



NILGA Response to the Call for Evidence on the Local Government Bill

11th November 2013

This response recognises the extreme importance of this Bill to local government and the necessity to have key elements of it substantially altered in order to develop, enhance and sustain councils and the communities they support.

NILGA therefore presents constructive, innovative and robust additions, analysis and solutions in this Paper, in keeping with its corporate policies and practices of improving and championing councils as willing partners in government.

The response has been prepared after detailed engagement with members and officers from local councils, statutory transition committees, SOLACE and NILGA. It was unanimously approved after a special joint NILGA Executive/STC Chairs and Vice Chairs meeting on 8th November 2013.

For further information or to discuss any of the issues highlighted, please contact Karen Smyth at the NILGA Offices: Email: k.smyth@nilga.org Tel: 028 9079 8972

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11th November 2013

1.0 Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for the 26 district councils in Northern Ireland. NILGA represents and promotes the interests of local authorities, offers development and improvement initiatives in partnership, and is supported by the political parties as well as independent councillors.

NILGA supports the reform of local government as part of further devolution and as part of wider, long overdue, public sector change. The introduction of the Bill is a step forward in the reform process. It must be stated from the outset that NILGA was proactively involved in the development of many of the proposals prior to 2011 and has been engaged with councils and the Department in refining reform policy and preparatory arrangements throughout the current electoral mandate.

Nevertheless, NILGA members would emphasise that this Bill needs to be improved. Clarity is needed on many of the proposals contained within the Bill, and the Association is aware that there is a very substantial tranche of subordinate legislation and guidance to follow, which will contain the detailed mechanisms for future working. **It is imperative that this subordinate legislation is developed in direct partnership with local government prior to its introduction to the Assembly as there will be no opportunity to make amendments once that has occurred.**

NILGA wishes to avoid a profusion of rigid templates requiring costly processes which grow organically, create an army of box tickers and defeat the objective of simplifying and localising our cost controls and basis of governance.

NILGA would welcome the opportunity to present to the Committee and the Department, options on how local government in NI can finalise its own highly professional, cost effective regional support structures to promote and implement local government improvement and development.

The following response in the first instance sets out a number of **Key Issues** for local government, and is followed by an **Analysis** of the Bill and Schedules.

2.0 Key Issues

The following issues are highlighted as critical issues for local government arising from the Bill, and have been ordered to follow approximately, the Bill Structure. They are utterly critical to local government's ability to represent, service and sustain the communities they serve.

2.1 Flexibility in selecting positions of responsibility and committee membership (Parts 3 and 4)

The Bill is highly prescriptive in how Members may be selected for positions of responsibility and committee membership. Whilst there is a little flexibility in terms of the precise method which may be used, there is absolutely no room for any local agreement which would be acceptable to all parties.

NILGA firmly supports the principle of proportionality, but also believes that local solutions which are politically acceptable should be permitted – perhaps through a requirement for local arrangements to be approved via the qualified majority voting procedure. There may, for instance, be a desire to include smaller parties or independent councillors on committees if the chosen process does not provide an effective opportunity for them to be represented. Another alternative would be to provide a mechanism for coalitions to be formed and represented. There may also be councillors with specific interest or expertise in certain areas whose contribution to a committee could be valuable. It is noted that the Partnership Panel is not explicitly considered in relation to positions of responsibility.

2.2 Executive Arrangements – Role of Chair and Vice Chair of Council (Part 6)

NILGA fully supports the provision of a choice of methods of governance, which will ultimately be selected by the new Councils.

The Bill states that the Chair and Vice Chair of Council are not entitled to sit on an Executive. NILGA recognises that this is the case in some neighbouring jurisdictions. However, the arrangements there include, in some cases, directly elected Mayors, and in other cases, "Leaders" who tend to be the

Leader of the majority party and act throughout the full council term. Neither of these arrangements exists within Northern Ireland, and NILGA is concerned that this requirement will mean that Councils will rule out Executive arrangements without full consideration.

NILGA views this requirement as directly in conflict with the ability of the Chair of Council to not only sit on, but chair and have a casting vote on, the decision making body under a committee system (i.e. Full Council). Moreover, the Chair / Vice Chair, is a key and often first spokesperson for his or her council and therefore must be fully informed and involved in key decisions, as a strategic communicator.

NILGA is therefore of the view that the Chair and Vice Chair of Council should be eligible to sit on an Executive and that this is specified in the Bill.

