the transitional committee(s) that would otherwise hold or have responsibility for the subject land /capital contract post RPA.
- However, as Belfast City Council have assets outside their current boundary the legislation should provide for the Belfast Transition Committee being the specified transition committee responsible for consenting to any disposals /contracts in respect of these assets.
- References to specified sums, specified date and specified description will all require more detail as to amounts, thresholds etc, and district councils should be consulted on this whilst the detail is being developed in subordinate legislation.
- Clause 10 (4) (c) provides that a direction may be varied or revoked by a subsequent direction. However, clarity will be required around the proposed mechanism for varying or revoking the direction. Belfast City Council would recommend that Councils be consulted in any such instances and any variation or revoking of the direction will need to be agreed by Councils.

Clause 13: Contravention of direction

Belfast City Council comments:

Clause 13 (1) Disposals made in contravention of directions being void – clarification will be required around the enforcement of this clause. In particular, when a disposal has taken place and a 3rd party is in occupation as the new legal owner, clarification will be required as to the legal effect of this clause.

Clause 14: Statutory transition committees: constitution

Belfast City Council comments:

- It is important to highlight that Belfast City Council stands in somewhat of a different position to that of the other 25 Councils in regard to the RPA transition process, since all the other Councils are to be abolished and replaced by 10 new Councils. As a result, the 25 Councils are to merge together in clusters and have formed voluntary Transition Committees, made up of elected Members from constituent Councils, for the purposes of managing the transition and convergence process.
- Whilst Belfast City Council will clearly become a new legal entity post RPA, it is not merging with any other council but rather assimilating, within its boundary, geographical areas from the current Castlereagh Borough and Lisburn City Council areas as set out within the Local Government Boundaries Commissioner's Final Recommendations report published on 26th June 2009.
- Accordingly, the previous Environment Minister Sammy Wilson supported the proposition that Belfast City Council manages its own transition process and that the Council's Strategic Policy and Resources Committee be designated as the Belfast's Transition Committee. The Committee would comprise of twenty Members appointed on the basis of proportionality applying the D'hondt procedure, with an additional monthly meeting of the Committee to be designated for the purpose of RPA transition and associated change management business.

- The Minister's approval to this proposal was conveyed to the Council by letter of 2 February and accordingly the Strategic Policy and Resources Committee had met as a Transition Committee from March onwards. The Belfast Transition Committee recognises the need to put in place formal engagement mechanisms between the Lisburn/Castlereagh Transition Committee and the Belfast Transition Committee to identify and resolve transitional related matters and to ensure service continuity for the citizen.
- Belfast City Council would recommend that the current governance arrangements for Belfast's Transition Committee be retained with further consideration given, in drafting any subordinate legislation, to the introduction of a formal engagement mechanism between the Lisburn/Castlereagh Transition Committee and the Belfast Transition Committee to discuss transitional related matters.
- Belfast City Council feel that in accordance with good practice, the Department should ensure that local councils are consulted in the drafting of the relevant detailed subordinate legislation which emerges from this Clause.

Clause 15: Statutory transition committees: functions

Belfast City Council comments:

- Belfast City Council would recommend that consideration is given to the inclusion of the following additional provisions either within this Clause or within the regulations developed by the Department in relation to this Clause:-
- enabling Statutory Transition Committees to establish Sub-Committees to consider specific issues as they feel appropriate. It would be better to have this enabling provision in place from the outset rather than a Transition Committee finding that it would be necessary to establish a Sub-Committee and had no statutory powers to do so.
- Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local council's are consulted during the development phase of any subordinate legislation relating to this clause

Clause 16: Power to modify existing legislation

Belfast City Council comments:

- Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local councils are consulted during the development phase of any subordinate legislation relating to this clause.

Clause 17: Severance payments to councillors

Belfast City Council comments:

Belfast City Council are supportive of the provisions outlined in Clause 17 in respect to Severance payments but would reiterate that requirement for local councils to be consulted during the development phase of any secondary legislation relating to this clause.

The Council have already formally responded in April 2009 to the Department of the Environments consultation exercise in regard to proposals for the introduction of a Severance

Arrangements and in accordance with that response would recommend that the following issues be taken into consideration in the drafting of any subordinate legislation.

1. A set amount of £1,000 per year being payable up to a maximum of 38 years;
 2. eligibility for severance being restricted to Members who have served a minimum of two Council terms;
 3. the inclusion of Members of the House of Lords in the severance scheme and also the inclusion of MLAs, MPs, and MEPs but on the basis that their entitlement to an award would be calculated only on those years of Local Government service which they have acquired prior to their election to another tier of Government;
 4. the next of kin of a Member being entitled to severance in the event that a Councillor dies after applying for severance but before the payment has been made;
 5. a recipient of severance having to repay it in full in the event that they return subsequently to serve in Local Government before a period of two Council terms has elapsed;
 6. Central Government being responsible for meeting the costs associated with the introduction of a severance scheme;
 7. the scheme should apply during the period from January, 2010 until the date of the Local Government elections in May, 2011, providing that the necessary legislation on co-option is implemented so as to avoid the potential risk of multiple bi-elections.
- Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local council's are consulted during the development phase of any subordinate legislation relating to this clause.

Clause 18: Acquisition of land otherwise than by agreement

Belfast City Council comments:

Belfast City Council would recommend that the power for a district council to acquire land otherwise than by agreement should not be limited only to waste management purposes but should provide for district councils having a more general power to acquire land otherwise than by agreement exercisable in connection with their functions.

Clause 20: Regulations and orders

Belfast City Council comments:

- Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local council's are consulted during the development phase of any secondary legislation which has a direct impact upon them.
- The Council supports the intention that Clauses 14, 15 and 16 (and parts of Clause 3) be subject to affirmative resolution by the NI Assembly and would reiterate the need for the Minister and the Committee for the Environment to consult with all interested parties in the drafting phase of any secondary legislation related to these clauses.

Appendix 4

Other Papers Submitted

DOE reply to Environment Committee queries on Local Government (Miscellaneous Provisions) Bill

Central Management Branch
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Mrs Alex McGarel
Clerk to the
Environment
Committee
Northern Ireland
Assembly
Parliament Buildings
Stormont
Belfast BT4 3XX

Telephone: 028 90 5 40855
Facsimile: 028 90 5 41169
Email: una.downey@doeni.gov.uk
Your reference:
Our reference: CQ/50/09
Date: 21 August 2009

Dear Alex

Local Government (Miscellaneous Provisions) Bill

Following the Environment Committee meeting on 25 June 2009, members requested further information about vesting powers that are included in the above Bill and on how the Belfast Transition Committee was set up.

As to the former, members enquired about the scope and restrictions of the vesting powers, particularly with regard to the vesting of land from government departments. Clause 18 of the Bill will enable a council to vest land for the purposes of Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (i.e. for waste management purposes) and clause 19 applies that power to both arc21 and SWaMP2008.

While the power to vest land for waste management purposes is contained in the Bill, the actual vesting procedures are detailed in section 97 of, and Schedule 6 to, the Local Government Act (Northern Ireland) Act 1972. These provide that a council proposing to vest land for any purpose for which it is authorised (e.g. waste management) must apply to the Department concerned (in the case of waste management, it would be this Department) for a vesting order. Any such application must be advertised locally and must be served on persons or public bodies appearing to the council to have an interest in the land. The procedures also provide that, after considering all representations made by interested parties, the Department concerned may hold a local inquiry and may make a vesting order, with or without modifications to the council proposal.

By virtue of section 97(3) of the 1972 Act, clauses 18 and 19 of the Bill will enable a council (and arc21 and SwaMP2008) to vest land from another public body which has the power to vest land,

such as a government department or another council. However, section 97(3) also provides that, where the owner of the land objects to the proposal to vest and does not withdraw the objection, the vesting order cannot be made unless the proposal is approved by a resolution of the Assembly. In effect, the Assembly will decide who should have the land.

As to the establishment of the Belfast Transition Committee, Belfast City Council wrote to the Department requesting approval for the Policy and Resources Committee of Belfast City Council to serve as the voluntary Transition Committee for Belfast. The Committee has twenty members, selected via d'Hondt. The size of the existing council (51 members) is such that a committee of twenty allows the council to both reflect the present structure of its committees and to ensure that the council can apply the d'Hondt mechanism to deliver proportionality. The former Environment Minister, Sammy Wilson, approved this request.

The Minister is currently considering the recommendations of the Local Government Boundaries Commissioner. In doing so, he will consider whether any changes should be made to the proposed membership of statutory transition committees for the new local government districts. The Minister will get back to the Environment Committee when he has had the opportunity to consider these issues.

Yours sincerely

Úna Downey
DALO

[By email]

Rural Community Network Letter to Clerk of Environment Committee - Local Government (Miscellaneous Provisions) Bill

24 September 2009

Alex McGarel
Clerk to the Environment Committee
Room 245,
Parliament Buildings,
Stormont,
Belfast
BT4 3XX

Dear Alex

Re: Committee Stage - Local Government (Miscellaneous Provisions) Bill

Rural Community Network would appreciate if the following key points could be raised with Committee members during the Committee Stage of the Local Government (Miscellaneous Provisions) Bill.

Membership of the Transition Committees:

1. The Transition Committees should be encouraged to work with the Local Government Staff Commission's Women in Local Councils initiative to ensure greater gender parity amongst political representatives and council staff on the new Transitional structures.

Community Planning:

We welcome the proposal to undertake initial 'trialing of community planning' and would support Community Place's recommendations that it be strengthened and that the new legislation:

2. Requires the Transition Committees to begin trialing Community Planning.
3. Sets a date by which trialing must begin.
4. Requires the Transition Committees to engage with community and voluntary groups in their areas on structures and processes for Community Planning.
5. Requires the Transition Committees to include representatives of community and voluntary groups in Community Planning partnership structures established for the trialing.

