

Chief Executive's Department



Your reference

Our reference: PMcN/KH

Date 11 November 2013

Ms Sheila Mawhinney
The Committee Clerk
Room 416
Parliament Buildings
Stormont
BELFAST BT4 3XX

Dear Ms Mawhinney

WRITTEN EVIDENCE ON THE LOCAL GOVERNMENT BILL

Please find enclosed a copy of Belfast City Council's submission of written evidence on the Local Government Reform Bill. This had been considered and approved by the Council's Transition Committee and Strategic Policy & Resources Committee, at its meeting on 8 November 2013.

The response enclosed remains subject to ratification by full Council on Monday 2 December 2013 and I will ensure that you are informed if any changes are made to the Council's submission.

The Council would commend that the Committee give consideration to possibly inviting Dr Clive Grace, former Director of General of the Audit Commission in Wales, to provide evidence in relation to the proposals put forward within the Local Government Bill around the new performance regime.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McNaney', written over a large, light-colored scribble or stamp.

Peter McNaney
Chief Executive

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Belfast City Council
Written Evidence to the Committee for the Environment
“Local Government Bill”

1.0	<u>INTRODUCTION</u>
1.1	<p>Belfast City Council welcomes the opportunity to provide evidence to the Committee for the Environment on the ‘<i>Local Government Bill</i>’ and believes that the introduction of the Bill is a further step forward in the local government reform programme.</p> <p>The Council recognises that the Bill is enabling legislation and that much of the detail will be contained in subordinate legislation and guidance which is still in the process of being developed. It is imperative that this legislation (and associated guidance) is developed in partnership with local government prior to its introduction to the Assembly as there will be no opportunity to make amendments once that has occurred.</p>
1.2	<p>The Council has carried out a clause by clause review of the Bill and a detailed commentary is appended for the Committees consideration. Set out below is an initial summary of the Councils comments on the most significant issues within the Bill. The response is intended to be constructive and seeks to ensure that the proposals within the Bill take account of the associated operational and implementation issues within local government. It will be important that all efforts are taken to ensure that the proposals are both progressive but realisable.</p>
2.0	<u>KEY ISSUES</u>
2.1	<p>The following provides a summary of the priority issues as identified by the Council – however, it is recognised that many of the proposals contained within the Bill will be subject to political consideration and individual Party Groups may wish to express their own views.</p>
3.0	Positions of responsibility (Part 3)
3.1	<p>The Council would be concerned that the Bill is highly prescriptive in terms of how Members may be selected for positions of responsibility and committee membership.</p> <p>Whilst the Council firmly supports the principle of proportionality, it would contend that consideration be given to permitting local solutions which are politically acceptable - perhaps through a requirement for local arrangements to be approved via the quality majority voting procedure.</p> <p>The Council would be concerned that the Bill proposes that all ‘positions of responsibility’ will be grouped into one pool and councils will be required to apply the identified proportionality methods in order to fill all of the positions of responsibility for the forthcoming 4 year term.</p> <p>The Council would contend that the legislation should not require that the positions of responsibility be grouped together into one pool nor should it specify the period of time of the appointments, but rather it should be left to each individual council to decide how best the application of proportionality should be carried out.</p>
4.0	Qualified Majority Voting (Part 7)
4.1	<p>The Council would highlight that local government within Northern Ireland has operated for many years on the basis of a simple majority vote. It is accepted that qualified majority voting may be seen to be desirable as a form of protection for political minorities in circumstances where there is a sizeable political majority in a Council area. Where a council is equally divided politically, such a system may have an impact upon the decision making process and ability of councils to get things done in local areas.</p>

	<p>The Council would recommend that careful consideration is therefore given to the identification and detailed definition, through regulations, of the specific types of decisions to be subject to QMV and that further engagement and detailed discussions should take place with local government in this regards.</p>
5.0	Call in (Part 7)
5.1	<p>The Council does not have any objections to the principle of “call in” being available, however, it would be concerned with the current broad definition of the two circumstances in which call-in can apply (as set out at a Clause 45 (1) of the Bill) and the potential for a high percentage of council decisions being subjected to call-in and thereby making effective decision making more difficult.</p> <p>The Council would therefore urge the Department to liaise with local authorities in order to develop and agree robust and clear definitions around the criteria for each of the two circumstances and to examine and detail the practicalities and process for implementing such procedures (e.g. procedure, format and time limits for any requisition to be submitted)</p> <p>The Council would also recommend that consideration is given to limiting the power to call in a particular decision/recommendation to a single requisition / challenge.</p>
6.0	Conduct of councillors (Part 9)
6.2	<p>Belfast City Council has consistently supported the establishment of a statutory ethical standards framework and a mandatory code of conduct for all Councillors and therefore welcome, in principle, the proposals set out within the Bill.</p> <p>The Council recognises the role that such frameworks provide in reinforcing the trust in councils and in local democracy and that this is particularly important in the context of any future transfer and delivery of new functions by councils. The Council would seek further engagement with the Department in developing such frameworks.</p> <p>The Council would be concerned however that the legislation does not contain a specific appeal mechanism, other than through a Judicial Review. The Council would therefore recommend that a right of appeal is clearly set out within the Bill.</p> <p>The Council would further recommend that consideration be given to extending or creating a supplementary to the Code of Conduct to cover the role of elected Members on public bodies.</p> <p>The Council would welcome, in principle, the enhanced role of the Commissioner to investigating complaints under the code, as this would ensure independence in the process. However, further detail of the procedures to be adopted by the Commissioner in undertaking any such investigations and the associated capacity and resource requirements around this would be helpful.</p>
7.0	Community Planning (Part 10)
7.1	<p>The Council would fully support the proposal that local authorities lead and facilitate community planning and would view this as a key enabler for the integration of services to address local needs. Local councils are uniquely and ideally placed to lead and facilitate community planning.</p> <p>It would appear that the Community Planning model proposed in the legislation is largely similar to the Welsh community planning model. Whilst there is no objection to the adoption of the model, it is vital that the legislation and supporting guidance takes account of the specific circumstances in Northern Ireland.</p> <p>In other jurisdictions (e.g. Scotland, Wales etc) there are significant regional support structures in place to support and promote local government improvement and community planning. There are currently no similar support arrangements within Northern Ireland and we would suggest that the establishment of a regional support structure to support improvement and community planning is included in the proposals.</p> <p>It is also important to note that local authorities within other jurisdictions have larger remits and deliver other key public services such as e.g. health, education, and housing; which are not the</p>

	<p>case in Northern Ireland. Furthermore, as noted at Clause 74 of the Bill, the Northern Ireland Departments will remain responsible for the policy framework, funding and priority setting for many of the agencies who may be community planning partners.</p> <p>The Council would note that the Bill make a clear distinction between what is required between ‘community planning partners’ who must ‘participate in community planning and ‘assist the council’, and the NI Departments who will have ‘a duty to promote and encourage community planning’.</p> <p>The effectiveness of the community planning process and the delivery of improved outcomes will be dependent on the strength of relationships between councils, departments and other public bodies. The Council would be of the view that the legislative provision in Part 10 should be further strengthened, particularly in relation to the collaborative use of resources and alignment of plans. The Council would also suggest that consideration be given to the possible introduction of a statutory duty upon all relevant public bodies (including Gov Departments) and statutory agencies to participate and contribute to the community planning process.</p> <p>Furthermore, it would appear that there is no mechanism included in the Bill for redress for non-compliance with community planning duty. The Department has advised that this may be a role for the Partnership Panel but the Council would suggest that a more robust accountability mechanism is put in place.</p>
8.0	Performance Improvement (Part 12)
8.1	<p>The Council would advocate that any performance framework brought forward is not overly bureaucratic, does not depart from existing legislative and statutory obligations of councils and is set within the context of community planning and providing councils with the appropriate flexibility to address local needs.</p> <p>The Council would recommend that the Committee should advocate for the ability for local government to have control over its own improvement, through a collaborative agreed approach, rather than having to deal with an outdated top-down legislative arrangement.</p> <p>The current policy shift in neighbouring regions is towards greater self-regulation and away from overly bureaucratic and centralised scrutiny/inspection, subject to the achievement of a set of agreed (with central government) targets or outcomes.</p> <p>In preparation for the proposed development of a new performance framework for Northern Ireland, Belfast City Council commissioned UK Research and Consultancy Services Ltd, headed up by former Director General of the Audit Commission in Wales, Dr. Clive Grace, to provide an advocacy and recommendations report to help inform our thinking. A summary of the key findings of the report is appended to this response, and the Committee may find it helpful to invite Dr Grace to provide evidence to the Committee to inform their thinking.</p> <p>This is particularly pertinent given that Part 12 of the Bill, relating to Performance Improvement arrangements, appears to mirror much of what is contained in the part 1 of the Local Government (Wales) Measure 2009. It should be noted that in Wales, there is significant regional support structures in place to support and promote local government improvement processes. There are currently no similar support arrangements within Northern Ireland and we would suggest that the establishment of a regional support structure to support continuous improvement and community planning is included in the Bill.</p> <p>Presently the Local Government (Best Value) Act (Northern Ireland) 2002 states that a council ‘shall make continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.’ It is noted that the Bill would appear to depart from the Local Government (Best Value) Act (NI) 2002. Clauses 87- 89 of the Bill extend the areas which councils must have regard to in terms of improving the exercise of its functions in terms of: strategic effectiveness; service quality; service availability; fairness (equity); sustainability; efficiency and innovation. These objectives are identical to those specified in the Welsh legislation and do not necessarily reflect the Northern Ireland context.</p>