2.3 Call-In and Qualified Majority Procedures (Part 7)

NILGA recognises and supports the intent of the Bill in introducing procedures to protect minorities. However, NILGA believes that a balance must be struck between this and the efficient conduct of Council business.

NILGA recognises and supports the consensus and cross party political agreement that was reached on thresholds through the then Policy Development Panel A and endorsed by the Strategic Leadership Board. There is a critical need to both agree and clarify the definitions of the requirements for call-in, and also to identify formally the range of circumstances to which call-in applies. There is also a requirement to agree and clarify the range of circumstances to which qualified majority voting will apply. This agreement and clarification will help to ensure that these mechanisms are properly and legitimately applied. NILGA also believes that the Department must be fully open to change these arrangements – through a formal review - if their use is seen to be causing concern in the new Councils.

2.4 Public/Press Access to Meetings (Part 8)

NILGA supports openness and transparency and the attendance of the public and press at Council and committee meetings, except when certain specified items are under discussion.

NILGA is deeply concerned, however, at the proposed extension of these arrangements to sub-committees. Whilst sub-committees are indeed a part of the decision making process, they are often used as a first stage of initial discussions on topics which will, following such informal discussions, be brought to Committees and Council and discussed in the public domain.

This is also about language and interpretation. The workings of councils and the NI Assembly are enabled by informal discussion leading to departmental and corporate decision-taking embedded in good governance. If councils apply different terms of reference to sub-committees to make progress, they should be allowed to continue to do so. One man's sub-committee is another man's working team, and another man's think tank.

The outcomes, not the structure itself, merit public scrutiny and access.

NILGA believes that sub-committees should, therefore, remain outside the new requirements to permit informal discussions to be held through sub-committees. Minutes of sub-committees would, of course, be presented to the parent committees, thus providing the public/press with a record of

such discussions. The alternative - involving the creation of working groups which do not have a formal requirement to report to committees - does not represent best governance practice.

2.5 Conduct of Councillors (Part 9)

NILGA supports the proposals in the Bill in relation to Conduct of Councillors. However, the Bill does not contain a **specific appeal mechanism**, thereby leaving the only potential appeal route as Judicial Review. The Judicial Review procedure, however, is limited in its scope and may not be available in some instances.

The right of appeal is a fundamental part of our justice system, and NILGA strongly believes that there should be such a procedure enshrined in the new legislation.

Additionally, NILGA would seek the identification of a procedure for dealing with more minor complaints, as without this the process could be exploited and expensive.

NILGA members are also keen that the Committee explores a wider approach to conduct, for example to utilise / apply this mechanism for Policing and Community Safety Partnership members, and the other formal partnerships prevailing within councils, which are crucial to safer communities and the local economy.

2.6 Community Planning (Part 10)

NILGA believes that the introduction of Community Planning will be of great benefit to councils and the communities they serve, especially taken alongside other existing and transferring powers.

There is, however, widespread concern within the local government sector that the proposed legislation is not strong enough to compel partners to fully participate, ensuring investment of time and budget by senior decision makers in order to fulfil the identified objectives. Whilst Community Planning is, of course, about building relationships and working together, financial resources will inevitably be required to deliver on the full range of necessary actions. Colleagues in Scotland with longstanding experience of operating a council-led community planning system have identified the omission of **a clear reference to resources as a particular weakness in the Bill**.

NILGA urges that the Bill is strengthened through the insertion of appropriately worded clauses to provide the required reassurance to councils that Partners will have to attend, sending senior officials, and, where may be required, to realign their budgets accordingly. For example, stating that the determination and implementation of a Community Plan requires specified and relevant partners to invest the human and financial resource to achieve a key performance target within the Plan, would be a good approach, and would put plans on a business like footing with the community as custodians, through council, of a local, public purse.

At present, Departments are tucked away under a miscellaneous heading, rather than grouped with Councils and partners who also have duties. The wording of the proposed duties of Departments needs strengthening to ensure that all parties relevant to the success of Community Planning have strong obligations placed upon them.

2.7 Performance Improvement (Part 12)

Whilst NILGA welcomes the introduction of these arrangements in principle, it has a number of concerns about the proposals.

In particular, NILGA notes that the Performance Improvement model proposed in the legislation is largely taken from the Welsh performance improvement model as outlined in part 1 of the Local Government (Wales) Measure 2009, without consideration of the differences in Northern Ireland (in that there are already duties to report on, for example, fairness and sustainability) and without considering an appropriate performance management and improvement framework to complement the proposals. The list of duties **must** be re-examined.