(2)

These recommendations are all in keeping with the recommendations of the Local Government Taskforce Community Planning Sub-Group, which was by Government and reported in 2006. The Taskforce report also recommended statutory guidance on Community Planning and funding for trialing (piloting) and capacity building.

We thus recommend with Community Places that:

6. The Department issue draft guidance on Community Planning, which will inform the trialing process. This guidance should draw on the Community Planning Statutory Guidance^[1] and National Standards for Community Engagement^[2] in Scotland. It is important that this Guidance also goes out for consultation.
7. Resources for capacity building are made available by Government to enable community support networks in urban and rural areas to support community involvement in the trialing of Community Planning.
8. Government funding is made available to the Transition Committees for trialing Community Planning.

A Duty to Involve Citizens and Promote Democracy:

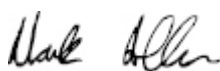
9. We believe that it is important to state upfront a 'duty to involve citizens and promote democracy in Local Government' as citizen engagement is central to the changes taking place. There are real opportunities to model new ways of working during 2010 with local communities as the transfer arrangements progress.

Overall Rural Community Network believes that there are real opportunities for the Transition Committees to build on the good work that many local Councils have undertaken in working with local communities. Our recommendations focus on ensuring that citizens continue to be central to Councils work over 2010-2011 and that the principles of citizen engagement and voice are built into the new structures from the beginning.

Yours sincerely



Karin Eyben
Policy Officer



Mark Allen
Research Officer

[1] The Local Government in Scotland Act 2003, Community Planning: Statutory Guidance, Scottish Executive, 2004, Edinburgh.

[2] National Standards for Community Engagement, Communities Scotland, 2005

Letter from NICVA to Environment Committee regarding Local Government (Miscellaneous Provisions) Bill

NICVA Briefing Environment Committee Local Government Reform Local Government (Miscellaneous Provisions) Bill

NICVA and the voluntary and community sector have taken a keen interest in the Review of Public Administration since the review began. We have a vision of local councils providing strong civic leadership and working alongside the voluntary and community sector to ensure that local social, economic and environmental challenges are met and local democracy is revitalised.

NICVA recently convened a conference of voluntary and community organisations to discuss the latest developments in relation to local government reform. Dolores Kelly, Chairperson of the Environment Committee, spoke to the conference and we would like to record our thanks for the informative and open way in which she shared information. The conference participants discussed a number of points they wished to raise with the Environment Committee many of which are pertinent to your discussions on the Local Government (Miscellaneous Provisions) Bill.

The comments cover the three broad areas of services to citizens, community planning and local governance.

1. Services to citizens and to vulnerable groups in particular should not suffer as a result of the changes to local government.

- Continuity of relationships. It is important that productive and successful work is not lost in all of the upheaval that will inevitably be connected with the changes to local government. Many voluntary and community organisations have built up good

relationships with officials in local councils and in central government and other functions which will be transferring to local councils.

- Gaps in funding provision. Some funding provided by programmes which will be transferring to local government, such as Neighbourhood Renewal, comes to an end in March 2010. As the new Councils will still be in transition at that point and departments are unlikely to make funding commitments to programmes for which they are about to lose responsibility, careful and urgent consideration must be given to how the work supported by these funding streams will continue.
- Support for community development. Community development organisations have varying degrees of confidence in their relationships with local government. Some Councils have a positive view and real understanding of the role of an independent voluntary and community sector while others have a much less supportive and sometimes adversarial relationship. It is important that good practice in this regard becomes the norm in all of the new councils. The NI Assembly through the Environment Committee should take an active role in ensuring the new councils continue to support community development and that funding transferred for this goes to independent voluntary and community organisations as opposed to councils trying to do this themselves.

2. Community Planning

- Pilots. Despite the fact that community planning and the power of wellbeing have been features of the Review of Public Administration since it began, there is widespread disappointment at the lack of progress on this. The planned community planning pilots will also not be happening during transition. This means that a new and important statutory requirement will come into effect in 2011 without having been tried and tested. Given that it could take up to ten years (as it has in Scotland) for community planning to bed down, it is essential that arrangements are made to begin as early as possible.
- Local community infrastructure organisations will have a key role to play in community planning and many are now actively engaging with transition committees on this issue. Community networks currently receive funding support from the DSD and this is likely to transfer to councils. The same issue regarding continuity of relationships and funding support is also very important in relation to community infrastructure support organisations which enable so much local community development actively to take place.
- Statutory Duty. Voluntary and community organisations are very supportive of the idea that there should be a statutory duty for named NDPBs and government departments to engage in community planning. Learning from community planning in Scotland and the difficulty in ensuring cross-departmental participation in programmes such as Neighbourhood Renewal have shown that a statutory duty to participate is the most effective way of ensuring all key local players meet their community planning responsibilities. Bodies from areas such as health and social services, transport, education, PSNI and the Housing Executive all have an important role to play in developing and implementing a truly joined up and effective community plan. Key to this operating effectively is a new performance management and audit regime which incentivises cooperation, rather than individual organisational remits.
- Community involvement. Voluntary and community organisations should play a key role in developing, implementing and monitoring the community plan. While it might seem obvious that community planning cannot happen without the involvement of the community, NICVA and our member organisations have heard comments from officials and elected members alike that have made us concerned that this cannot be taken for granted.

- Guidance on community planning is currently being developed by the Department of the Environment. NICVA has learned that this guidance will not be subject to consultation or comment. The guidance must compel councils to show evidence of genuine community involvement in community planning and devise effective sanctions for those that do not follow the guidance. The Northern Ireland Assembly and the Environment Committee will have a key role to play in ensuring that guidance is sufficiently robust and all local councils comply.
- Build on what already exists. In any area of Northern Ireland there are a multitude of partnership and advisory bodies. Many have their own area plans which have been devised in consultation with local people. Community planning provides the opportunity to examine and update what already exists and map any existing gaps. It could draw together all the existing intelligence on needs and challenges in local areas and devise an over-arching area plan with clear priorities for action.

3. Local governance

- Gender. If local councils are to fulfil their role as strong and effective civic leaders then the issue of gender must be effectively addressed. NICVA and its members are very concerned about the inadequate gender balance on Transition Committees and all political parties must take up the challenge to promote and develop women as candidates for local and regional government.
- Regional priorities. While there is no doubt that action in local areas is an effective way of dealing with pressing social, economic and environmental issues we should not lose sight of the value of setting and working toward key priorities at a regional level. Our major institutional and structural problems such as sectarianism, educational attainment and skills development, environmental sustainability and energy security, poverty and exclusion and economic development cannot be solved at local level. These key issues need to be strongly represented in community planning processes and in the way the new councils go about their business.
- Local and regional relationships. Much more information about the new relationship between local government and the Northern Ireland Assembly needs to be made available. For example when it comes to community planning there is confusion about how matters such as how PSA targets set by the Northern Ireland Assembly will gel with local priorities. Which one takes priority?
- Dual mandates. If the Northern Ireland Assembly is to take on an overarching, policy setting and scrutiny role in its relationship with local government then it is imperative that MLAs and local councillors are not the same people. We recognise that many existing councillors who are also MLAs have year's of valuable experience and institutional memory which may be useful in this time of great change, but in order for the new institutions to be truly effective, political parties should ensure an end to dual mandates.

We look forward to engaging further with the Environment Committee as its work on RPA continues.

For more information contact Frances McCandless, Director of Policy 028 90877777 or email: frances.mccandless@nicva.org.

Women's Ad Hoc Policy Group letter to Environment Committee Chairperson

Women's ad hoc
Policy Group C/O WRDA,
6, Mount Charles,
Belfast
BT7 1NZ

25th September 2009

Dolores Kelly MLA
Chairperson
Committee for the Environment
Room 245
Parliament Buildings
Stormont Estate
BT4 3XX

Dear Dolores,

Firstly, we would like to congratulate you on your recent appointment as Chairperson of the Committee for the Environment.

The Women's ad hoc Policy Group has recently written to Edwin Poots, Minister of the Environment, outlining our grave concerns in relation to the current gender composition of the 'voluntary' transition committees charged with progressing key elements in relation to the Review of Public Administration. I have enclosed a copy of the letter and a current gender breakdown of the 'voluntary' transition committees for your information.

We would ask you to bring the concerns we have outlined in the letter to the Minister to the attention of members of the Committee of the Environment for a considered response.

Thank you in advance for your time and consideration of this matter and we look forward to hearing from you at your earliest convenience.

Yours Sincerely,

Lynn Carvill

Signed on behalf of the Women's ad hoc Policy group.

Enc

Transition Committees - Gender Breakdown

Voluntary Transition Committees (RPA) Gender Composition of membership

Council area	Number of members	Number of males on TC	Number of females on TC	Percentage females
Antrim Newtownabbey	16	11	5	(31%)
Armagh City Banbridge Craigavon	15	13	2	(14%)
Derry City Strabane	16	10	6	(38%)
Lisburn City Castlereagh	16	15	1	(6%)
Fermanagh Omagh	16	16	0	0
Newtownards North Down	16	13	3	(19%)
Ballymoney Coleraine Limavady Moyle	20	15	5	(25%)
Newry and Mourne Down	16	15	1	(6%)
Ballymena Carrickfergus Larne	15	13	2	(14%)
Dungannon & South Tyrone Cookstown Magherafelt	15	14	1	(7%)
Belfast City	20	18	2	(10%)

Total number of members: 181

Overall number of males on TCs: 153 (85%)

Overall number of females on TCs: 28 (15%)

DOE reply to Committee queries

Central Management Branch
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Mrs Alex McGarel
Clerk to the Environment Committee
Northern Ireland Assembly
Parliament Buildings
Stormont
Belfast BT4 3XX

Telephone: 028 90 5 40855
Facsimile: 028 90 5 41169
Email: una.downey@doeni.gov.uk
Your reference:
Our reference:
Date: 21 September 2009

Dear Alex

Local Government (Miscellaneous Provisions) Bill

The Department has been endeavouring to provide the necessary vires and clarify the powers of local government to enable them to enter into major waste infrastructure procurement contracts. The need for these provisions has arisen because of the EC Landfill Directive (1999/31/EC) which requires Member States to reduce the amount of waste sent to landfill.