	<p>The Council would further highlight that there would appear to be tensions and potential duplication between these provisions and of existing statutory duties of councils such as those expressed in S75 of the Northern Ireland Act 1998 and S25 of the NI (Miscellaneous Provisions) Act 2006 (duplicating the sustainability requirement). It is therefore recommended that the defined objectives are reviewed and further developed and defined in the context of Northern Ireland.</p> <p>In the absence of further definition on the performance objectives as set out, the Council would be concerned that there is now no explicit reference made within the Bill to a key aspect of Best Value - 'economy' - and, therefore potentially removing considerations around cost and value for money.</p> <p>The Council would point out that in considering each of the performance objectives individually and not collectively; there exist potential tensions between some of the objectives, for example, the interplay and balance between service availability and efficiency.</p> <p>Similar to the Best Value Act, the Council would recommend that the Department ensures that councils are enabled to consider and take into account of a combination of and interplay between the performance objectives.</p>
9.0	Local government auditor (Part 12)
9.1	<p>If the arrangements specified in Part 12 of the Bill are taken forward, the Council would have concerns in relation to the capacity and resourcing of the local government auditor, which will need to be enhanced.</p> <p>The Council would also have concerns in relation to the proposed extension of the role of the auditor in terms of the auditing of councils' corporate and/or improvement plans, as this would potentially undermine the democratic process. The Council would recommend that the scrutiny of corporate plans should be undertaken by elected members who set the priorities for the organisation and should oversee delivery against these priorities.</p>
10.0	A Partnership Panel (Part 13)
10.1	<p>The Council would welcome the establishment of the Partnership Panel and believe that this would provide a further mechanism to enhance the engagement between central and local government. The Council would highlight the importance that the local government representation be nominated by the sector and agreed by the Department and should include representation from each of the new councils at a minimum.</p>
11.0	Control of councils (Part 14)
11.1	<p>The Council would be concerned that the power of intervention, previously provided to the DoE (but rarely used), is now extended to all NI departments. Whilst recognising that specific functions will transfer from central to local government as part of the LGR process, the specific rationale for such provisions may need further clarification.</p> <p>The Council considers the language used in these clauses, and the scope of powers conferred on departments to be contradictory to the spirit of fostering a more collaborative working arrangement between central and local government. The Council would remind the Committee of the comments set out above in relation to Clause 103, and would again note that it will be important for guidance to be produced for government departments to ensure that they don't begin to micro-manage councils and do not place unrealistic reporting expectations on them.</p> <p>It is particularly noted that under this part of the Bill, there is no requirement to consult, either with local government in general, or with individual local councils.</p> <p>The Council would further recommend that the ability of other NI departments to intervene must be restricted to matters pertaining directly to those departments who have transferred functions but retain the policy responsibility.</p>
12.0	Conclusion
12.1	<p>The Council would welcome the opportunity to work closely with the Department and the Committee for the Environment on the further development of all subsequent legislation and guidance.</p>

Clause	Explanatory Memorandum	Belfast City Council Response
PART 1 - COUNCILS		
1	<p><u>Names of Councils</u></p> <p>This clause provides for how the names are to be formed and makes provision for the name given to a council to be altered by subordinate legislation.</p>	<ul style="list-style-type: none"> • The Council is aware that supplementary legislation will mean that at the May 2014 elections, candidates will be standing for election to Belfast District Council rather than Belfast City Council¹. • It would be good if the Committee could clarify with the Department when subordinate legislation will be brought forward to permit councils to obtain Borough or City status. • The Council would recommend that both the Department and local councils will need to work together to consider how best to communicate the new council names to the public in advance of the election.
2	<p><u>Constitution</u></p> <p>This clause requires a council to maintain a constitution and ensure that it is available for inspection by members of the public.</p> <p>The constitution is to include standing orders, a copy of the code of conduct, such information as the Department may direct and such other information as the council considers appropriate. A council will have to supply a copy to anyone who requests one, upon payment of a reasonable fee.</p>	<ul style="list-style-type: none"> • The Council welcomes the requirement for councils to prepare and maintain a constitution and believes that this provides an appropriate framework through which to outline the councils governance arrangements and decision making processes. • The Council would request that councils are involved in the development of any model framework brought forward.
PART 2 – COUNCILLORS		
3 – 9	<p>These clauses re-enact sections 3 to 10 of the Local Government Act (Northern Ireland) 1972 in relation to individuals being elected to or acting as a councillor.</p> <p>Clause 3 sets out the conditions to be satisfied for a person to be qualified to be elected or to be a councillor.</p>	<p>Clause 4 (Schedule 1)</p> <ul style="list-style-type: none"> • In relation to council employees acting as a councillor, it should be noted that in other jurisdictions (e.g. England and Wales), an officer can stand for and be elected to any council except the one for which they work (As set out under Section 80 of the Local Government Act 1972)

¹As per the Local Government (Boundaries)(2008 Act)(Commencement, Transitional Provisions and Savings) Order 2013

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	<p>Clause 4 gives effect to Schedule 1 which sets out the conditions under which a person is disqualified for being elected or acting as a councillor. These conditions include the introduction of a bar on MLAs, MPs and MEPs being elected, or being, councillors.</p> <p>Clause 5 sets out the penalties for acting as a councillor while disqualified.</p> <p>Clause 6 requires a person elected as a councillor to serve a declaration, as set out in Schedule 2, on the clerk of the council before acting as a councillor. This declaration requires the person to affirm that they will observe the Northern Ireland Local Government Code of Conduct for Councillors in the performance of their functions.</p> <p>Clause 7 provides for a person to resign as a councillor at any time.</p> <p>Clause 8 provides for a person to cease to be a member of a council if they fail, subject to certain conditions, to attend any meeting of the council over six consecutive months.</p>	<ul style="list-style-type: none"> It will be important that clear guidelines are developed through supporting regulations and/or guidance in relation to potential conflicts of interest as a result of an employee also acting as a councillor.
PART 3 – POSITIONS OF RESPONSIBILITY		
10	<p>This clause sets out the positions of responsibility to be held by an elected member of the council, which must be allocated across the political parties represented on the council, and the process which must be used for the allocation.</p> <p>Positions of responsibility are specified as the chair and deputy chair of the council, chairs and deputy chairs of council committees, the membership of a cabinet-style executive and representative positions on external bodies.</p>	<ul style="list-style-type: none"> The Council would be concerned that the Bill is highly prescriptive in terms of how Members may be selected for positions of responsibility and committee membership. Whilst the Council firmly supports the principle of proportionality, it would contend that consideration be given to permitting local solutions which are politically acceptable - perhaps through a requirement for local arrangements to be approved via the quality majority voting procedure. The Council would be concerned that the Bill proposes that all 'positions of responsibility' will be grouped into one pool and councils will be required to apply the identified proportionality methods in order to fill all of the positions of responsibility for the forthcoming 4 year term. The Council would contend that the legislation should not require that the

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		<p>positions of responsibility be grouped together into one pool nor should it specify the period of time of the appointments, but rather it should be left to each individual council to decide how best the application of proportionality should be carried out.</p> <ul style="list-style-type: none"> • The Council would contend that further detail should be provided in any supplementary regulations and/or guidance in relation to the sequencing of the establishment of cabinet or committee systems and the appointment process for positions of responsibility. For example, further clarification is required in relation to: <ul style="list-style-type: none"> - whether the establishment of Committees (under Schedule 4) should take place in advance of positions of responsibility being selected using a method of proportionality prescribed in Schedule 3; - should the appointment of the chair and deputy chair of a cabinet executive and the selection of one of these positions by a party count as one choice (as a member of the cabinet) or two choices (as a member and as the chair or deputy chair). - the definition of a 'prescribed' public body, as well as the process through which a council may make appointments to outside bodies which are not identified as a 'prescribed public body'. • The Council is aware that the Department would intend to bring forward a draft order (i.e. Transitional and Supplementary Provisions Order), which will outline the functions, powers and duties of the Shadow Councils between May 2014 and April 2015. It will be important that this Order includes appropriate provisions to enable Shadow Councils to choose the form of governance for the incoming new council and to apply the chosen proportionality method so that the governance arrangements are in place for the first meeting of the new councils in April 2015. As the membership of the shadow councils and new councils are the same, this should not provide for any conflict but would be of considerable operational convenience.
PART 4 – DISCHARGE OF FUNCTIONS		
11 - 14	<p>Clauses 11 to 14 – Arrangements for discharge of functions These clauses set out the arrangements that a council may use</p>	<ul style="list-style-type: none"> • In terms of those functions to be reserved to councils as defined under Clause 11 of the Bill (i.e. making a district rate, borrowing money or acquiring or disposing of land), the Council would recommend that

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	<p>for the discharge of its functions and responsibilities.</p> <p>Clause 11 provides that a council may arrange for any of its functions to be discharged by a committee, sub-committee or an officer of the council, or by another council. The authority to delegate to a lower tier of governance is also provided for committees and sub-committees. The clause also specifies that making a district rate, borrowing money or acquiring or disposing of land may only be discharged by the council.</p> <p>Clause 12 places limitations on making arrangements for the discharge of functions under executive arrangements. It sets out the arrangements that will apply if a council has arranged for a function to be discharged by another council and one of the participating councils is operating or begin to operate executive arrangements and the relevant function is the responsibility of that executive.</p> <p>Clause 13 provides for the establishment of a joint committee between two or more councils to discharge a function of the participating councils. It provides that joint committees cannot discharge a function that is the responsibility of the executive of any of the participating councils.</p> <p>Clause 14 provides that a council or a committee is not prevented from exercising a function if it has arranged for that function to be discharged by a committee or sub-committee.</p>	<p>appropriate flexibility be included to provide for minor technical land disposals, way leaves, small loans, etc to be excluded if a council was to choose to do so.</p> <ul style="list-style-type: none"> This would help streamline the level of business having to be brought to full council and could be provided for through the inclusion of a similar provision to Section 100 (1) of the Local Government Act 1972 which provides for an officer to make contracts or instruments on behalf of the council providing that the value does not exceed a specified threshold (i.e. £30,000).
15-17	<p>Clauses 15 and 17 – Appointment of committees</p> <p>Clause 15 provides that a council may appoint a committee, and two or more councils may appoint a joint committee, to discharge functions. The appointing council or councils are responsible for determining the number of members of the committee, their term of office and the committee's remit. The clause also provides that, subject to certain restrictions, a committee may include persons who are not members of the appointing council or councils.</p> <p>Clause 16 enables a council, and two or more councils, to appoint a committee, that may include persons who are not members of the appointing council or councils, to advise on the</p>	<ul style="list-style-type: none"> The Council would seek further clarification in relation to what transitional provisions will be brought forward by the Department to ensure the effective transition of existing Joint Committees of two or more councils (e.g. Waste Management Groups) beyond April 2015.

