



Carrickfergus Borough



LARNE
Borough Council



MID AND EAST ANTRIM
STATUTORY TRANSITION COMMITTEE

Prepared By: Ms Sheila McClelland
Town Clerk & Chief Executive
Carrickfergus Borough Council

Response to the Committee for the Environment “Local Government Bill”

1.0 Introduction

1.1 Mid and East Antrim (MEA) STC welcomes the opportunity to provide a submission to the Committee for the Environment on the ‘*Local Government Bill*’ and believes that the introduction of the Bill is a further step forward in the local government reform programme.

MEA STC 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.

1.2 MEA STC, in considering the Bill, notes many similarities with Welsh and Scottish legislation, in particular regard to Community Planning and Performance Management. Much of the legislation in these jurisdictions has been reviewed and revised to make them more workable and promote a level of partnership working between Central Government and Local Government. This Bill is very prescriptive with Central bureaucratic regulatory and controlling action of Local Government. MEA STC would suggest that the revised approach in Scotland and Wales that have been developed with experience should be considered.

2.0 Key Issues

2.1 The following provides a summary of the priority issues as identified by MEA STC.

3.0 Positions of responsibility (Part 3)

3.1 MEA STC welcomes the prescriptive nature of the Bill in terms of how Members are selected for positions.

4.0 Qualified Majority Voting (Part 7)

- 4.1 MEA STC 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.

MEA STC 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.

MEA STC would be concerned that the use of a rigid percentage which is a very high threshold could make it very difficult for Councils to develop and shape the District for the better.

5.0 Call in (Part 7)

- 5.1 MEA STC 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.

MEA STC 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)

MEA STC would also recommend that consideration is given to limiting the power to call in a particular decision/recommendation to a single requisition / challenge.

6.0 Conduct of councillors (Part 9)

- 6.2 MEA STC 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.

MEA STC 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. MEA STC would seek further engagement with the Department in developing such frameworks.

MEA STC would be concerned however that the legislation does not contain a specific appeal mechanism, other than through a Judicial Review. MEA STC would therefore recommend that a right of appeal is clearly set out within the Bill.

MEA STC 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.

MEA STC 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.

7.0 Community Planning (Part 10)

- 7.1 MEA STC 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.

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. This model has been refined and improved upon and this legislation does not reflect these changes.

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

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

MEA STC 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'.

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. MEA STC 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. MEA STC 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.

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 STC would suggest that a more robust accountability mechanism is put in place.

As referred to in Para 1.2, MEA STC believes that this part of the Bill puts a greater onus on Local Government to deliver on a Community Plan with no onus on other public sector bodies or Government departments to deliver on the Plan. The Scottish Assembly has revised Community Planning in Scotland to ensure it is a joint responsibility to deliver on the plan. They now take a more partnership approach with Single Outputs Agreement agreed between the relevant public sector bodies on Local Government.

8.0 Performance Improvement (Part 12)

- 8.1 MEA STC would firstly highlight that any performance improvement regime should not be bureaucratic. It does support the concept of continual improvement in services and would be supportive of the development of a framework which had community planning at the heart of it.

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.

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.

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.

MEA STC 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.

In the absence of further definition on the performance objectives as set out, the Committee 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.

The STC 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.

9.0 Local government auditor (Part 12)

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

MEA STC 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 could potentially undermine the democratic process. MEA STC 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 auditor could have an interest in assessing from the evidence provided and input from members the attainment of the corporate plan targets.

10.0. A Partnership Panel (Part 13)

- 10.1 MEA STC would welcome the establishment of the Partnership Panel and believes that this could provide a further mechanism to enhance the engagement between central and local government.

11 Control of councils (Part 14)

- 11.1 MEA STC 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 would need further clarification.

MEA STC 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.

12 Conclusion

- 12.1 MEA STC is, in general terms, aware that the Bill will be a defining framework for the future of the Local Government sector in NI and its ability to interconnect with the

central Government Departments whose functions are being devolved. The Committee believes that there will be a need and expectation in the sector for explicit and unambiguous guidance from the DoE about the details of much of the bill.