Initially it was intended to include the additional vires measures in the Waste Bill, and the Department has carried out a consultation on that basis. It is understood that under the current infrastructure procurement programmes no major contracts are anticipated to be signed by the Waste Management Groups until early 2011. As such the intended legislative timescale for the Waste Bill would ensure that all the contract provisions would be in place in good time.

The Department will shortly be forwarding to the Committee a synopsis on the results of the consultation exercise, however, in relation to the proposals designed to clarify local government powers to enter into waste management contracts, all those who responded were supportive of the proposals. Several respondents requested that these provisions be included in the Local Government (Miscellaneous Provisions) Bill rather than incur unnecessary delay by waiting for the Waste Bill. It is also understood that representations have also been made to the Committee for these provisions to be transferred to the Local Government (Miscellaneous Provisions) Bill.

Local government would argue that given the huge sums at risk and the need to provide greater confidence for bidders / financiers in the current procurement process it would be desirable to bring these additional vires powers in as early as possible. The Department fully acknowledges the importance of these provisions in contributing to the procurement process by potentially enhancing confidence and has no objections to the transfer of the provisions, provided that this is technically feasible and the Committee are content.

At a recent meeting between the Chair and Vice-Chair of the Committee and the Department of Environment's Permanent Secretary and Deputy Secretary the possibility of moving the provisions was discussed. As a result of those discussions the Department is now liaising with the Office of Legislative Council on the preparation of possible amendments to the Local Government (Miscellaneous Provisions) Bill. For information a summary of the additional measures proposed are provided in the attached schedule.

Yours sincerely

Una Downey
DALO

[By email]

Schedule

1: Power for councils to guarantee the obligations of other councils and incorporated joint committees

District councils do not currently have the express power to guarantee the obligations of other councils and incorporated joint committees. It is likely that in connection with any contract award, relating to waste infrastructure/management, the contractor and/or financiers will seek to

have cross guarantees with each of the councils for the obligations of the contracting party under the contract. This is because it will be the individual councils which are the bodies of substance in the arrangement.

2: Power for councils to provide warranties and indemnities in relation to other councils and incorporated joint committees

In order to provide reassurance to prospective contractors/financiers, councils will be required to provide warranties, indemnities and cross-indemnities in their waste management contracts. These powers will need to be exercisable whether a council is acting simply in its own right, or on behalf of other councils in a Waste Management Group. Similarly, incorporated joint committees will require the power to provide such assurances.

3: Power for councils / incorporated joint committees to accept joint and several liability with other councils

Councils/incorporated joint committees do not currently have express powers to accept joint and several liability with other councils for their waste management contractual obligations. In addition to guaranteeing / warranting and indemnifying the obligations of other councils and incorporated joint committees, the councils in a Waste Management Group may have to become joint and severally liable for any loan made to an incorporated joint committee or to a lead council.

4: Power for councils, group of councils and incorporated joint committees to delegate their waste management functions to a company that is formed in connection with the delivery of waste management

In the event that a company is formed for the purposes of developing waste infrastructure projects, councils do not currently have the power to delegate their waste management functions to this body. Section 19 of the 1972 Local Government Act (Northern Ireland) Act enables district councils to delegate their functions to a joint committee and section 104 of that Act enables a council to make arrangements with any other council or any public body or government department for the exercise of any functions. However, there is no express power for a council to delegate such functions to a company.

5: Powers for councils to deliver their waste management functions through and on behalf of other councils

The additional provisions detailed previously are designed to assist councils in the delivery of their waste management functions – whether acting in their own right, or as a member of a waste management incorporated joint committee. The North West Region Waste Management Group is an unincorporated joint committee, and as such is conducting its waste infrastructure procurement process through its lead council. It is therefore essential that:

- (i) a council has clear powers to act on behalf of other councils (with their agreement) for waste management purposes; and
- (ii) individual councils have powers to deliver their waste management functions through other councils.

In order to ensure that, in cases such as this, the lead council has the necessary vires, it is proposed that a number of additional measures are provided as listed below.

(i) Power for councils to delegate their waste management functions to another council acting on their behalf.

(ii) Power for a council to hold and acquire property on behalf of other councils for waste management purposes.

(iii) Power for a council to enter into Public Private Partnership (PPP) / Private Finance Initiative (PFI) contracts for waste management purposes on behalf of other councils.

(iv) Power for a council, for waste management purposes, to borrow, receive money from and hold money on behalf of other councils and pay a contractor with this money.

(v) Power for a council to pay money to another council to pay for services provided under a PPP arrangement for waste management purposes.

Supplementary Information from NILGA/arc21

Mrs Dolores Kelly
Chairperson (Environment Committee)
Room 245,
Parliament Buildings,
Stormont,
Belfast, BT4 3XX.

30 September 2009

Dear Chairperson of Environment Committee,

Thank you for the opportunity to enable NILGA and arc21 to brief the Environment Committee held on 17 September 2009 in Parliament Buildings in relation to the Local Government (Miscellaneous Provisions) Bill. Following on from our briefing we would like to emphasise the following points:-

1. Procurement Powers

We feel it is critical that the procurement deficiencies in the current legislation are addressed at the earliest opportunity. The three WMGs' Residual Waste Projects are entering a critical phase during which detailed discussions with bidders will take place in relation to their solutions. Bidders and their funders will be looking for certainty as to the powers that WMGs / Councils have in order to progress with their investment decisions and their participation in the project.

The enactment of legislation providing express rights on the Councils to grant warranties, guarantees, indemnities, cross-indemnities and the acceptance of joint and several liability is considered key to maintaining bidder confidence and interest in the project.

It would also be a concern if certain specific powers (including those referred to above) were not addressed at the first available opportunity – i.e. in the Local Government (Miscellaneous Provisions) Bill. Clarity around these issues will assist bidders and their funders in de-risking the

project and confirming its feasibility. Any delay in dealing with these issues could significantly impact upon the raising of finance and the development of robust, viable and value for money solutions. This in turn could impact upon the achievement of statutory targets for the diversion of waste. Given the tight timeframes the projects are already working to, every possible opportunity to avoid potential delay or uncertainty should be seized.

In our view, it would be preferable for the Local Government (Miscellaneous Provisions) Bill to be extended to include as much detail as possible relating to the vires of Councils rather than leaving these matters to be included in a later piece of legislation.

In addition the Committee requested further information which is provided below.

2. Views of Panel A in light of the "Establishment of Transition Committees in Statute".

In the main there was consensus in PDPA's views; however there were two instances where Parties did not agree unanimously. They are follows:

The composition of Transition Committees:

- Alliance, DUP and Sinn Fein representatives supported the option of equal representation from constituent councils on Statutory Transition Committees.
- UUP representatives took the view that a proportionate approach based on the population for the council areas would be more appropriate.
- SDLP representatives reserved their position.

Inclusivity in representation: Application of d'Hondt and Saint Lague

- DUP, Sinn Fein and SDLP representatives agreed that a political party's level of representation, for the purposes of the divisor should be taken as its level of registered representatives at the 2005 Local Government Election, or where there has been a by-election. Changes of political affiliation, for whatever reason, do not alter the initial electoral mandate for the respective political parties and would not impact on the determination of the level of representation.
- The Alliance Party and UUP representatives did not support this position.

For information, a copy of the paper presented to the SLB in March 2009 is enclosed. This paper outlines the Policy Development Panel's proposals in relation to representation on the Statutory Transition Committees and the governance arrangements for those committees.

3. Gender Representation on Transition Committees

The Environment Committee also requested further information on how NILGA is managing the balance, particularly in terms of gender, of the Statutory Transition Committees.

It should be noted that it is a matter for political parties to decide who should be represented on Transition Committees, and therefore NILGA has no direct role in specifying gender balance requirements.

However NILGA is fully committed to strengthening the role and representation of women in politics. The key initiative to address gender imbalance in Local Government is the Women in

Local Councils Initiative. This group is led by the Women's Development Steering Group which has representation from all the key partner groups. Through this group, a variety of projects are supported, encouraged and co-ordinated. See www.womeninlocalcouncils.org for further details.

This initiative was designed to attract women into local government at all levels and to encourage those already employed to apply for higher graded posts. Its mission is to challenge and support each council and political party to make measurable progress towards addressing any gender under-representation, thereby creating a local government sector which more accurately reflects the community it serves. In the last two years the Women in Local Councils initiative has been very active, and positive changes are beginning to occur:

- 19 of the 26 councils have submitted a gender action plan
- 22 councils have set up women's steering groups
- There are a variety of Women's Champions
- SoLACE has developed a gender action plan.

We hope that this supplementary information will be sufficient. Hard copies of this letter and the paper presented to the SLB have also been sent to you.