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	<p>discharge of functions.</p> <p>Clause 17 gives effect to Schedule 5 which provides for the sharing of membership of a committee between the political parties represented on the council.</p>	
18 - 22	<p>Clauses 18 to 22 - Supplementary</p> <p>Clause 18 provides that the expenses of a joint committee must be met by the appointing councils. It also provides a power for the Department by order to constitute a joint committee as a corporate body on the application of the appointing councils.</p> <p>Clause 19 provides that a person disqualified from being elected or being a member of a council cannot be a member of a committee or sub-committee of that council, or a joint committee on which the council is represented or on one of its sub-committees.</p> <p>Clause 20 provides that a person who is not a member of a council may not act as a member of a committee until the person has signed a declaration agreeing to observe the Northern Ireland Local Government Code of Conduct for councillors.</p> <p>Clause 21 provides that a person appointed to a committee who is not a member of the appointing council has no voting rights at meetings of that committee.</p> <p>Clause 22 specifies that a person who is no longer a member of a council is also no longer a member of a committee of that council.</p>	No specific comment
PART 5 - PERMITTED FORMS OF GOVERNANCE		
23 - 24	<p>Clauses 23 and 24</p> <p>These clauses set out the forms of political governance a council may operate for its decision-making. These are executive arrangements, a committee system or prescribed arrangements. Clause 23(4) provides a definition of executive arrangements.</p>	<ul style="list-style-type: none"> • The Bill is currently silent in relation to potential forms of governance arrangements linked to statutory or quasi-judicial functions to be undertaken by councils (e.g. planning, licensing etc) and the associated processes and rules which may or may not apply in this instance (e.g. QMV, Call-In). • Given the significance of planning and the fact that this is a new function transferring to local government, the Bill should ensure that appropriate

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	<p>A power is provided for the Department to make regulations prescribing alternative forms of governance that may be adopted by a council. It provides that the Department must have regard to any proposals received from a council when it considers whether or how to make regulations under this clause.</p>	<p>provisions are put in place.</p> <ul style="list-style-type: none"> The Council would seek clarification from the Department as to whether such committees will be subject to the same rules in relation to QMV and call-in as the other committees. The Council would advocate committees exercising quasi-judicial functions are not subject to QMV and call-in
PART 6 – EXECUTIVE ARRANGEMENTS		
25	<p>Clause 25: Council Executives</p> <p>This clause provides that an executive of a council must take the form of either:</p> <p>a) a committee of the council to be known as a “cabinet-style executive”, or</p> <p>b) more than one committee of the council to be known as a “streamlined committee Executive”</p> <p>It also prohibits the chair or deputy chair of the council from being a member of the executive, and limits the number of councillors who can be on the executive to 10 (unless a different maximum number is specified in regulations).</p>	<ul style="list-style-type: none"> The Council has no objection to Clause 25 but would seek clarification from the Department as to the practical steps which need to be taken (sequencing) in order to fill places on committees
26	<p>Clause 26: Functions which are the responsibility of an executive</p> <p>This clause provides the mechanism for determining which council functions are to be the responsibilities of the executive. It provides a power for the Department to make regulations to specify those functions which may, but need not, be the responsibility of the executive, and those functions which must not be the responsibility of the executive. The presumption is that all functions of the council are to be the responsibility of the executive unless specified in regulations or in any other legislation.</p>	<ul style="list-style-type: none"> In relation to Clause 26, it is noted that the Executive would be responsible for all of the functions of a council except those which would be identified in regulations. It will be important that councils are consulted in respect of the development of any such regulations.

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27	<p>Clause 27: Functions of an executive: further provision</p> <p>This clause makes further provision on the exercise and discharge of functions which are the responsibility of the council executive.</p>	<ul style="list-style-type: none"> No specific comment
28-30	<p>Clauses 28 to 30 – Allocation and discharge of functions</p> <p>These clauses set out in greater detail how decision-making is to be undertaken under executive arrangements and provide for the executive to determine how functions which are the responsibility of the executive should be discharged. Provision is also made for the Department to make regulations to enable an executive to arrange for functions for which it is responsible to be discharged by another council or by a joint committee.</p>	<ul style="list-style-type: none"> No specific comment
31 - 37	<p>Clauses 31 to 37 – Overview and scrutiny committees</p> <p>These provisions require a council, which is operating executive arrangements, to set up overview and scrutiny committees.</p> <p>Executive arrangements must ensure that these committees have power to make reports and recommendations, either to the executive or the council, on any aspect of council business. They must also have the power to make reports and recommendations on other matters which affect the council's area or its inhabitants.</p> <p>Where an overview and scrutiny committee reviews or scrutinises an executive decision which has been made but not yet implemented, it may recommend that it is reconsidered by those responsible, or else arrange for the council to review the decision and, where necessary, ask those responsible for the decision to reconsider it.</p> <p>Clause 32 describes in detail how overview and scrutiny committees may carry out their functions, giving them the power to appoint sub-committees and make arrangements for these sub-committees to discharge any functions of the overview and</p>	<p>Clause 31</p> <ul style="list-style-type: none"> The Council supports the need to ensure that effective scrutiny arrangements are in place to underpin the deciding making processes within councils. However, the Council would urge that caution is taken to ensure that the introduction of such scrutiny arrangements do not result in the orderly and efficient transaction of business within councils being adversely impacted upon. The Council would seek clarification with regards to the scrutiny powers provided in Clause 2(c) for Overview and Scrutiny committees to scrutinise those decisions which are not the responsibility of the Executive. The Council would contend that this power does not extend to those decisions which require ratification by the full council – such as those outlined in clause 11. Under Clause 3 (b), an Overview and Scrutiny Committee can decide that any Executive decision made but not yet implemented be referred to the full Council. Further definition is required in relation to the point at which a decision is determined to have been 'implemented' and the process and timescales in relation to the decision-making and when an officer has authority to act on a decision taken.

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	<p>scrutiny committee. It also allows an overview and scrutiny committee to require officers of the council and members of the executive to appear before it and invite any other person to appear before it. Neither the overview and scrutiny committee nor any of its sub-committees may include any member of the council's executive, but can include people who are not members of the council. People who are not members of the council co-opted to an overview and scrutiny committee will not have voting rights unless they are permitted to vote under paragraph 1 of Schedule 6.</p> <p>Clause 33 provides that a council operating executive arrangements must designate one of its officers as a scrutiny officer to perform the functions set out in this section. The clerk of the council or the chief financial officer may not be designated as its scrutiny officer.</p> <p>Clause 34 provides that a council's executive arrangements must make provision to enable members of an overview and scrutiny committee, including a sub-committee of such a committee, to refer matters to the committee or sub-committee.</p> <p>It also stipulates that a council operating executive arrangements must make arrangements to enable councillors who are not members of either the committee or sub-committee to refer any matters, which are not specified as excluded matters in an order, to overview and scrutiny committees.</p> <p>Clause 35 makes further provision in relation to the reference of matters to overview and scrutiny committees by a member of a council who is not also a member of the committee. It specifies certain factors that a committee may have regard to when considering whether to exercise its powers to review and scrutinise matters which have been referred by such a non-member.</p> <p>Clause 36 makes provision about reports and recommendations of overview and scrutiny committees. It provides that overview and scrutiny committees may publish reports and recommendations and must, in writing, require the council or executive to take the steps specified.</p>	<p>Clause 32</p> <ul style="list-style-type: none"> • The Council note that the legislation does not put in place the procedures for the practical operation of the Overview and Scrutiny Committees, and in particular the timescales to be applied for the exercise of their powers. • The Council would recommend that further detail is included within the Bill or associated regulations and/or guidance clearly setting out the procedures for the practical operation of the Overview and Scrutiny Committees and in particular the timescales to be applied for the exercise of their powers. • In addition the guidance should be clear on the processes to be applied by councils including, for example, whether decisions should be referred as a matter of procedure to an Overview and Scrutiny Committee to decide whether to a) seek reconsideration of the decision or, b) refer to full Council, and whether this process should take place before officers act upon the decision.

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	<p>Clause 37 makes provision in relation to an overview and scrutiny committee or a council excluding “confidential information” and “relevant exempt information” when publishing a document.</p>	
38 - 39	<p>Clauses 38 and 39: Meetings and access to information etc.</p> <p>These clauses provide powers for the Department to specify in regulations the circumstances in which meetings of the Executive or its committees must be open to the public and which meetings must be held in private. Other than where specified in regulations, it will be for the Executive to choose whether to meet in private or in public. Written records of prescribed decisions made at meetings of the Executive held in private must be kept, including reasons for the decisions. These records, together with such reports and background papers as may be prescribed, must also be made available to the public.</p> <p>Regulations may also make provision requiring prescribed information about prescribed decisions to be made publicly available, and may also make provision about access to meetings of joint committees</p>	<ul style="list-style-type: none"> • The Council would support greater transparency and openness in the operation and decision-making processes within local government.
PART 7 – MEETING AND PROCEEDINGS		
40 - 42	<p>Clauses 40 to 42 – General and standing orders</p> <p>These clauses make provision on the timing and general arrangements for meetings of a council, and require a council to make standing orders for the regulation of the proceedings and business of councils and their committees. A power is provided for the Department by regulations to specify matters that must be included in a council’s standing orders.</p>	<p>Clause 42 Subsection 2(b)</p> <ul style="list-style-type: none"> • This subsection indicates that regulations may require such standing orders to contain provisions for specific decisions of a committee to be referred to and reviewed by the Council itself. • The Council would seek clarification as to what these decisions may be and would recommend that the regulations specifying matters that must be included in standing orders are drawn up with local government.

Clause	Explanatory Memorandum	Belfast City Council Response
43-44	<p>Clause 43 (Simple Majority) and 44 (Quality Majority)</p> <p>These clauses provide for the voting mechanisms to be used by councils in their decision-making. The mechanisms specified are simple majority and, for decisions specified in standing orders, qualified majority.</p> <p>A power for councillors to require decisions to be reconsidered, in specified circumstances, is also provided.</p>	<ul style="list-style-type: none"> Clearly such proposals will be subject to political consideration and individual Party Groups may wish to express their own views in regards to the application of Quality Majority Voting. The Council would highlight that local government within Northern Ireland has operated for many years on the basis of a simple majority vote. It is accepted that qualified majority voting may be seen to be desirable as a form of protection for political minorities in circumstances where there is a sizeable political majority in a Council area. Where a council is equally divided politically, such a system may have an impact upon the decision making process and ability of councils to get things done in local areas. The Council would recommend that careful consideration is therefore given to the identification and detailed definition, through regulations, of the specific types of decisions to be subject to QMV and that further engagement and detailed discussions should take place with local government in this regards. The Council would recommend that further clarification is required in terms of the practical implementation of QMV by councils, including e.g. whether the QMV rule applies only at the point at which a decision is taken or where it is discussed? For decisions which are taken or discussed at an Executive or Traditional Committee but which then require ratification at full Council, is it the case that QMV could apply twice? The Council would advocate that the use of Qualified Majority Voting be counterbalanced against the expressed intentions of the local government reform to expedite the decision making process
45	<p>Clause 45 - Power to require decisions to be reconsidered (call-in)</p> <p>This clause includes provisions for councillors to require decisions to be reconsidered, in specified circumstances, is also provided.</p>	<ul style="list-style-type: none"> Clearly such proposals will be subject to political consideration and individual Party Groups may wish to express their own views in regards to the application of Quality Majority Voting. The Council does not have any objections to the principle of “call in” being available, however, it would be concerned with the current broad definition of the two circumstances in which call-in can apply (as set out at a Clause 45 (1) of the Bill) and the potential for a high percentage of council decisions being subjected to call-in and thereby making effective decision making more difficult. The Council notes that the second ground for reconsideration (45(1)(b))

Clause	Explanatory Memorandum	Belfast City Council Response
		<p>relates to disproportionate adverse impact, and would point out that local government within Northern Ireland already have a duty as set out in their approved Equality Schemes to take into consideration equality considerations in administering their functions.</p> <ul style="list-style-type: none"> • The Council would therefore urge the Department to liaise with local authorities in order to develop and agree robust and clear definitions around the criteria for each of the two circumstances and to examine and detail the practicalities and process for implementing such procedures (e.g. procedure, format and time limits for any requisition to be submitted) • The Council is unclear as to how the power of call-in is to operate in executive arrangements when considered alongside the powers of the Overview and Scrutiny Committee. If a decision of an Executive is being reviewed or scrutinised by an Overview and Scrutiny Committee, which can include asking for it to be reconsidered or referred to full council, does this mean that the same decision may still remain subject to the call-in process? • Further definition is required in relation to Clause 45(2) and the role of the practising barrister or solicitor in considering and giving an opinion on requisitions made wholly or partly on the grounds of Clause 4 (1)(b) – that a decision would disproportionately affect adversely any section of the inhabitants of a district. Clarity should be provided within the Bill or supplementary regulations/guidance whether such an opinion can be provided by a council’s in-house legal support. • The Council would note that there is no limit to call in. The power to call in a particular decision/recommendation should be limited to a single challenge.
PART 8 – ACCESS TO MEETINGS AND DOCUMENTS		
46 - 49	<p>Clauses 46 to 49</p> <p>These clauses make provision in relation to public access to meetings of councils, and to the agenda and connected reports on issues to be discussed at a meeting of the council.</p>	<ul style="list-style-type: none"> • The Council would highlight that whilst Clause 46(6) states that 5 days’ notice must be given of a council meeting - this clause appears to be contradicted by Paragraph 5(1) of Schedule 7 (Meetings and proceedings) which says that 3 days’ notice must be given.

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>Provision is also made to enable members of the public to inspect the minutes and other documents, and background papers, after a meeting of the council. Exclusions are applied to ensure that any confidential information, either discussed at a meeting of a council or included in any papers, is not open to the public. These provisions are also applicable to meetings of council committees.</p>	
50	<p>Clause 50</p> <p>This clause specifies that section 46-49 apply in relation to a committee or a sub-committee of a council as they apply in relation to a council.</p>	<ul style="list-style-type: none"> • Clarification is required as to whether Clause 46-49 apply also to Executive arrangements and, if so, is there a need for Clauses 38 and 39 which replicate such provisions.
PART 9 – CONDUCT OF COUNCILLORS		
	<p>Clause 56: Code of conduct</p> <p>This clause provides for the Department to issue the Northern Ireland Code of Conduct for Councillors. The Code must specify the principles which are to govern the conduct of councillors. Before issuing or amending the Code, the Department must consult with associations or bodies representative of councils, officers of councils, councillors and such other persons as appear to the Department to be appropriate. A draft of the Code must be approved by resolution of the Assembly before it can issue.</p>	<ul style="list-style-type: none"> • The Council welcomes the introduction of a mandatory Code of Conduct for councillors within Northern Ireland. The Council would recommend that consideration be given to extending or creating a supplementary to the Code of Conduct to cover the role of elected Members on public bodies. • The Council welcomes the opportunity to input into the consultation process to be initiated by the Department in developing the Code of Conduct, as set out under Clause 56(8)
57	<p>Clause 57: Guidance</p> <p>This clause states that the Northern Ireland Commissioner for Complaints (Commissioner) may issue and publish any guidance on matters relating to the conduct of councillors.</p>	<ul style="list-style-type: none"> • The Council notes that the Commissioner may issue guidance under this Clause in relation to the conduct of councillors, and believes that and such guidance would provide useful information to Members as regards the application of the Code. It remains unclear whether the guidance will have a statutory or advisory effect.

Clause	Explanatory Memorandum	Belfast City Council Response
58-59	<p>Clauses 58 and 59: Investigations</p> <p>These clauses deal with the conduct of investigations carried out by the Commissioner on receipt of a written allegation of a breach of the Code. Clause 58 provides that the purpose of an investigation is to determine whether there is evidence of any failure to comply with the Code and whether action needs to be taken in respect of the matters under investigation and if an adjudication should be made by the Commissioner on the matter under investigation.</p> <p>The procedure for conducting an investigation shall be such as the Commissioner considers appropriate. Clause 59 provides that the person who is the subject of an investigation should be given the opportunity to comment on the allegation put to the Commissioner.</p>	<ul style="list-style-type: none"> The Council would welcome, in principle, the proposed role of the Commissioner to in investigating complaints under the code, as this would ensure independence in the process. However, further detail of the procedures to be adopted by the Commissioner in undertaking any such investigations and the associated capacity and resource requirements around this.
60-61	<p>Clauses 60 and 61: Reports</p> <p>These clauses provide for the Commissioner to produce a report on the findings of an investigation and, where the Commissioner considers it necessary in the public interest, to produce an interim report prior to the completion of an investigation. These clauses also specify the persons who must be given a copy of such a report.</p>	<ul style="list-style-type: none"> No specific comments
62	<p>Clause 62: Decision following report</p> <p>The clause provides for the Commissioner to adjudicate on any matter by deciding whether or not a person has failed to comply with the Code and sets out to whom this information must be sent. This clause also permits the Commissioner to decide on the extent to which the Code has been breached and to establish if a councillor should be censured, suspended or partially suspended, or disqualified for being, or becoming, a councillor.</p> <p>The Commissioner will specify the details of such sanction(s).</p>	<ul style="list-style-type: none"> The Council recommend that the Department include a right of appeal to the County or High Court for a Member who may be found to be in breach of the code and any associated sanctions to be specified by the Commissioner. The Council also notes that judicial review may not provide adequate remedy as it is essentially a review of the process undertaken and will not always examine the merits of any decision.
63	<p>Clause 63: Decisions on interim report</p> <p>This clause provides that, where the Commissioner considers that</p>	<ul style="list-style-type: none"> Further clarification and guidance is required in terms of the process to be applied by the Commissioner

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>there is evidence that a person who is subject to an interim report has failed to comply with the code and that the failure is such that it would be likely to result in disqualification, and if the Commissioner considers that it would be in the public interest to immediately suspend or partially suspend the person, then the Commissioner may give notice to the clerk of the council accordingly, giving effect to that consideration.</p>	
64	<p>Clause 64: Recommendations</p> <p>This clause provides for the Commissioner, having adjudicated on any matter, to make recommendations to a council about any matters relating to the exercise of the functions of a council or the failure to observe the Code. A copy of the recommendations must be sent to the Department concerned. A council, having received any such recommendation, must consider this and, if necessary, prepare a report for the Department concerned within such period as the Commissioner may specify, giving details on what action the council proposes to take to address the recommendations. The Department concerned, on receipt of a report from the council, may require the council to publish a statement giving details of the recommendations made by the Commissioner and the reasons for those not being fully implemented if necessary. The consideration of any such recommendations by a council may only be considered by the council meeting as a whole.</p>	<ul style="list-style-type: none"> • No specific comments
65	<p>Clause 65: Disclosure and registration of councillors' interests, etc.</p> <p>This clause provides for the clerk of the council to establish and maintain a register of the interests of its councillors and for the council to ensure that the register is available for public inspection.</p>	<ul style="list-style-type: none"> • No specific comments
66	<p>Clause 66: Extension of 1996 Order</p> <p>This clause provides for certain provisions of the Commissioner for Complaints (Northern Ireland) Order 1996 to apply as if references to that Order includes reference to this Bill. These provisions set out the powers available to the Commissioner in conducting the duties conferred by this Bill in relation to the conduct of councillors.</p>	<ul style="list-style-type: none"> • No specific comments

Clause	Explanatory Memorandum	Belfast City Council Response
67	<p>Clause 67: Expenditure of Commissioner under this Act This clause provides for the Commissioner to apportion the estimated amount of the expenses of the Commissioner's office in relation to the ethical standards framework between all the councils in Northern Ireland. Councils must pay the apportioned amount to the Commissioner at such time and in such manner as the Commissioner directs. The method of apportioning the costs will be prescribed in regulations.</p>	<ul style="list-style-type: none"> The Council would seek clarification on the prescribed manner for dividing the costs of the Commissioner between all of the councils in Northern Ireland.
67	<p>Clause 68: interpretation To be included</p>	<ul style="list-style-type: none"> The Council notes that Clause 68(3)&(4) states that where a councillor is suspended / disqualified from being a councillor they are also suspended / disqualified from being a member of any committee, joint committee or sub-committee of the council. Clarification is required as to the position in regard to the membership of outside bodies in any such instances.
PART 10 – COMMUNITY PLANNING		
69	<p>Clause 69: Community planning This clause places a duty on councils to initiate, maintain, facilitate and participate in community planning for their area. It also places a duty on community planning partners to participate in community planning and assist the council in the discharge of its duty.</p> <p>The clause defines community planning as a process by which a council and its community planning partners identify long-term objectives for improving the economic, social and environmental well-being of the local government district, and also contribute to the achievement of sustainable development. The duty also requires the identification of actions to be performed and functions to be exercised for the purpose of meeting the objectives.</p>	<ul style="list-style-type: none"> The Council would fully support the proposal that local authorities lead and facilitate community planning and would view this as a key enabler for joining-up services to address local needs. Local councils are uniquely and ideally placed to lead and facilitate community planning. Democratically accountable to local people and with a broad remit to protect and enhance their district area, community planning is a natural extension of this role. It appears that the Community Planning model proposed in the legislation is largely similar to the Welsh community planning model as outlined in part 2 of the Local Government (Wales) Measure 2009. The Council would highlight that whilst there is no objection to the adoption of the Welsh model, it is important that the legislation and any supporting guidance takes account of the specific circumstances in Northern Ireland. In other jurisdictions (e.g. Scotland, Wales etc) there is significant regional support structures in place to support and promote local government improvement and community planning. There are currently no similar support arrangements within Northern Ireland and we would suggest that the establishment of a regional support structure to support improvement and community planning is included in the proposals.