Yours sincerely,

Cllr Shaun
Gallagher
Chair: NILGA Waste
Working Group
Derry City Council,
98 Strand Road,
Derry,
BT48 7NN

Cllr Joanne Bunting
Chair PDPA
NILGA
Unit 5B,
Castlereagh
Business Pk
478 Castlereagh
Road
Belfast BT5 6BQ

John Quinn
Chief Executive
arc21
Walsh House
Fortwilliam Business
Pk
35 Dargan Road
Belfast BT3 9LZ

Nora Winder
Director of Policy &
Strategy
NILGA, Unit 5B,
Castlereagh
Business Pk
478 Castlereagh
Road
Belfast BT5 6BQ

Enc: Policy Proposals from Policy Development Panel (Governance, Community Planning and Central/Local Relations)

DOE Weekly Update 18.9.09

Local Government Reform Programme

Local Government Reform Programme Update 18.9.09

Assembly Update

Environment Committee – 17 September 2009

Primary Legislation:

Committee Stage - Local Government (Miscellaneous Provisions) Bill

Oral Evidence Session – Belfast City Council

Oral Evidence Session – NILGA / ARC21

Environment Committee – 24 September 2009

Committee Stage - Local Government (Miscellaneous Provisions) Bill

- Briefing by Omagh District Council TBC

Oral questions in the Assembly:

DOE scheduled Monday 5 October

Local Government Reform Questions for Written Answer on Tuesday 22nd September:

Mr P McGlone (Mid Ulster)

To ask the Minister of the Environment how much has been spent on the Local Government Review (i) in total; and (ii) on consultancy fees.

(AQW 41/10)

DOE Update

Local Government Reform Meeting Dates:

Executive Sub Committee meeting – took place 15 September 2009

Regional Transition Co-ordinating Group (RTCG) meeting – 25 September

Local Government Reform – DOE Press Queries

Query: Radio Foyle - response from the Minister regarding Cllr Maeve McLaughlin's (SF) call for the Minister to fast-track legislation to enable Derry City Council to include social clauses in contract documentation.

Response provided:

A spokesperson from the Department of the Environment said:

"Minister Poots has asked officials to progress this matter. However, as the Department of the Environment already has a significant programme of legislation to take forward prior to the reorganisation of local government in 2011, it is unlikely that the necessary legislation will be in place prior to this date."

Local Government Reform – DOE Press Interviews

Nil

Press Releases issued this week /scheduled for next week by DOE relating to Local Government Reform

Minister Commences Visits to Transition Committees – Causeway Coast and Glens - 24 September

Press Releases issued by other Political Parties Relating to Local Government Reform

Nil

* Please note the information above, whilst correct at the time of issue, is subject to change.

Communications Outline Implementation Plan – September 2009

Introduction

This Communications Plan relates to communications during the Local Government Reform Process up to May 2011. It proposes the communication responsibilities and activities that should be undertaken to support effective implementation of local government reform. The Communications Plan was agreed by the Strategic Leadership Board (SLB) at their meeting on the 10 April 09 and the Regional Transition Co-ordinating Group (RTCG) on 30 April 09.

It should be noted that communications is fast moving, therefore, this plan is adaptable and will be continuously updated as the programme progresses, as a result of changing events and circumstances. The plan will be revisited every month with a 3-month forward look to ensure that all changes are adequately reflected in the plan.

The baseline survey and subsequent evaluation reports may also dictate changes to communications activity. In order to react to these changes the communications plan will be frequently amended to take account of recommendations presented.

Aim of the Communication Plan

To support and facilitate the change management programme by providing relevant and timely information to all staff and stakeholders. To support the aims and objectives identified in the DOE Communications Strategy and the Joint Communications Framework.

Implementation

It is proposed that implementation of this plan will be co-ordinated by DOE Local Government Policy Division's Communications team in conjunction with Northern Ireland Local Government Association (NILGA) and other stakeholders, as outlined in the plan.

Implementation of the plan will be steered by the RTCG, which will be directly accountable to the SLB, as proposed in the DOE Communications Strategy and the Joint Communications Framework considered by the SLB at the meeting held on the 6.3.09.

Objectives

The objectives for Internal, External and Stakeholder groups have been outlined in detail in the DOE Communications Strategy. These include:

- To provide clear, consistent and timely information to all stakeholders.
- To promote a clear, shared understanding of the change process.
- To minimise misunderstanding, rumours and misinformation.
- To ensure that messages are disseminated in a timely, targeted and consistent manner.
- To increase awareness amongst all key audiences of the rationale for change and the benefits this will bring.

Set out below is an overview of the communication management process, which will underpin the communications plan. Attached for information is the latest working draft of the communications plan, which will be developed further in line with programme progress.

Communication Management Process

Organisation	Key Roles	Activity	Process	Timing
SLB	<p>Communication Strategy and Plan</p> <p>Receive implementation evaluation reports from RTCG</p> <p>Advice on how any contentious messages can be handled</p> <p>Raise any political or local issues arising out of the ongoing process</p>	<p>Set strategy and agree plan</p> <p>Oversight</p> <p>Case by case basis</p> <p>Case by case basis</p>	<p>Agree</p> <p>Receive reports</p> <p>As required</p> <p>As required</p>	<p>April 09</p> <p>Quarterly</p> <p>As required</p> <p>As required</p>
RTCG	<p>Ensure the effective delivery and monitoring of the plan</p> <p>Refer any contentious issues /delivery issues to the</p>	<p>Monitor and evaluate communications activities</p> <p>Highlight areas of conflict</p>	<p>Provide performance reports</p> <p>As required</p>	<p>May 2009 onwards</p> <p>SLB meetings as required</p>

Organisation	Key Roles	Activity	Process	Timing
	SLB for consideration			
Joint Secretariat	Manage delivery of the communications plan	<p>Monitor and evaluate communications activities</p> <p>Communicate key messages to stakeholders</p> <p>Design responses to Frequently Asked Questions (Consultation with key stakeholders)</p> <p>Support stakeholders in communication process</p> <p>Account to RTCG</p> <p>Ensure key stakeholders briefed</p>	<p>External consultancy to monitor</p> <p>Report</p> <p>Maintain Websites</p> <p>Respond to questions</p> <p>Manage Local Government Reform Communications Group</p> <p>Report</p> <p>Transition Committees/CEX's/ transferring functions</p>	<p>Baseline and periodic survey</p> <p>July/Aug 09</p> <p>After key meetings and milestones</p> <p>Ongoing</p> <p>Quarterly /ad hoc as required</p> <p>Per meeting</p> <p>Ongoing seminars, events and visits</p>
DOE	<p>Publish Ministerial/ departmental guidance</p> <p>Manage internal and external Consultation processes</p> <p>Communicate with the Public</p>	<p>Ensure DOE policy is communicated</p> <p>Consultation management</p> <ul style="list-style-type: none"> ▪ Transition Committees ▪ Severance ▪ Local Government Bills ▪ Boundary Commissioner Report ▪ Council District Rates ▪ CEX Appointment 	<p>Media management</p> <p>Media management</p>	<p>As required</p> <p>As required</p> <p>As required</p>

Organisation	Key Roles	Activity	Process	Timing
		<ul style="list-style-type: none"> ▪ Electoral Area Report ▪ Community Planning ▪ Elections 		
NILGA	Ensure local government views are represented	Communicate local government key messages	Newsletter Website Full Members meetings AGM/Conference Visits to Councils Seminars and Events Media Management	Monthly Regular updates 5 per year Annually Sept/Feb Annually As required As required
Transition Committees and Transition Management Teams	Agree Council Cluster Communications Plan Implement /deliver plan Tailor any joint messages to local areas Address local issues/questions	Design and deliver the local communication plan Report progress to RTCG/SLB	Implement communication activities Respond to consultations Local media management Participate in monitoring activities	As required As required Ongoing As required
Councils	Communicate effectively with members, staff and the public on local issues	Support local implementation	Newsletters/ briefings/ website etc Media management	As required
Transferring Functions	Communicate effectively with staff and the public	Design and deliver communications plan	Implement communication activities Media management	As required As required

Key Messages

It is proposed that key messages should be developed in Messaging Workshops with the Local Government Reform Communications Group and then cleared, as appropriate, through the Regional Transition Co-ordinating Group (RTCG), relevant Policy Development Panels (PDPs) and Strategic Leadership Board (SLB). Once approved, these messages should be reiterated in all communications to increase awareness and understanding amongst target audiences to ensure a more consistent message.

Stakeholders

The key stakeholders to be considered in the delivery of the plan are listed below. It will depend on the message being communicated who will communicate with each stakeholder and the method used. The aim of the more detailed plan is to draw out these details.

- Assembly
- Community representatives
- Council Chief Executives (CEX's)
- Council Communicators/ Local Government Reform Communications Group
- Central Personnel Group (CPG)
- DOE Press Office
- Elected representatives
- Environment Committee
- Executive
- HR Co-ordination Group – advises on regional HR and staff transfer implementation issues
- HR Working Group – reports to Policy Development Panel C
- Local Government Policy Division (LGPD)
- Local government staff
- Local Government Staff Commission (LGSC)
- Media
- Minister of the Environment
- Northern Ireland Housing Association (NIHE)
- Northern Ireland Local Government Association (NILGA)
- Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC)
- Policy Development Panels A, B and C as appropriate
- Political parties
- Private and voluntary sector
- Public
- Public Sector People Manager's Association (PPMA)
- Public Service Commission (PSC)
- Regional Transition Coordinating Group (RTCG)

- Strategic Leadership Board (SLB)
- Trade Union representatives – includes Northern Ireland Public Service Alliance (NIPSA), Central Joint Forum (NJC) and the Northern Ireland Committee, Irish Congress of Trade Unions (NIC/ICTU)
- Transferring departments - staff and representatives from central government departments that have functions transferring to local government

Draft Communications Joint Secretariat – Work in Progress September 2009

Implementation Steps Key

All sections coloured blue relate to joint DOE and NILGA communications.

All sections coloured green relate to DOE communications.

All sections coloured purple relate to NILGA communications.

All sections coloured red are to be determined.

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
6 March 09	SLB Meeting	Key Outcomes and Summary Document	RTCG Transferring departments Council CEX's NILGA members	Joint Secretariat	Complete
10 April 09	SLB Meeting	Key Outcomes and Summary Document	RTCG Transferring departments Council CEX's NILGA members	Joint Secretariat	Complete
April 09	Consultation on Transition Committees	Consultation mailing list Media management	All stakeholders	Minister	Press release issued 6.4.09 Consultati

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
		News release Website			on closed 31.5.09
April 09	Consultation on severance arrangements for councillors	Consultation mailing list Media management Briefing material Website	All stakeholders	Minister	Press release issued 6.4.09 Consultati on closed 31.5.09
April 09	Local Government Policy Division website upgrade	Website	All stakeholders	LGPD	Ongoing
30 April 09	RTCG	Key outcomes and summary document.	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	Complete
30 April 09	Communications Plan	Paper to RTCG	RTCG SLB Council CEX's Council Communicat ors NILGA members	RTCG SLB	Complete
May 09	Joint Communications Framework Principles and Communications Plan issued.	Email Website	Council CEX's Council Communicat ors Transferring	Communicati ons Framework Principles - SLB (signed off 6 March 09)	Complete

Date	Message/ Event	Method	Audience	* Sign off /Consultee s	Status
	Request for nominations to Local Government Reform Communications Group.		function departments NILGA	RTCG (signed off 12 February 09) Revisions signed off by Joint Secretariat. Communications Plan signed off by SLB 10 April 09; RTCG 30.4.09.	
May 09	Local Government website upgrade.	Website	All stakeholders	LGPD	Ongoing
22 May 09	SLB meeting	Key Outcomes and Summary Document	RTCG Transferring departments Council CEX's NILGA members	Joint Secretariat	Complete
21 May 09	Deadline for nominations to the Local Government Reform Communications Group	Nomination form returned	Transferring functions Council CEX's	NA	Complete
W/c 1 June	Invite to nominees for first meeting of Local Government Reform Communications Group.	Letter	Nominees	Joint Secretariat	Complete
June 09	Local Government Website Upgrade	Website	All stakeholders	LGPD	Ongoing

Date	Message/ Event	Method	Audience	*Sign off /Consultee s	Status
11 June 09	RTCG	Key outcomes and summary document.	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	Complete
16 June 09	First Meeting of the Local Government Reform Communications Group	Meeting to discuss Terms of Reference; communications priorities and key messages	Nominees to the Local Government Reform Communications Group	Feedback to RTCG and SLB	Complete
26 June 09	Local Government Boundary Commissioner final report published	Briefing material Press release Media management	All stakeholders	Minister	Complete
3 July 09	SLB meeting	Key Outcomes and Summary Document	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	Complete
23 July 09	RTCG	Key outcomes and summary document.	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	Complete
24 July 09	Consultation on Local Government	Media management News release	All stakeholders	Minister	Complete – Consultati

Date	Message/ Event	Method	Audience	* Sign off /Consultee s	Status
	(Finance) Bill starts	Website Issued to consultation mailing list			on ongoing until 31 October 2009
July	Local Government Website Upgrade	Website	All stakeholders	LGPD	Ongoing
5 August 09	Local Government Reform Joint Forum meeting	Joint Forum newsletter produced by LGSC – DOE and NILGA disseminate to key contacts	Transferring Department staff, local government staff including Council CEX and Change Managers, NILGA members, RTCG and SLB members	Joint Forum	Complete
13 August 09	Local Government Reform Communications Group meeting	Presentation from Eileen Beamish; programme update; communications strategy session	LGR Communications Group members	SLB and RTCG	Information discussed to be sent to RTCG and SLB.
14 August 09	SLB meeting	Key Outcomes and Summary Document	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	Complete
19 August 09	Local Government Reform Joint Forum meeting	Joint Forum newsletter produced by LGSC	Transferring Department staff, local government staff including Council CEX and Change	Joint Forum	Complete

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
			Managers, NILGA members, RTCG and SLB members		
August 09	Local Government Website Upgrade	Website	All stakeholders	LGPD	Ongoing
2 September 09	Local Government Reform Joint Forum meeting	Joint Forum newsletter produced by LGSC	Transferring Department staff, local government staff including Council CEX and Change Managers, NILGA members, RTCG and SLB members	Joint Forum	Complete
3 September 09	RTCG	Meeting on PwC report only – no outcomes and summary document required	RTCG members	NA	NA
15 September 09	First meeting of the reconvened Executive Sub Committee	Media management as required, letter to issue to NILGA and SLB members prepared by the Department	RTCG Transferring function departments Council CEX's NILGA members Change Managers Local Government Reform Communicati ons Group	Minister	
September 09	Minister commences visit to Transition Committees	News release Website	All stakeholders	Minister	Visit to Causeway Coast and

Date	Message/ Event	Method	Audience	* Sign off /Consultee s	Status
					Glens 24/9/09
October 09 (date TBC)	RTCG meeting	Key Outcomes and Summary Document	RTCG Transferring function departments Council CEX's NILGA members Change Managers Local Government Reform Communicati ons Group	Joint Secretariat	
October 09	Consultation on Local Government (Reorganisation) Bill starts - subject to Executive clearance	Media management News release Website Issued to consultation mailing list	All stakeholders	Minister	
October 09	Local Government (Boundaries) Order (NI) 2009	Media management Briefing Website	All stakeholders	Minister	
14 October 2009	Local Government Reform Joint Forum meetings	Joint Forum newsletter produced by LGSC	Transferring Department staff, local government staff including Council CEX and Change Managers,	Joint Forum	

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
			NILGA members, RTCG and SLB members		
October 09	Minister continues visits to Transition Committees	News release Website	All stakeholders	Minister	
20 October 09	Local Government Reform Communications Group meeting		LGR Communicati ons Group members	SLB and RTCG	
16 October	SLB meeting	Key outcomes and summary document.	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	
November 09	Local Government (Miscellaneous) Bill comes in to force	Media management News release Press briefing	All stakeholders	Minister	
18 November 09	SLB meeting	Key Outcomes and Summary Document	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	
November 09	Minister continues visits to Transition Committees	News release Website	All stakeholders	Minister	

Date	Message/ Event	Method	Audience	*Sign off /Consultee s	Status
26 November 09	RTCG	Key outcomes and summary document.	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	
8 December 09	Local Government Reform Communications Group meeting		LGR Communicati ons Group members	SLB and RTCG	
December 09	Minister continues visits to Transition Committees	News release Website	All stakeholders	Minister	
December 09 (subject to funding)	Baseline survey – tender document for evaluation.	Invite for external organisations to tender for communicati on audit.	External organisations from tender list	LGPD Press Office Central Procurement Directorate Minister (possibly) DFP (possibly depending on cost)	Awaiting news on funding options
9 December 09	SLB meeting	Key Outcomes and Summary Document	RTCG Transferring function departments Council CEX's NILGA members	Joint Secretariat	
January/February/ March 10 (subject to funding)	Results of baseline survey. Amendments/upd	Update plan and	SLB RTCG	Joint Secretariat	

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
	ates to communication plan based on results of baseline survey	communicate changes			
January 10 – June 10	Local Government (Finance) Bill introduced to Assembly	Media management as required		Minister	
January 10	Statutory Transition Committees in place	Media Management News Release Website	All stakeholders	Minister	
February 10	Staffing issues – staff handover.	Internal communication	Council CEX's Local Government Reform Programme Communication Group Local Government staff NILGA	TBC	
15 February 10	Councils strike District rate	Media Management News Release Briefing Website	General Public Environment Committee	Minister	
March 10	CEX appointment	Media Management Briefing prepared against enquiry	General Public Council CEX's Local Government Reform Programme Communication Group Communicators	Minister	

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
			NILGA		
May 10	Local Government (Reorganisation) Bill introduced to Assembly	Media management as required		Minister	
11 May 10	1 year to Local Government Reform	News release Media briefing Media event Advertising?	All stakeholders	Minister	
May 10	HR and Finance appointments and administrative support.	Media management as required. Support for council internal communications.	General Public Council CEX's Local Government Reform Programme Communication Group NILGA	Minister	
June 10 (subject to funding)	Communication audit	6 monthly report	SLB RTCG Local Government Reform Programme Communication Group Council CEX's	Joint Secretariat	
30 June 10	District Electoral Area Commissioner's Report	Briefing material Media management	All stakeholders	Minister	
July 10	Media campaign	Preparation			
August 10	Media campaign	Preparation			
August 10	Media campaign	Preparation			
September 10	Media campaign	Preparation			

Date	Message/ Event	Method	Audience	* Sign off /Consultees	Status
October 10	Local Government (Finance) Bill comes in to force	Media Management News Release Briefing Website	All stakeholders	Minister	
October 10	Media campaign	Preparation			
December 10	Media campaign	Preparation			
November/ December 10 (subject to funding)	Communication audit	Annual report	SLB RTCG Local Government Reform Programme Communication Group Council CEX's	Joint Secretariat	
December 10	Media campaign	Preparation			
February 11	Commencement of media campaign	Various tools including advertising and road shows (funding dependent)	All stakeholders	Minister	
February 11	Transition Committees strike rate for new councils	Media Management News Release Briefing Website	General Public Environment Committee Transferring depts. NILGA Council CEX's	Minister	
February 11	Continuation of media campaign	Various communications tools (funding dependent)	All stakeholders	Minister	

Date	Message/ Event	Method	Audience	*Sign off /Consultees	Status
March 11	Continuation of media campaign	Various communications tools (funding dependent)	All stakeholders	Minister	
April 11 (subject to funding)	Communication audit	6 monthly report	SLB RTCG Local Government Reform Programme Communication Group Council CEX's	Joint Secretariat	March 11
April 11	Continuation of media campaign	Various communications tools (funding dependent)	All stakeholders	Minister	
May 11	Local (Government) Reorganisation Bill comes in to force.	Media Management News Release Briefing Website	All stakeholders	Minister	
May 11	Local and Assembly elections	Media Management News Release Briefing Website	All stakeholders	Minister	
May 11	All transfers formally completed. New councils formally take office	Ministerial platform event Briefing Website	All stakeholders	Minister	

Date	Message/ Event	Method	Audience	*Sign off /Consultee s	Status
		News release			
May 11	Media campaign	Various communicati ons tools (funding dependent)	All stakeholders	Minister	
October 11 (subject to funding)	Communication audit	Final report	SLB RTCG Local Government Reform Programme Communicati on Group Council CEX's	Joint Secretariat	

DOE response to Environment Committee on Local Government Reform Communication Methods

Central Management Branch
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Mrs Alex McGarel
Clerk to the Environment Committee
Northern Ireland Assembly
Parliament Buildings
Stormont
Belfast BT4 3XX

Telephone: 028 90 5 40855
Facsimile: 028 90 5 41169
Email: una.downey@doeni.gov.uk
Your reference:
Our reference: CQ/88/09
Date: 1 October 2009

Dear Alex,

I refer to your request for further information on the mechanisms the Department is using to brief local councils on local government reform and how frequently this information is updated.