Clause	Explanatory Memorandum	Belfast City Council Response
70	<p>Clause 70: Community planning partners</p> <p>This clause provides a power for the Department by order to specify the bodies or persons who are to be the community planning partners of a council. Such an order can only be made following consultation with the bodies or persons concerned, and with district councils and other bodies as the Department considers appropriate. A power is also provided for the Department, by order, to amend, to add to or to remove bodies from those listed.</p>	<p>Clause 70 and 78</p> <ul style="list-style-type: none"> • The Council would note that the Bill make a clear distinction between what is required between ‘community planning partners’ who must ‘participate in community planning and ‘assist the council’, and the NI Departments who will have ‘a duty to promote and encourage community planning’. • It is also important to note that local authorities within other jurisdictions have larger remits and deliver other key public services such as e.g. health, education, and housing; which are not the case in Northern Ireland. Furthermore, as noted at Clause 74 of the Bill, the Northern Ireland Departments will remain responsible for the policy framework, funding and priority setting for many of the agencies who may be community planning partners. • The effectiveness of the community planning process and the delivery of improved outcomes will be dependent on the strength of relationships between councils, departments and other public bodies. The Council would therefore recommend that the legislative provision in Part 10 should be further strengthened, particularly in relation to the collaborative use of resources and alignment of plans. The Council would also suggest that consideration be given to the possible introduction of a statutory duty upon all relevant public bodies (including Gov Departments) and statutory agencies to participate and contribute to the community planning process. • At present there is no mechanism included in the Bill for redress for non-compliance with community planning duty. The Department has advised that this may be a role for the Partnership Panel but the Council would suggest that a more robust accountability mechanism is put in place.
	<p>Clause 71: Production of community plan</p> <p>This clause specifies that, once a council and its community planning partners have reached a consensus as to the community plan objectives and actions, the council must produce a document (known as a community plan) capturing that consensus. This must be as soon as practicable after the consensus has been reached. The clause requires the plan to contain appropriate objectives and actions for meeting those objectives.</p>	<ul style="list-style-type: none"> • No specific comments

Clause	Explanatory Memorandum	Belfast City Council Response
72-74	<p>Clauses 72 and 73 – Review of community plan</p> <p>These clauses require a council and its community planning partners to review the community plan at least every four years to consider the extent to which objectives have been met and, if not met, the progress made towards the objectives. They also specify the actions that may be taken following the review.</p> <p>Clause 74: Monitoring</p> <p>This clause requires a council, and its community planning partners, to make arrangements for monitoring progress made on meeting the community planning objectives and the associated actions. It also places a duty on a council to publish a statement at least every two years on the progress which has been made towards meeting the community planning objectives and undertaking the actions attributed to the various community planning bodies.</p>	<ul style="list-style-type: none"> • While councils will be required to report on progress, it is unclear how accountability will be shared and made possible, particularly as NI Departments are responsible for the policy framework, funding and priority setting for many of the agencies who may be community planning partners. There may be a risk that the Departments do not provide the appropriate oversight into the contribution of their agencies to the community plan and this could impact on the councils' ability to deliver progress on the ground. • It is unclear how community planning "performance" will be assessed. In Part 12, Performance Improvement, councils will be subject to a performance duty which defines a council's strategic objectives as 'the objectives contained in its current community plan'. Further guidance may detail this, but issues regarding accountability (see above) will need to be taken into account.
75	<p>Clause 75: Implementation</p> <p>This clause requires that a council or a community planning partner must take all reasonable steps to perform any action or exercise any function assigned to it in the community plan.</p>	<ul style="list-style-type: none"> • The Council would reiterate the apparent distinction made in the Bill between 'community planning partners' and central government departments and would contend that Clause 75 be extend to include Government Departments.

Clause	Explanatory Memorandum	Belfast City Council Response
76	<p>Clause 76: Community involvement</p> <p>This clause requires a council and its community planning partners to make arrangements to involve, and take account of the views of:</p> <ul style="list-style-type: none"> • local residents; • non-residents who receive services provided by the council or one of its community planning partners; • representatives of voluntary organisations; • representatives of business interests; and • anyone else whom the council considers to have an interest in improving the district’s economic, social or environmental well-being <p>...in connection with community planning, preparation of a community plan and the review of a community plan.</p>	<ul style="list-style-type: none"> • The Council would welcome the provisions as set out within the Bill.
77	<p>Clause 77: Guidance</p> <p>This clause provides a power for the Department to issue guidance in relation to community planning to which a council and its community planning partners must have regard.</p>	<ul style="list-style-type: none"> • The Council believes that it is essential that any such guidance is based upon an understanding of the current practice in partnership working within local council areas and any learning emerging from this, including any on-going “pilot” work with respect to community planning. Community planning is an evolving process and by its nature will require compromise and flexibility. This will need to be reflected in any guidance. • Again, the Council would urge that local government must be fully involved in the development of the community planning framework and associated guidance to ensure that local government experience and knowledge is taken into account. This will not only ensure that the framework is achievable but will set the basis for ongoing partnership working between local and central government. • The Council would welcome the intention by the Department to consult with councils before issuing any guidance on any aspect relating to community planning and believe that this would ensure that local circumstances and experiences are adequately taken into account - a one size may not fit all – and this may need to be reflected in the guidance and reporting arrangements. Any such guidance must take account of the potential lead

Clause	Explanatory Memorandum	Belfast City Council Response
		<p>in time required to develop processes and build the necessary relationships to deliver community planning and local results.</p>
78	<p>Clause 78: Duty of departments in relation to community planning</p> <p>This clause places a duty on Northern Ireland Departments, as far as it is reasonably practical for them, to promote and encourage community planning when exercising a function which might affect community planning, and to have regard to any implications of a community plan on the exercise of functions.</p>	<ul style="list-style-type: none"> • The Council would recommend that there should be no distinction made between the duty placed on Departments in relation to community planning and that placed upon 'community planning partners'. • The Council firmly believe that for community planning to work, all partners must be statutorily obliged to participate and contribute to the process. There should be a shared commitment to align plans and resources to address identified needs insofar as practical. This will also help assist in the alignment and delivery at a local level key central government priorities as set out within the Programme for Government and Investment Strategy.
79	<p>Clause 79: Establishment of bodies corporate</p> <p>This clause provides a power for the Department, by order, to establish corporate bodies to co-ordinate and further community planning following application by a council and one or more of its community planning partners, and consideration of a report on matters specified in subsection (2) of the clause.</p>	<ul style="list-style-type: none"> • No specific comments
	<p>Clause 80: Amendments to the Planning Act (Northern Ireland) 2011</p> <p>This clause amends the Planning Act (Northern Ireland) 2011 to provide a statutory link between community planning and spatial planning.</p>	<p>Clause 82</p> <ul style="list-style-type: none"> • The Council would welcome the formal linkages being made between community planning and spatial planning
PART 11 - GENERAL POWERS OF COUNCILS		
82 - 86	<p>Clause 82: Council's general power of competence</p> <p>This clause provides a general power of competence for councils. It gives councils the same power to act that an individual generally has and provides that the power may be</p>	<ul style="list-style-type: none"> • The introduction of the general power of competence is welcomed.

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>used in innovative ways, that is, in doing things that are unlike anything that a council – or other public body – has done before, or may currently do. Where the council can do something under the power, the starting point is that there are to be no limits as to how the power can be exercised other than it cannot be used outside Northern Ireland.</p> <p>Clause 83: Boundaries of the general power</p> <p>This clause sets out the boundaries of the general power, requiring councils to act in accordance with statutory limitations or restrictions. Restrictions that apply to existing powers that are overlapped by the general power are applied to the general power. So for instance, if an existing power requires a particular procedure to be followed, the same procedure will apply to the use of the general power to do the same thing. It also applies any express prohibitions, restrictions and limitations within primary or secondary legislation, to the use of the general power.</p> <p>The general power does not give councils power to delegate or contract out delivery of their functions, nor to alter political governance arrangements.</p> <p>Clause 84: Limits on charging in exercise of the general power</p> <p>This clause restricts the ability of a council to charge for providing a service to a person using the general power, or where they are using an existing provision which provides a similar power. If no specific charging power exists, councils can charge up to full cost recovery for discretionary services – that is those that they are not required to provide to a person, where that person has agreed to their being provided.</p> <p>Clause 85: Powers to make supplemental provision</p> <p>This clause provides the Department with powers to remove or change statutory provisions that prevent or restrict the legal capacity of councils to use the general power to do things that an ordinary individual can do, and to remove overlaps between the general power and existing powers. Powers are also</p>	

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>provided for the Department to restrict what a council may do under the general power or to make its use subject to conditions.</p> <p>Before exercising any of these powers the Department must consult with any person, or their representatives, substantially affected by the proposal. This duty to consult does not apply to orders that only amend an earlier order so as to apply it to further councils or disapply it in relation to a particular council.</p> <p>Clause 86: Limits on the power conferred by clause 85</p> <p>This clause requires the Department, before exercising the power provided by clause 85, to consider whether certain specified conditions have been met.</p> <p>These conditions are: that the effect of the provision made by the order is proportionate to its policy objective, in other words that the Department considers that there is an appropriate relationship between the policy aim and the means chosen to achieve it; that the provision made by the order, taken as a whole, strikes a fair balance between the public interest and the interests of the persons adversely affected by the order, including any new or increased burdens; that the provision does not remove any necessary protection such as protections in the areas of civil liberties, health and safety, the environment of national heritage; the provision will not prevent any person from continuing to exercise any right or freedom which the person might reasonably expect to continue to exercise such as, for example, rights conferred by the European Convention on Human Rights; and that the provision is not constitutionally significant. This last condition would allow orders to amend enactments which are considered to be constitutionally significant, but only if the amendments are not themselves constitutionally significant.</p> <p>The clause provides that the Department may not make orders that delegate or transfer legislative powers, or abolish or vary any tax.</p>	

Clause	Explanatory Memorandum	Belfast City Council Response
PART 12 – PERFORMANCE IMPROVEMENT		
87	<p>Clause 87: Improvement: general duty</p> <p>This clause requires a council to make arrangements to secure continuous improvement in the exercise of its functions. In doing so, a council must have regard in particular to the need to improve the exercise of its functions in terms of: strategic effectiveness; service quality; service availability; fairness (equity); sustainability; efficiency and innovation. These terms are defined in clause 89.</p>	<ul style="list-style-type: none"> • There appears to be an overreliance within the Bill, on ‘Best Value’ to drive service improvement rather than setting the performance framework within the context of community planning and providing councils with the appropriate flexibility to address local needs. • The Council would recommend that the committee should advocate for the ability for local government to have control over its own improvement, through a collaborative agreed approach, rather than having to deal with an outdated top-down legislative arrangement. • The current policy shift in neighbouring regions is towards greater self-regulation and away from overly bureaucratic and centralised scrutiny/inspection, subject to the achievement of a set of agreed (with central government) targets or outcomes. • In preparation for the proposed development of a new performance framework for Northern Ireland, Belfast City Council commissioned UK Research and Consultancy Services Ltd, headed up by former Director General of the Audit Commission in Wales, Dr. Clive Grace, to provide an advocacy and recommendations report to help inform our thinking. A summary of the key findings of the report is appended to this response., and the Committee may find it helpful to invite Dr Grace to provide evidence to the Committee to inform their thinking on this issue. • This is particularly pertinent given that Part 12 of the Bill, relating to Performance Improvement arrangements, appears to mirror much of what is contained in the part 1 of the Local Government (Wales) Measure 2009. • The Council would highlight that whilst there is no objection to the adoption of the Welsh model, it is important that the legislation and any supporting guidance takes account of the specific circumstances in Northern Ireland and the current absence of a support infrastructure. • It should be noted that in Wales, there is significant regional support structures in place to support and promote local government improvement processes. There are currently no similar support arrangements within Northern Ireland and we would suggest that the establishment of a regional support structure to support continuous improvement and community planning is included in the Bill.

Clause	Explanatory Memorandum	Belfast City Council Response
		<p>It is noted that this Part of the Bill would appear to depart from the Local Government (Best Value) Act (NI) 2002, which referred to ‘continuous improvement in the way in which...functions are exercised, having regard to a combination of economy, efficiency and effectiveness’.</p> <p>Clauses 87- 89 of the Bill extend the areas which councils must have regard to in terms of improving the exercise of its functions in terms of: strategic effectiveness; service quality; service availability; fairness (equity); sustainability; efficiency and innovation. These objectives are identical to those specified in the Welsh legislation and do not necessarily reflect the Northern Ireland context.</p> <p>In the absence of further definition on the performance objectives as set out, the Council would be concerned that there is now no explicit reference made within the Bill to ‘economy’ and, therefore potentially removing considerations around cost and value for money. The Council would also refer to the three criteria used by the National Audit Office to assess the value for money of government spending (the optimal use of resources to achieve the intended outcomes) as set out below:</p> <ul style="list-style-type: none"> • Economy: minimising the cost of resources used or required (inputs) – spending less; • Efficiency: the relationship between the output from goods or services and the resources to produce them – spending well; and • Effectiveness: the relationship between the intended and actual results of public spending (outcomes) – spending wisely.
88	<p>Clause 88: Improvement objectives</p> <p>This clause requires a council, for each financial year, to set itself improvement objectives for improving the exercise of particular functions of the council and to have in place arrangements to achieve those objectives. A council must frame</p>	<ul style="list-style-type: none"> • Presently the Local Government (Best Value) Act (Northern Ireland) 2002 states that a council ‘shall make continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.’ • It is noted that this Part of the Bill would appear to depart from the Local

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>each improvement objective so as to bring about improvement in at least one of the specified aspects of improvement as defined in clause 89.</p>	<p>Government (Best Value) Act (NI) 2002. Clauses 87- 89 of the Bill extend the areas which councils must have regard to in terms of improving the exercise of its functions in terms of: strategic effectiveness; service quality; service availability; fairness (equity); sustainability; efficiency and innovation. These objectives are identical to those specified in the Welsh legislation and do not necessarily reflect the Northern Ireland context.</p> <ul style="list-style-type: none"> • In the absence of further definition on the performance objectives as set out, the Council would be concerned that there is now no explicit reference made within the Bill to ‘economy’ and, therefore potentially removing considerations around cost and value for money. • The Council would also refer to the three criteria used by the National Audit Office to assess the value for money of government spending (the optimal use of resources to achieve the intended outcomes) as set out below: <ul style="list-style-type: none"> - Economy: minimising the cost of resources used or required (inputs) – spending less; - Efficiency: the relationship between the output from goods or services and the resources to produce them – spending well; and - Effectiveness: the relationship between the intended and actual results of public spending (outcomes) – spending wisely. • The Council would highlight that in considering each of the performance objectives individually and not collectively; there exist potential tensions between some of the objectives, for example, the interplay and balance between service availability and efficiency. • Similar to the Best Value Act, the Council would recommend that the Department ensures that councils are enabled to consider and take into account of a combination of and interplay between the performance objectives. • The Council would further highlight that there would appear to be tensions and potential duplication between these provisions and of existing statutory duties of councils such as those expressed in S75 of the Northern Ireland Act 1998 and S25 of the NI (Miscellaneous Provisions) Act 2006 (duplicating the sustainability requirement). It is therefore recommended that the defined objectives are reviewed and further developed and defined in the context of Northern Ireland.

Clause	Explanatory Memorandum	Belfast City Council Response
		<ul style="list-style-type: none"> Some of the improvement objectives are also vague and unclear (e.g. fairness) and could leave Council's open to legal challenge.
89	<p>Clause 89: Improvement Supplementary</p> <p>This clause defines the aspects of improvement which feature in this Part of the Bill, and allows a council to demonstrate improvement in a variety of different ways. The clause also creates a number of aspects of improvement which are used to assess whether improvement has taken place. Explanations of the definitions and how they will operate in practice, such as illustrative examples and circumstances in which a council might apply the aspects of improvement, will be set out in guidance. A power is provided for the Department to amend, add to or remove aspects of improvement.</p>	<ul style="list-style-type: none"> In general the Council would welcome detailed guidance on how these areas may be applied in practice including information about how precisely such improvement might be defined and how they should themselves be prioritised (in case of conflicts between two or more of them e.g. service availability and efficiency) or where instances where applying a value in one geographical area conflicts with its application in another location (e.g. service availability and fairness). Clause 89 (d)(i) refers to 'particular groups', with no further explanation. The committee is requested to seek clarification on this wording. Clause 89 (d)(ii) places improvement of social wellbeing under the fairness category, whereas local government would view social well-being as one of the three pillars of sustainable development, which are replicated in the Part 10 community planning clause 69(2)(a). It is recommended that the Committee gives particular scrutiny to the list of improvement objectives and ensures that there are clear definitions for each category. Clause 89(2) refers to the council's community plan, but there is no reference to its corporate plan. The Committee may wish to consider whether the relationship between the two needs to be further developed within this clause.
90	<p>Clauses 90: Consultation on Improvement duties</p> <p>This Clause places a duty on a council, in fulfilling its duty and setting improvement objectives, to consult with representatives of people falling within specified categories;</p> <ul style="list-style-type: none"> persons liable to pay rates; those who use or are likely to use services provided by the council; and persons appearing to the council to have an interest in the district. 	<ul style="list-style-type: none"> The Council would have no objections to this clause. It is the view of local government that any performance framework which is implemented should be based on a number of principles, one of which is that councils are accountable to their ratepayers. The Council would seek clarification on how the duty to consult sits with Part 10, Clause 76 of the Bill relating to a duty to take account of the views of various parties in the production of community plans, is detailed.

Clause	Explanatory Memorandum	Belfast City Council Response
91	<p>Clause 91: Appropriate arrangements under sections 87(1) and 88(2)</p>	<ul style="list-style-type: none"> The Council has no objections to this clause, provided a collaborative, partnership approach with local government is taken forward to the production of departmental guidance.
92	<p>Clause 92: Performance indicators and performance standards</p> <p>This clause provides the Department with a power to prescribe by order factors of performance (performance indicators) against which a council's performance will be measured. In addition, the Department may set performance standards in respect of the performance indicators set by it. This clause also gives the Department the discretion to specify different performance indicators and standards for different councils.</p> <p>Before specifying performance indicators or standards, the Department must consult with councils, bodies representative of councils and others as appear appropriate. A council must make arrangements to exercise its functions so that any performance standards are met.</p>	<ul style="list-style-type: none"> The Council would recommend that any such performance indicators are developed in partnership with local government. It is important that local government takes the initiative in relation to performance improvement and ensures that they are jointly responsible for setting the performance agenda - rather than having something imposed upon them by central government. The Council believe that this is important as it would minimise the risk of performance measures being agreed which are at best of no value to the local authority or, at worst obstructive to their improvement efforts.
93	<p>Clauses 93 Collection of information relating to performance</p> <p>These clauses require a council during each financial year to collect information which will allow it to assess its performance in achieving its improvement objectives and to measure its performance against performance indicators or standards set by the Department or any other indicators or standards which the council chooses to use.</p> <p>A council is required to use this information to measure its performance against a previous year's performance and compare its performance, so far as is practicable, with the performance of other councils and other public bodies. In addition, a council must use the information it collects to assess whether it could improve its performance and, based on that, must decide on steps to take to improve its performance in exercising its functions.</p> <p>A requirement is placed on a council to make arrangements to publish specified information relating to its performance before</p>	<ul style="list-style-type: none"> The Council would recommend that any process introduced for the collection of performance information should be as streamlined as possible and not place and unduly over bureaucratic burden on Councils. The Council would recommend that consideration be given to a system based approach being introduced such as Ffyoon, a performance system introduced and funded by Welsh Government to meet the performance management requirements of local authorities, fire and rescue services, national park authorities and their partners.