The Department recognises that the Local Government Reform Programme will become an increasingly significant media, public and internal issue and communications must ensure that the rationale for these changes is understood amongst all key audiences and stakeholders including councils.

In recognition of this, the Department established a dedicated local government reform communications team in December 2008 to develop and implement a communications strategy and plan for the reform programme. That strategy and plan have been agreed by the Strategic Leadership Board and their implementation is being steered by the cross-sectoral Regional Transition Co-ordinating Group. Since then, a number of communications methods and channels have been established to increase awareness in the sector about the reform programme.

DOE and NILGA work closely together on communicating the reform programme to aid consistency of communication. There are three sources of communication: communication directly from the Department; communication from NILGA and communications that are issued jointly by the Department and NILGA. The latter includes regular updates after each Strategic Leadership Board and Regional Transition Co-ordinating Group meeting. If you feel that the Committee would like to receive any or all of our communications, please let me know and we'll be happy to oblige.

As I mentioned above, a communications strategy, communications principles and an action plan have been agreed by the Strategic Leadership Board.

The communications action plan is continuously updated in line with the Programme Implementation Plan and clearly shows the source of communication. This has been issued to council Chief Executives and communications staff in local and central government and is available on the Department's website:
http://www.doeni.gov.uk/index/local_government/latest_news/communications.htm

A copy of the most recent version is attached.

A Local Government Reform Communications Group under the Regional Transition Co-ordinating Group has been established to drive communications activity. This is jointly chaired by the Department and NILGA, who also provide support to the Group.

This Group is comprised of communications personnel representing the eleven new council clusters, a number of council Chief Executives, Trade Union representation and the Local Government Staff Commission. The Communications Group has established a clear action plan including the production of a local communications strategy template, council website convergence and key messages.

Updates following Strategic Leadership Board and Regional Transition Co-ordinating Group meetings are issued by the Department to council Chief Executives, transferring function departments, Transition Management Team Change Managers, and the Local Government Reform Communications Group so that stakeholders are kept informed of the issues considered and the outcome of these meetings. In parallel, NILGA disseminate this to their members with hard copies sent out to 536 Councillors and soft copies sent to 1000+ stakeholders. These are also placed on the Department's and NILGA's websites. A recent example is attached for ease reference.

NILGA also have a joint DOE and NILGA section in their monthly NILGA News. This provides a short, easy to read summary of the most recent key decisions. Again this is posted to 536 Councillors and emailed to 1000 + stakeholders and placed on the NILGA website.

From September 2009, the Department has introduced weekly communication updates. These provide a one week review and one week preview on key local government reform issues. A recent example is attached for information. These updates are sent to council Chief Executives, the Chief Executive and communications personnel in NILGA, Transition Management Team Change Managers, Local Government Reform Communications Group members, Strategic

Leadership Board and Regional Transition Co-ordinating Group members and transferring function departments. A recent example is attached.

NILGA also produce a calendar of their key events, which is issued bi-annually to 1000 + NILGA contacts including Councillors, council Chief Executives and other stakeholders. Again this is available on the NILGA website.

The Department and NILGA have also worked with the Local Government Staff Commission to disseminate the Communications Bulletins from the Local Government Reform Joint Forum on HR decisions to key contacts.

Work is continuing to improve the local government section of the Department's website. Much of the site content has been re-written and reorganised to make it easier to understand and locate information. Papers from the Strategic Leadership Board, Regional Transition Co-ordinating Group and Policy Development Panels are also kept up-to-date for those that require them to ensure openness and transparency of information.

The Department and NILGA visit councils and other key stakeholders such as the Northern Ireland Council for Voluntary Action and Citizens Advice Bureaux delivering presentations on the Reform Programme to provide updates on progress and respond to questions directly from those organisations.

There is regular face-to-face contact with Transition Committees, Transition Management Teams, Society of Local Authority Chief Executives and other professional bodies. Indeed, the Minister has now commenced a series of meetings with every Transition Committee and plans to do so on a regular basis until May 2011. NILGA also hold meetings every two months which are open to Councillors and council Chief Executives which facilitates information sharing and two-way discussion.

The Department and NILGA also jointly organise seminars – the first, held in June was entitled "Making Transition Work" and was attended by approximately 160 people including Councillors, council Chief Executives, Transition Committee Change Mangers, local government officers and officers from transferring function departments. Consideration is currently being given to the content and timing of future Transition Committee seminars.

I trust this information is of assistance, should you require anything further please do not hesitate to contact me.

Yours sincerely,

Úna Downey
DALO

Summary of Responses from Environmental Non-Government Organisations

1. Introduction

On 17 July 2009 the Department of the Environment issued a letter to eight environmental non-government organisations (NGO's) summarising the background and work that had been undertaken in bringing forward the proposed amendments to the Nitrates Action Programme Regulations (Northern Ireland) 2006 (NAP Regulations). Comment was invited in writing and the

opportunity was also given to contact the Department by telephone to discuss the proposals. Additionally, the Department, with the Department of Agriculture and Rural Development (DARD), invited the eight NGO's to a meeting on 16 September 2009 providing the opportunity to discuss the issues. Four of the NGO's attended.

2. Publication and Distribution

The letter was issued to eight environmental NGO's that, had either been represented on the Consultative Forum on the Environmental Impact of Agriculture (CIEFA), providing input during the development of the NAP Regulations, or currently represented on the Water Framework Directive Stakeholder Group. The same NGO's were invited to meeting on 16 September 2009.

3. Responses

Responses to the letter were sought by 7 August 2009. Of the eight environmental NGO's contacted, three written responses were received and one contacted the Department by telephone. A list of those contacted and the respondents is attached at Annex A.

Views were sought on the proposed amendments to:

- re-instate regulation 14 to extend the use of poultry litter field heaps to 31 December 2010; and
- amend regulation 16 to allow farmers to off-set the quantity of poultry litter stored in temporary field heaps or middens prior to land application against the overall 26 weeks storage requirement for a poultry enterprise.

4. Queries Raised

Three written responses were received and one by telephone. The Department has replied to the individual respondents, however, the following is a synopsis of the issues raised.

- Ulster Angling Federation

Four queries were raised in relation to a) what is happening with the storage of pig manure; b) pyrolysis technology; c) research conducted on the levels of phosphorus in poultry litter; and d) the impact on water quality. The UAF also stated belief that implementation of technology must happen as a matter of urgency and 2010 should be seen as the absolute time limit.

Department's response

The Department, with input from DARD, advised;

a) The pig sector has invested through the Farm Nutrient Management Scheme (FNMS) in increased storage facilities meeting the requirements of the Nitrates Directive.

b) In relation to pyrolysis technology, DARD was able to advise that meetings had taken place with industry representatives earlier in the year. The technology is still at the developmental stage and outlets and markets have not yet been established. This would not yet be regarded as a turn-key approach within Northern Ireland.

c) Research on phosphorus levels in poultry litter is currently being undertaken by the Agri-Food and Biosciences Institute (AFBI) as it is recognised there has been a substantial reduction of phosphorus content in poultry feeds in Northern Ireland since 2005. This research should help establish the environmental benefits of lowering nutrient levels in poultry diets.

d) Compliance with the Nitrates Directive is a basic measure towards meeting Water Framework Directive (WFD) goals. DARD envisages that existing and planned actions will largely help agriculture meet the objectives of the WFD. DARD advice will be targeted on priority river catchments with particular water quality issues.

- World Wildlife Fund

Concerns were expressed that a) poultry litter field heaps should only be a temporary measure; b) the implications for meeting the WFD requirements; and c) the use of decentralised small scale combined heat and power (CHP) generation was not being incentivised by Government as this is WWF's preferred option for farm waste disposal.

Department's response

The Department, with input from DARD, advised;

a) That the use of field heaps is only a temporary measure until 31 December 2010 and the full review of the Action Programme to be taken forward before the end of 2010 will include a review of the storage and disposal of poultry litter.

b) Compliance with the Nitrates Directive is a basic measure towards meeting WFD goals. DARD envisages that existing and planned actions will largely help agriculture meet the objectives of the WFD. DARD advice will be targeted on priority river catchments with particular water quality issues.

c) DARD advise that it considers the major disadvantage of poultry litter in conventional anaerobic digestion is that, to operate effectively, the dry poultry litter must be diluted with large volumes of water. This creates large volumes of liquid digestate containing high levels of nutrient that require land spreading, therefore, not providing an alternative to this disposal route

- Royal Society for the Protection of Birds

The RSPB expressed concern with a) the delay in the provision of a poultry litter powered electricity generator being justification for not investing in increased storage; b) poultry sector compliance with the Nitrate Action Programme Regulations (NAP Regulations) in relation to storage requirements; c) the implications for meeting the WFD requirements; and d) research conducted on the levels of phosphorus in poultry litter.

Department's response

The Department, with input from DARD, advised;

a) That the FNMS launched to assist farmers invest in new or improved slurry and manure storage has provided total investment exceeding £200 million. This, in conjunction with the proposed amending Regulations, would negate the need for additional storage for poultry litter.

b) Compliance with the storage requirement of the NAP Regulations will be subject to inspection from 30 June 2010 onwards. From this date records for 2009, the first full year storage was required for all farms, will have to be made available to the Northern Ireland Environment Agency (NIEA).

c) Compliance with the Nitrates Directive is a basic measure towards meeting WFD goals. DARD envisages that existing and planned actions will largely help agriculture meet the objectives of the WFD. DARD advice will be targeted on priority river catchments with particular water quality issues.

d) Research on phosphorus levels in poultry litter is currently being undertaken by AFBI as it is recognised there has been a substantial reduction of phosphorus content in poultry feeds in Northern Ireland since 2005. This research should help establish the environmental benefits of lowering nutrient levels in poultry diets.

- Council for Nature Conservation and the Countryside

The CNCC expressed concern that a long-term sustainable solution to the disposal of poultry litter was required and that the review of the Action Programme should focus on practical implementation issues.

Department's response

The Department, with input from DARD, advised;

a) That the use of field heaps is only a temporary measure until 31 December 2010 and the full review of the Action programme to be taken forward before the end of 2010 will include a review of the storage and disposal of poultry litter.

b) The review of the Action Programme will include a review of practical implementation issues.

5. Meeting on 16 September 2009 with NGO's

The meeting was chaired by DOE, with representatives from DARD and NIEA. Four NGO's, the UAF, WWF, RSPB and NIEL attended. The purpose was to discuss the proposed amendments to the legislation and the four year review that is required of the Action Programme.

The reasons for the need to introduce amending legislation to allow the storage of poultry litter in field heaps prior to land application up to 31 December 2010 were discussed. All NGO's expressed disappointment that Rose Energy or alternative proposals for storage and disposal of poultry litter had not been further advanced. All acknowledged, however, that something needed to be done and this was the only viable interim option available.

The NGO's welcomed the opportunity to participate in the four year review of the Action Programme to be completed by the end of 2010. The NGO's are satisfied that the Department, and DARD, will over the coming months compile scientific evidence on the effectiveness of the current Action Programme. This evidence will be used to develop a consultation paper on a new Action Programme for 2011 – 2014 that will include a review of the storage and disposal of poultry litter. The NGOs also want the review to focus on the implications for meeting the water quality requirements of the WFD.

Annex A List of Environmental NGO's

Those marked with an '*' provided written responses.

- WWF - World Wildlife Fund*
- UAF - Ulster Angling Federation*
- RSPB - Royal Society for the Protection of Birds*
- FoE - Friends of the Earth
- NIEL - Northern Ireland Environment Link
- NT - National Trust
- UAT - Ulster Wildlife Trust
- CNCC - Council for Nature Conservation and the Countryside

Policy Proposals from Policy Development Panel (Governance, Community Planning & Central/Local Relations)

Agenda Item:

Summary: Outlining the Policy Development Panel's proposals in relation to representation on the statutory transition committees and the governance arrangements for those committees.

Action: For consideration and endorsement.

Background

1. The Minister in his letter of 27 November 2008 asked the Policy Development Panel on governance and relationships to bring forward proposals for arrangements to provide for fair transparent decision making by the transition committees. He also asked for the Panel's views on whether the membership of the statutory committees should reflect the relative size of the constituent councils rather than the current arrangement of equal representation on the voluntary transition committees.
2. The Minister subsequently, at the Strategic Leadership Board meeting on 23 January 2009 asked the Panel to consider if and how inclusivity could be achieved on transition committees across the constituent council group.
3. This paper outlines the Panel's proposals on these important issues, and the rationale behind them. On some matters a consensus view could not be reached, and where appropriate the positions of the political parties are reflected in the paper.

Representation on Statutory Transition Committees

Level of membership

4. The Minister did not specifically ask for the Panel's view on the size of the statutory transition committees. However, members considered that it was important to look at this issue in order to inform and provide a baseline for their deliberations on representation and achieving inclusivity.

5. In considering this issue members recognised the need to provide for efficient and effective decision making during the statutory transition phase, and took the view that the committees should not be overly large. Against this background members agree that the level of membership set out in the initial guidance issued by the Department is appropriate, i.e. a maximum of 16 members, with the exception of the Causeway Coast group and Belfast which should have a membership of 20 to ensure that the constituent councils in this group have a similar minimum level of representation to other councils.

Level of representation from constituent councils

6. On the issue of the level of representation from the constituent councils members agreed that the arguments in favour of both equal representation, and proportionality to take account of the relative councils sizes are finely balanced. On the one hand equal representation is more likely to engender the partnership approach required for an effective transition process, whilst on the other larger councils could argue that they will bring a greater asset and budget base to the process.

7. In order to inform their deliberations and examine the potential application of a proportionate approach members considered analyses of representation based on:

- population size for the council areas; and,
- number of elected members on the councils

8. Following detailed discussions on the issues involved the Alliance party, DUP and Sinn Fein representatives on the Panel support the option of equal representation from constituent councils on the statutory transition committees. The UUP representatives take the view that a proportionate approach based on the population for the council areas would be more appropriate. The SDLP representatives reserve their position at this stage.

Inclusivity in representation

9. In considering this aspect members agree that the determination of councils' representation on a statutory transition committee should provide for proportionality and inclusivity, in accordance with the democratic process. They also agree that councils should have the flexibility to determine how this will be achieved, taking account of the determination of representation on the voluntary transition committees.

10. Consequently, the Panel proposes that the methodologies put forward for the allocation of positions in councils post 2011, i.e. d'Hondt, Saint Laque and Single Transferable Vote, should be available to councils to determine their representation. The application of d'Hondt should be the default position if a council cannot agree on the methodology to adopt. Members also agree, based on current experience, that provision should be made to ensure that these methodologies are applied consistently across the councils.

11. Given the range of interpretations on the application of d'Hondt advice was sought on the matter. This advice pointed to the process set out in the Northern Ireland Act 1998 Section 18 for the allocation of ministerial positions in the Executive. Whilst some members highlighted that

this legislation does not apply to local government there was a broad recognition that this provides a legislative model that is currently operating in Northern Ireland.

12. In considering the application of this model, and by association the application of the Saint Lague divisor methodology, the DUP, Sinn Fein and SDLP representatives agree that a political party's level of representation, for the purposes of the divisor should be taken as its level of registered representatives at the 2005 Local Government Election or where there has been a by-election. Changes of political affiliation, for whatever reason, do not alter the initial electoral mandate for the respective political parties and would not impact on the determination of the level of representation. The Alliance Party and UUP representatives do not support this position.

13. In the context of the level of representation Alliance party representatives propose that provision be made for the formation of coalitions within a council for the purposes of achieving representation on a statutory transition committee. This proposition is support by the UUP representatives on the Panel. The representatives from the DUP and Sinn Fein take the view that such a proposition moves away from the democratic principle and the outcome of the local government election. The SDLP representatives reserve their position pending consideration of the application of d'Hondt elsewhere.

Inclusivity across the council group

14. Members considered this issue in the context of the shared understanding of the Minister's request of those members who were present at the Strategic Leadership Board when it was raised. This understanding is the inclusion on a transition committee of a political party or parties which have a level of representation across the council group that would justify membership but which does not have a sufficient level of representation on the individual councils to achieve membership.

15. Members considered a number of ways in which inclusivity across the group could be achieved using a formula based approach to ensure consistency. Members were not supportive of any option that removed the selection of representation from the individual councils.

16. The consideration of an analysis prepared by the Joint Secretariat highlighted that the issue of inclusivity has the potential to occur in only two council groupings – Lisburn / Castlereagh and Ballymena / Carrickfergus / Larne. In both these groups the SDLP has a total of five councillors or around 9% of the combined membership of the councils. The level on individual councils within the group would not however result in representation on the respective transition committees under the strict application of the d'Hondt allocation methodology.

17. Members noted that within both these council groups the largest political party on one of the constituent councils have, for the voluntary transition committees, made a position available to the SDLP thereby ensuring their representation. If these local arrangements continue to apply for representation on the statutory transition committees the inclusivity sought by the Minister will be achieved. The Panel would encourage the relevant councils to adopt this approach.

Governance arrangements for statutory transition committees

18. In arriving at its proposals in relation to the governance arrangements that should operate in statutory transition committees, the Panel considered the extent to which its proposals for the governance arrangements for the councils post 2011 would have a direct read across. If appropriate some modification may be required.

Decision making structure

19. The Panel proposes that provision be made for a statutory transition committee to establish a sub-committee or sub-committees to consider specific issues if it considers this to be an appropriate approach. All decisions would however be a matter for the full statutory transition committee except where this would conflict with legal requirements, e.g. employment law.

Allocation of positions

20. The Panel proposes that the Chair and Vice-Chair of the statutory transition committee and any sub-committees should be allocated across the political parties represented on each statutory transition committee. This allocation should be across two equal time periods over the operational term of the committee. Building on proposals for the new councils the Panel proposes that the statutory transition committee should have the flexibility to allocate these positions using either d'Hondt, Saint Laque or STV. Any sub-committee Chair and Vice-Chair positions created following the initial allocation would be allocated using a continuation of the initial process.