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>31 October immediately following the financial year to which it relates. A council must ensure it publishes a summary of any report relating to a special inspection by the Local Government Auditor.</p> <p>A council is also required to publish an 'improvement plan' which sets out its plans for discharging its duties under clauses 87, 88 and 92 for a financial year and, if appropriate, subsequent years. This must be published as soon as practicable after the start of the financial year to which it relates.</p>	
94	<p>Clause 94 Use of Performance Information</p>	<ul style="list-style-type: none"> The Council would have no objections to this clause, and is fully supportive of the sharing of good practice between councils.
95	<p>Clause 95 Improvement planning and publication of improvement information</p>	<ul style="list-style-type: none"> No specific comments
96-100	<p>Clauses 96 to 100: Improvement audits and assessments</p> <p>Clause 96 requires the Local Government Auditor to carry out an audit to assess whether a council has discharged its duties under clause 95 and acted in accordance with any guidance issued by the Department.</p> <p>Clause 97 places a duty on the Local Government Auditor to carry-out a forward-looking assessment of how far a council is likely to meet the requirements of this Part in that year; this may cover more than one year if the Local Government Auditor so wishes.</p> <p>Clause 98 places a duty on the Local Government Auditor to produce a report or reports for each council in relation to his duties under clauses 96 and 97. The report or reports should:</p> <ul style="list-style-type: none"> certify the Local Government Auditor has carried out the audit under clause 96 and state whether as a result it is believed that the council has discharged its duties under clause 95 and acted in accordance with guidance; certify that the Local Government Auditor has carried out the assessment under clause 97 and state whether as a result of the assessment it is believed that the council is likely to 	<ul style="list-style-type: none"> If the arrangements specified in Part 12 of the Bill are taken forward, the Council would have concerns in relation to the capacity and resourcing of the local government auditor, which will need to be enhanced. This is likely to place an additional cost on councils. The Council would also have concerns in relation to the proposed extension of the role of the auditor in terms of the auditing of councils' corporate and/or improvement plans, as this would potentially undermine the democratic process. The Council would recommend that the scrutiny of corporate plans should be undertaken by elected members who set the priorities for the organisation and should oversee delivery against these priorities. The proposed use of the external auditor in this regard contradicts what is happening in the rest of the UK. The Council would urge that further consideration needs to be given to resource and capacity implications resulting from any proposed extension to the role of the local government auditor. The Council would see potential benefit in the local government auditor being asked to provide assurance on the implementation of the agreed framework.

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>comply with the requirements of this Part;</p> <ul style="list-style-type: none"> • recommend (if appropriate) any action the council should undertake to discharge its duties or to act in accordance with guidance; and • state whether the Local Government Auditor is minded to undertake a special inspection under clause 101. <p>Copies of the reports should be sent to the relevant council and the Department by 30 November each year. This date may be changed by the Department by order.</p> <p>Flexibility is provided for the Local Government Auditor, in circumstances in which it would be unreasonable or impractical to issue a report on a specified council by the specified date to ask the Department for an extension to complete the audit and assessment reports for one or more named councils (without the need for an order)</p> <p>Clause 99 requires a council to respond to a report or reports from the Local Government Auditor if it contains:</p> <ul style="list-style-type: none"> • a recommendation to the council as to the action it should take to comply with the requirements of this Part; or • a statement that the Local Government Auditor intends to undertake a special inspection. <p>The council must prepare a statement setting out the actions that the council proposes to take and the timetable for doing so. The council must also include the statement in the improvement plan for the next financial year. Where a report includes a recommendation that a Department use the power of intervention in clause 103, the council must also send a copy of its statement to the Department within 30 working days.</p> <p>Clause 100 requires the Local Government Auditor to produce and publish each year an annual improvement report for each council. The report must contain a summary of the results of any report issued under clauses 98 and 102. The Local Government Auditor must consider in the light of the report whether to:</p>	

Clause	Explanatory Memorandum	Belfast City Council Response
	<ul style="list-style-type: none"> • make a recommendation that a department exercise its powers under clause 103; and • exercise any of the Local Government Auditor’s functions in relation to the council. 	
103	<p>Clause 103: Powers of direction, etc.</p> <p>This clause contains powers for a relevant department to intervene in and direct a council which is failing, or is at risk if failing to comply with this Part of the Bill. The clause also sets out the options open to the relevant department.</p>	<ul style="list-style-type: none"> • The Council believe that the powers of direction should be supplemented with a new duty on Ministers to offer support and advice prior to issuing direction similar to provisions available in other jurisdictions including Wales. • The Council feel it is unfortunate that one of the most supportive elements of the Welsh legislation (which is otherwise almost entirely replicated here) has <i>not</i> been included - the obligation on Ministers to “...<i>provide assistance to the authority..</i>” (g) (i) <i>prior to issuing direction</i>. We believe that incorporating such an obligation within our own legislation would demonstrate a greater sense of shared responsibility for improvement across the sector. • The Council would also recommend that the power of direction extended to other relevant departments must be supported by the introduction of clear guidance on the use of such powers. • The Council would further recommend that the ability of other NI departments (in addition to DoE) to direct councils must be restricted to matters pertaining directly to the functions of that Department which are transferring to local government, and would seek an amendment to this clause (possibly at Clause 103 (3) to that effect).
104	Power to modify statutory provisions and confer new powers	<ul style="list-style-type: none"> • No specific comments
105	Application of certain local government audit provisions	<ul style="list-style-type: none"> • No specific comments
PART 13 – PARTNERSHIP PANEL		
106	Clause 106 requires the Department to establish a Partnership Panel for Northern Ireland whose members, to be appointed by the Department, are to comprise Northern Ireland Ministers and	<ul style="list-style-type: none"> • The Council would welcome the establishment of the Partnership Panel and believe that this would provide a further mechanism to enhance the engagement between central and local government. The Council would

Clause	Explanatory Memorandum	Belfast City Council Response
	<p>members of district councils. Before appointing district council members, the Department will be required to consult appropriate bodies representative of local government.</p> <p>The functions of the Panel will be to advise the Northern Ireland Ministers on matters affecting their functions, to make representations on matters affecting, or of concern to, those involved in local government in Northern Ireland, and also to give advice to those involved in local government in Northern Ireland.</p>	<p>highlight the importance that the local government representation be nominated by the sector and agreed by the Department and should include representation from each of the new councils at a minimum.</p>
PART 14 – CONTROL OF COUNCILS BY NORTHERN IRELAND DEPARTMENTS		
107 - 109	<p>Clause 107: Power of any Northern Ireland department to direct council to make reports</p> <p>This clause re-enacts section 127 of the Local Government Act (Northern Ireland) 1972 but extends it to all departments, not just DOE. It provides a power for any department to require a council to make reports and returns and provide information in relation to the exercise of its functions specified in a direction to that department. A duty is placed on a council to comply with any such direction.</p> <p>Clause 108: Inquiries and investigations</p> <p>This clause re-enacts section 128 of the Local Government Act (Northern Ireland) 1972 but extends it to all departments, not just DOE. It provides the power for any department to instigate an inquiry or an investigation into the administration of any statutory provisions relating to the functions of any council or any committee or sub-committee of a council.</p> <p>Clause 109: Power of any Northern Ireland department to intervene in case of default by council</p> <p>This clause re-enacts section 129 of the Local Government Act (Northern Ireland) 1972 but extends it to all departments, not just DOE. It provides a power for any department, if it is satisfied following an inquiry or investigation that a council has failed to discharge any of its function, to intervene in the operation of the</p>	<ul style="list-style-type: none"> • The Council notes that the power of intervention, previously provided to the DoE (but rarely used), is now extended to all NI departments. Whilst recognising that specific functions will transfer from central to local government as part of the LGR process, the specific rationale for such provisions may need further clarification. • The Council considers the language used in these clauses, and the scope of powers conferred on departments to be contradictory to the spirit of fostering a more collaborative working arrangement between central and local government. The Council would remind the Committee of the comments set out above in relation to Clause 103, and would again note that it will be important for guidance to be produced for government departments to ensure that they don't begin to micro-manage councils and do not place unrealistic reporting expectations on them. • It is particularly noted that under this part of the Bill, there is no requirement to consult, either with local government in general, or with individual local councils. The Council would recommend that a clause of this nature must be included in this section. • The Council would further recommend that the ability of other NI departments must be restricted to matters pertaining directly to those departments who have transferred functions which they retain the policy responsibility.

Clause	Explanatory Memorandum	Belfast City Council Response
	council. This intervention may take the form of either a direction requiring the council to specified actions within a specified timeframe, or if such a direction is not complied with to arrange for the exercise of those functions other than by the council.	
PART 15 – AMENDMENTS OF THE 2005 ORDER		
110	<p>Clause 110: The local government auditor</p> <p>This clause amends the Local Government (Northern Ireland) Order 2005 to reflect the Comptroller and Auditor General's responsibility for local government audit with the Northern Ireland Audit Office (NIAO), and structural and procedural changes within the local government audit section. It provides for the designation of a member of staff of the NIAO as the local government auditor, and for arrangements to be made for members of staff in the NIAO to assist in the performance of the local government auditor's functions.</p>	<ul style="list-style-type: none"> The Council welcomes the insertion of a provision to the effect that any sums payable by the local government auditor in consequence of any liability for breach of duty incurred in the exercise of his/her functions will be charged on and issued out of the Consolidated Fund.
111	<p>Clause 111: Power to repeal provisions relating to surcharge, etc.</p> <p>This clause provides a power for the Department to remove the provisions relating to the surcharge of councillors, contained in the Local Government (Northern Ireland) Order 2005, by regulations.</p>	<ul style="list-style-type: none"> No specific comment
112	<p>Minor and consequential amendments</p>	<ul style="list-style-type: none"> No specific comment
PART 16 – MISCELLANEOUS		
113	<p>Clause 113: Guidance</p> <p>This clause provides a power for the Department to issue guidance on any aspect provided for in the Bill. A duty is placed on a council to have regard to any such guidance.</p>	<ul style="list-style-type: none"> The Council would welcome Clause 113(2) and the associated provision which ensures that any guidance to be issued under this legislation will be consulted upon with Councils.
114	<p>Clause 114: Transitional rate relief in consequence of</p>	<ul style="list-style-type: none"> The Council welcomes the inclusion of the necessary measure to give effect to the proposed transitional rate convergence relief.