21. The Panel also proposes that the Chair of a statutory transition committee or of a sub-committee established to consider a specific issue(s) would not have a 'casting vote'.

22. Membership of any sub-committee should be proportionate to the representation of political parties on the relevant statutory transition committee. This should be achieved using either the Quota Greatest Remainder or Droop Quota approaches.

Checks and balances

23. It is the consensus view of members that the issues for determination by the statutory transition committees should be circumscribed to those of a practical nature. Issues which are likely to have a bearing on the policy direction and ethos for the new council area should be excluded from the remit of the committees.

24. Against this background panel members however take the view that the 'call-in' and Qualified Majority Voting (QMV) procedures proposed for the new councils should be available for decisions to be taken by a statutory transition committee. The trigger and threshold proposed for these procedures in the councils post 2011, i.e. 15% of members (with the resultant figure always rounded up to the nearest integer) and 80% of members present and voting are deemed by the Panel to be appropriate for their operation in the statutory transition committees. Consideration is required on the mechanism to determine if a 'call-in' is legitimate.

25. Decisions in relation to the striking of the rate for the new council and those relating to personnel matters, or of a quasi-judicial nature (in the event that they arise during the transition phase) would be excluded from the 'call-in' and QMV procedures.

Dispute Resolution

26. Members considered the provision of a formal mechanism to resolve any disputes that may arise in the deliberations and decision making by the statutory transition committees. It is the consensus view of members that any such process would only be appropriate in the case of a critical decision that would prevent the effective operation of the new councils 4 days after the local government elections in 2011 and where Ministerial involvement would be required. All

other matters which cannot be resolved through discussion to the mutual satisfaction of those involved should be deferred to the new council when constituted.

27. The Panel therefore proposes that statutory transition committees should have the option to engage a facilitator / mediator (at their own expense) as a mechanism of last resort, if agreement cannot be reached before the matter is referred to the Minister for direction.

Standards, Transparency & Reporting

28. Members are of the firm view that a Code of Conduct for councillors should be applicable to the operation of the statutory transition committees.

29. Members recognise that there is likely to be significant interest in the operation of the statutory transition committees, the discussions that take place and the decisions that are reached. Accordingly members agree that where practicable meetings should be open to the public. When issues relating to staffing matters or of a commercial and confidential nature are to be discussed the statutory transition committees should have the ability to close such sessions to the public.

30. Taking account of the implications of the transition process for the existing councils and councillors the Panel proposes that councillors who are not members of the statutory transition committee should have the right to attend meetings of statutory transition committees including those sessions to which the public are excluded. Councillors who are not members of the statutory transition committee should also have speaking rights at any meetings.

31. The Panel further propose that the parameters and conditions for attendance of non transition member councillors at closed sessions and engagement at the meetings should be a matter for the statutory transition committee to agree and set out in its Standing Orders. These Standing Orders should be circulated to every member of the constituent councils in the group.

DOE / NILGA Joint Secretariat
March 2009

Key Outcomes from Regional Transition Co-ordinating Group (RTCG) 23 July 2009

Minutes of Meetings

- Minutes from the previous RTCG meeting on 11 June 2009 were approved. The minutes are now available on the Local Government section of the DOE website on www.doeni.gov.uk and the NILGA website www.nilga.org.

Local Government Reform Joint Forum

- It was relayed that the first meeting of the Joint Forum was held on 22 July 2009 with subsequent fortnightly meeting dates agreed (5 & 19 August, 2 Sep 2009.)
- At the first meeting, Bumper Graham (Northern Ireland Public Service Alliance) was appointed lead person for Trade Union side and Maureen Taggart (Northern Ireland Housing Executive) the lead for Employers' side.

- It was agreed that the Terms of Reference and operating arrangements would be amended to reflect the discussion and brought back to the next meeting.
- It was confirmed that Paul O'Brien, Chief Executive of the Association of Public Service Excellence (APSE), will take on the role of Independent Facilitator for the Forum.
- There was agreement that short term Task and Finish sub groups should be established, as required, to support the work of the Forum.
- It was confirmed that a number of priority issues will be discussed at upcoming meetings including the filling of senior posts in the new councils; staff severance scheme; an updated vacancy control system; and a model protocol for local negotiations between Trade Unions and local government employers.
- It was advised that a summary of key outcomes from the Forum will be issued soon after each meeting.

Assessment of Options for Local Government Service Delivery

- PwC presented a summary of its Phase 1 report to RTCG. The report contains a number of key recommendations including:
- A full Economic Appraisal should now be conducted on the short-listed options for the design of Service Delivery Functions (and associated common design approaches) within the new Councils;
- Clear direction should be given to Transition Committees on the scope and range of their responsibilities in the design of their new organisations against those elements that will be designed, developed and delivered collaboratively; and
- Decisions should be taken on the design of appropriate regional structures for local government in Northern Ireland.
- PwC advised that, under Phase 2 of the project, they are now working on a full economic appraisal and this will include an assessment of each shortlisted option. This economic appraisal will be supported by an Implementation Plan to identify the key risks, timescales, capacity and resources required to deliver the preferred option.
- PwC confirmed that the final Phase 2 report is on track to be delivered by early September 2009.
- PwC agreed to continue to meet with key stakeholders to discuss the transferring functions including those of an operational nature e.g. emergency planning with the Office of the First Minister and Deputy First Minister. They also confirmed they were happy to discuss the project with individual councils and union representatives.
- It was noted that as the RTCG is the steering group for Phase 2 its members will be liaising closely with PwC throughout this phase. PwC agreed to provide weekly update reports on progress to the RTCG members via the Project Manager.
- It was agreed that a progress workshop involving RTCG members and PwC will be held in mid-August. It was also decided that the PwC draft Phase 2 report should be the primary focus at the next RTCG meeting.

Community Planning

- It was noted that SLB at the 3 July 2009 meeting endorsed Policy Development Panel (PDP) A's proposal for a broad programme of activities to support the introduction of community planning at council / Transition Committee and regional level.
- RTCG was advised that the Joint Secretariat and the Community Planning Working Group are working to develop the guidance necessary to support and underpin this programme.
- It was explained that this guidance will include material on initiatives being taken forward by central government that need to be factored into the programme following preliminary discussions with senior officials in a number of departments and the Policing Board.
- It was also noted that preparations are underway to bid for EU funding under the Peace 111 Programme. This bid will reflect the key elements and outputs for the programme that have been identified in this guidance. This is supported by officers from Belfast City Council.
- It was advised that the aim is to have the guidance and bid endorsed by PDP A in early September.

Executive Sub Committee

- It was noted that the first meeting of the Local Government Reform Executive Sub Committee has been rescheduled to take place on 7 September 2009.

Review of Local Government Reform Organisational Structures

- The Joint Secretariat reported that there has been good progress on the Review of Local Government Reform Structures - focus groups have been held with each of the three PDPs, SOLACE and representatives of Transition Committees.
- Members were informed that an issues paper has been prepared based on the views expressed on the existing organisational arrangements and what needs to be done to meet the changes and challenges over the next two years.
- The Joint Secretariat confirmed that it will conduct a series of interviews with the political parties, SOLACE and Transferring Function Departments between 27-30 July to seek their views on a range of options for revised organisational structures.
- It was noted that the draft final report is on course to be presented to the next SLB meeting on 14 August 2009.

Programme Management

- It was confirmed that PA Consulting, appointed to aid the development, delivery and implementation of a new programme management system, will be meeting with key stakeholders over the coming weeks.
- PA Consulting will be seeking their views on an appropriate planning and programme management system for the reform process.

Finance and Estates Implementation

- It was confirmed that arrangements are underway to set up the first meeting of the Finance and Estates Implementation Group.

- John Price from Local Government Policy Division will be Vice Chair until a new Director of Local Government Policy Division is appointed.
- The composition of the Group will be finalised and the first meeting arranged as quickly as possible.

Transition Committee Update

- It was relayed that Minister Poots views the Transition Committees as central to the Reform Programme and implementation in particular. He is keen to meet with the Chairs of Transition Committees as early as possible.
- The Minister is also keen to see Transition Committees fully embedded in the regional structures.

Making Transition Work Seminar

- It was noted that feedback from the first Transition seminar on 6 July indicated that attendees found it helpful and informative. Work is underway on setting up the next seminar, likely to be a half day session, scheduled for the autumn.

Communications Update Paper

- It was relayed that there was a helpful first meeting of the Local Government Reform Communications Group.
- RTCG members agreed the priorities, purpose and direction that the Communications Group established for future meetings.
- It was relayed that SOLACE will ensure continued Chief Executive representation on the Communications Group.
- It was reported that the second meeting will include creating a communications strategy template to provide guidance for Transition Committees. It was agreed that this should include consideration of how and when the public should be communicated with on a regional basis about the Reform Programme.
- The Group was asked to consider how funding for communications activities should feed in to Phase 2 of the PwC report.

Legislation Update – Local Government (Reorganisation) Bill

- Members were advised that the Local Government (Reorganisation) Bill is scheduled for consideration by the Executive in the autumn. A consultation document will be issued once the Executive have agreed the policy proposals.

Capital Expenditure and Voluntary Transition Committees

- It was confirmed that a letter from the Department issued on 8 July to Chief Executives clarifying that while approval is not necessary, there should be sharing of information for loan sanctions amongst voluntary Transition Committees as part of their role in considering capital programme convergence.

Date of Next Meeting

- A progress workshop on Phase 2 – the economic appraisal of Local Government Service Delivery will be held mid August.
- The next RTCG meeting will be held on 3 September 2009 at 10.30 am in Clarence Court.

Please note: The information above may be subject to change. This is due to the quick turnaround of information in order to provide a summary as soon as possible after each meeting. The formal minutes will represent the information in finalised format.

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