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	<p>changes in local government districts</p> <p>This clause amends the Rates (Northern Ireland) Order 1977 to provide a transition scheme for managing rates convergence where there are wide disparities in the level of district rates between the merging councils.</p>	
115	<p>Clauses 115: Commencement of the Local Government (Boundaries) Order (Northern Ireland) 2013</p> <p>This clause amends Article 1(4) of the Local Government (Boundaries) Order (Northern Ireland) 2012 to ensure there is clarity on which hereditaments the new councils will have the power to make a rate in respect of before they take on full responsibility for all their functions on 1 April 2015.</p>	No specific comment
116	<p>Clause 116: Exclusion of non-commercial considerations</p> <p>This clause re-enacts the provisions in section 2 of the Local Government (Best Value) Act (Northern Ireland) 2002 to provide a power for the Department to specify a matter that should cease to be a non-commercial consideration for the purposes of district council contracts.</p>	No specific comment
117	<p>Clause 117: Control of disposals and contracts of existing councils and their finances</p> <p>This clause amends the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 to supplement the controls on existing councils in the run up to reorganisation to take account of the Local Government Finance Act (Northern Ireland) 2011. The clause also adds controls in respect of the borrowings and reserves on the existing councils and, extends the controls provisions to include the new councils whilst operating in shadow mode.</p>	No specific comment
118 - 120	<p>Clauses 118 to 120</p> <p>These clauses re-enact the provisions in sections 34, 35 and 39</p>	<ul style="list-style-type: none"> In relation to clause 120, the Council would query the arrangements for insurance and indemnity for councillors on outside bodies. The Committee may wish to clarify with the Department if a further clause is necessary on

Clause	Explanatory Memorandum	Belfast City Council Response
	of the Local Government Act (Northern Ireland) 1972 in respect of persons ceasing to hold office, validity of acts done by unqualified person and insurance against accidents to councillors.	that issue.
121	<p>Clause 121: Schemes for transfers of assets and liabilities</p> <p>This clause requires the Department, and any other department transferring a function to the new councils, to make a scheme or schemes for the transfer of assets and liabilities of a local government body or a department to a new local government body. It also introduces Schedule 10 which deals with the transfer of assets and liabilities, and staff, from a local government body or department to a new local government body.</p>	<ul style="list-style-type: none"> • The Council would note that previous LGR deliberations, it was proposed that the legislation would provide a 'standard' rule for the potential transfer of assets and liabilities from the 26 council structure to the new 11 council structure. This would avoid the need for Transfer Schemes for the majority of local government assets. • The Council would seek assurance that the model Transfer Scheme being drafted by the Department will include a standard rule for the transfer of assets and liabilities from the predecessor councils to the successor councils. • Any additional transfer schemes will therefore only be required to capture the transfer of property, rights and liabilities which are outside this standard rule arrangement.
122 - 128	<p>Clause 122: Compensation for loss of office or diminution of emoluments</p> <p>Clause 123: Supplementary and transitional provisions for the purposes of this Act and other purposes</p> <p>Clause 124: Interpretation</p> <p>Clause 125: Regulations and orders</p> <p>Clause 126: Minor and consequential amendments&repeals</p> <p>Clause 127: Commencement</p> <p>Clause 128: Short title</p>	No specific comment
Schedule 1	Disqualifications for being elected or acting as a councillor	<ul style="list-style-type: none"> • The Council are aware that regulations will designate those employee roles which would be disqualified from acting as councillors. • We are aware that these regulations are unlikely to be in place in time for the 2014 elections but would nevertheless seek assurance from the Department that robust guidelines will be provided to deal with any potential

Clause	Explanatory Memorandum	Belfast City Council Response
		<p>conflict of interest as a result of an employee also acting as a councillor</p> <ul style="list-style-type: none"> The Council would raise concerns as to how this will work in practice. For example, how would the council deal with such a person with regard to disciplinary, grievance procedures etc and how would such an officer be able to fulfil his or her party role without breaching the code of conduct with regard to political neutrality and impartiality? The Council would suggest that similar rules apply as do elsewhere that an officer can stand for and be elected to any council except the one for which they work.
Schedule 2	Declaration of a councillor	<ul style="list-style-type: none"> No specific comments
Schedule 3	Positions of responsibility	<ul style="list-style-type: none"> Part 3 Paragraph 14 – The Council are unsure as to how anyone can know where a Mayor may be if he is absent. How can we know if he has been “continuously absent from the district”?
Schedule 4	Appointment of councillors to committees	<ul style="list-style-type: none"> The Council notes that the application of the Quota Greatest Remainder process for the appointment of councillors onto committees is to be employed separately for each committee rather than grouping all committee places together into an overall “pool” and the effect this will have on individual Parties’ will be dependant both on the outcome of the election and on the choice made as to the number of places on each committee.
Schedule 5	Declaration on appointment to committee of person who is not a councillor	<ul style="list-style-type: none"> No specific comments
Schedule 6	Overview and scrutiny committees: voting rights of co-opted members	<ul style="list-style-type: none"> No specific comments
Schedule 7	Meetings and proceedings	<ul style="list-style-type: none"> The Council notes the proposal that a meeting of the council can be requisitioned by 5 members rather than what had been previous the case - ‘5 or one-fifth, whichever is the greater’ The Council would seek clarification on the rationale for the proposed reduction in the threshold and whether the previous provisions would be more relevant given the scale and number of elected Members of the 11 new councils. The Council would highlight the potential conflict between Schedule 7 (5) stating that the summons for a council meeting has to be published at least

Clause	Explanatory Memorandum	Belfast City Council Response
		3 days before the meeting and Clause 47(3) of the Bill which indicates that documents and papers have to be available for inspection at least 5 days before a meeting?
Schedule 8	Access to information: exempt information	<ul style="list-style-type: none"> • No specific comments
Schedule 9	Minor and consequential amendments relating to local government audit	<ul style="list-style-type: none"> • No specific comments
Schedule 10	Transfer schemes	<ul style="list-style-type: none"> • No specific comments
Schedule 11	Minor and consequential amendments: general	<ul style="list-style-type: none"> • No specific comments
Schedule 12	Repeals	<ul style="list-style-type: none"> • No specific comments

Extract from Clive Grace performance and accountability report.

Other parts of the UK have changed the number of councils and introduced community planning. But **no one of them has tried to do this simultaneously and also transfer new functions to local authorities. And all of them started from a strong base in terms of the capacity of local councils, government departments, their local government associations and audit offices.** To get from where it is now to where it wishes to be Northern Ireland will need to develop:

- Significant capacity in people, systems, and machinery
- Stronger working relationships between local government and departments within the Executive;
- More effective partnership working between councils and regional bodies;
- Policies, planning and performance frameworks that are better aligned with both local and national priorities; and
- A performance oriented culture which means that public services are open to challenge and alive to the need for change.”

It is important to be clear at the outset that none of the approaches adopted elsewhere provides a perfect solution. All performance frameworks involve trade-offs and they need to be sufficiently flexible to allow development and fine-tuning over time as priorities, performance and capacity evolves. **Existing performance frameworks from elsewhere cannot be ‘cut and pasted’ to Northern Ireland. There are no ‘off the shelf’ solutions.**

We recommend that the performance framework for local government in Northern Ireland is therefore constructed as a whole system which takes account of the interactions between institutions and the need to align policy instruments with the both policy objectives and the capacity of stakeholders.

It is **important that the initial framework which is put in place in Northern Ireland is sufficiently pliable to adapt and change over time as priorities change and, hopefully, as the capacity of local government and other stakeholders increases.**

Finally, and crucially, it is very **important that the performance is designed as a collaborative system in which localist and centralist instincts and ideologies are subservient to considerations of the most effective means of achieving the best outcomes** for the people and communities of Northern Ireland. This has some very important and very practical implications. It means that:

1. The performance framework must **reflect and promote the delivery of local and national priorities and encourage shared responsibility for performance between local government and the Executive.**
2. Councils should take responsibility for own performance and **there should be a strong sense of a collective responsibility in local government for ensuring that the sector as a whole delivers.**
3. Councils need to welcome legitimate Ministerial interest in their performance and accept external challenge and comparison.
4. Councils should seek out peer challenge and support from outside Northern Ireland, and the Executive and **the local government association should invest in leadership development, support networks and capacity building in the new councils.**

5. **There should be a commitment to review and adapt the performance framework as local government capacity and capability grows** and confidence is built between councils, the Executive and other stakeholders.

These principles provide important benchmarks against which the performance framework can be assessed. They also point to some of the actions and attributes that will be required from the key stakeholders:

- Councils will need to be self aware and self improving, willing to identify and address weaknesses in performance.
- **The Executive needs to specify clear priorities and be able to coordinate the policies and actions across its own departments. It needs to see devolving functions and ‘letting go’ of budgets as a way of gaining a more effective partner in local government, rather than as losing a contest.**
- **The Audit Office needs to become more knowledgeable and engaged in order to be able to challenge councils and support them in improving corporate capacity and service delivery.**
- **The Northern Ireland Local Government Association needs to work with the Executive and professional bodies to develop appropriate support and capacity building programmes for new councils, including councillor and officer development. We also recommend that it engages with councils, the Audit Office and the Executive to develop a data sharing function and performance improvement body** (perhaps governed by nominees from local councils, NI Executive, professional bodies, consumer interests).
- **Regional bodies and other local agencies need to be willing to engage with community planning and respect local government’s leadership of the process.**
- **Professional bodies should contribute the recruitment and development of managerial capacity and to policy development.**

The changes envisaged are both multi-dimensional and more far reaching than local government reorganisation in Scotland and Wales in the mid-1990s. Moreover, **local government is starting from a lower base in terms of capacity and existing powers.** The programme will lead to change not just in the number and functions of local government but also in the relationships – between councils, with other local and regional bodies, and with the Executive.

This clearly calls for a new framework to ensure accountability and achievement, and we believe that it is important that the framework is designed and implemented as a ‘whole-system’. By this we mean – simply, but importantly – that **the framework which emerges must have regard to all the relevant elements, including the available skills and capacities, which can or may reasonably be deployed to make it work well. It is important to be realistic and to recognise the likelihood that any framework will evolve over time as needs and capacities develop.**

It would be valuable to develop a strong and comprehensive overall Project Plan for local government reform which is agreed between the Executive and local government. **Reform on this**

scale requires culture change and effective leadership but it also requires good project management.

Experience elsewhere suggests that it will be **important to take a developmental perspective**. It will be necessary to build confidence within the local government community and between it and the Executive. And it is clear that any overarching local government performance management framework is likely to evolve quite rapidly – typically within a 3-5 year timescale. So it will be **important to put in place arrangements that are capable of further development and change over time in ways that build on what has been achieved** rather than having to start again from scratch.

Whatever kind of framework is adopted initially though, **there will be a need for consistent and verifiable data and purposeful measures to develop institutional capacity** - within the new councils, the local government association, among community planning partners, in the audit office and in key central government departments.

Overall, the scale and character of what Northern Ireland hopes to achieve means investing in the leadership of the local government sector and in particular recruiting and nurturing new managerial talent. It also **means opening up the whole system to external challenge and robust peer/expert assessment to help ensure that councils have strong corporate capacity** and also that all the other major players are equally well equipped to make their own critical contributions.