It is disappointing to note the selective approach that has been taken to drafting this part (and other key parts) of the Bill. In the Welsh model, there is a requirement on Directorates to work with the councils prior to intervention in regard to performance improvement. NILGA would strongly encourage the Committee to examine the Welsh legislation, from which Part 12 has been lifted, and to ensure that the more constructive collaborative ethos in situ in Wales is replicated in Northern Ireland.

It is worth noting that the Welsh model has come under a lot of criticism as it has proved overly bureaucratic and costly and ultimately taken resources away from councils. **NILGA has serious concerns that to adopt a system that is perceived to have failed elsewhere will be disastrous for the transformation of local government in Northern Ireland.**

NILGA is able and willing to share the collaborative work developing in Wales, derived from the Directorate for Local Government and Communities and the Welsh Local Government Association, who have, in partnership, reviewed the current performance improvement arrangements for local government and developed an agreed new system.

NILGA requests that the Committee considers the scale of powers provided to Departments in relation to Performance Improvement and to ensure that there is a proportionate approach taken. It is the NILGA view that local government must determine how its own performance improvement is designed and managed, and NILGA will revert to the Committee with a further paper on this issue.

NILGA believes that further discussion is needed on this entire Part of the Bill, and especially about the future of performance improvement in Northern Ireland local government. An improvement body for the sector is urgently required and is being dynamically developed, timed to be in place in line with the new councils taking full effect, by April 2015. NILGA seeks to complete the consultation on this - which is presently well developed – and to report to the Committee before or during February 2014 in this regard.

NILGA would also note the proposed substantial increase in powers for the Local Government Auditor, provided in relation to performance improvement. NILGA would seek assurance that the NIAO will be provided with appropriate resources to perform the duties required in relation to an agreed local government designed performance management framework, together with desirable training and development of NIAO staff in this regard. NILGA would also urge that, as mentioned above in respect of Government Departments, the NIAO should in the first instance work with Councils prior to intervening or carrying out special investigations.

2.8 Partnership Panel (Part 13)

NILGA welcomes the introduction of a Partnership Panel, but is concerned that the proposed structure of the Panel makes no reference to strategic, regional, local government membership. It is therefore **strongly recommended** to the Committee that Clause 106 is amended to ensure that the association representative of elected members in district councils is included in the membership and operational arrangements for this Panel – which is the case in Scotland and Wales.

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

2.9 Control of Councils by Government Departments (Part 14)

NILGA is strongly opposed to the word “control” in this Part. NILGA believes that government departments should work with councils, alongside the Partnership Panel, rather than attempt to “control”. In particular, NILGA notes that the powers attached to government departments in relation to performance improvement are not restricted to areas related to their own activities. The word “control” could be replaced by the phrase “Policy Scrutiny”.

The Vision for Local Government articulated by the then Environment Minister in 2008 expressed the intent of the Assembly and local government to move towards a local government system of “strong, dynamic, local government creating communities that are vibrant, healthy, prosperous, safe, sustainable and have the needs of all citizens at their core.” It has always been acknowledged that continuous improvement was central to achieving high quality, efficient services, but this was supposed to be done by central and local government working in partnership. The level and widening of control over councils as expressed in this Bill - particularly in Parts 12 and 14 - runs contrary to and could impede the achievement of this Vision. **It is also costly, in terms of time and money, to both parts of government and enshrines a punitive process rather than an enabling outcome.**

It is noted that the performance management and ‘control’ regime proposed to be put in place in Northern Ireland replicates that in other areas, where local government receives significant funding from the centre to fund activities. Our councils are largely self-financing through the district rate, and the Association cannot see why this high level of control is necessary. The outcome would be costly and over-bureaucratic and the antidote will be presented by NILGA with SOLACE if the opportunity is provided.

2.10 Other Key Issues

Substantially increased costs: NILGA is keen to make the Committee aware that an impact of some clauses in the Bill will directly lead to increased costs for the new councils. These should be considered as **New Burdens**, and taken into consideration within the funding package for reform.

They include increased administration costs, for example due to new requirements in relation to provision and storage of information, new Commissioner costs, increased Auditor costs, increased and more formalised community consultation.

These costs, like those already identified and quantifiable costs only being realised because of the legislated for target in the Programme for Government, should not simply be borne by ratepayers. The Association is not won over by the facile notion that “somebody has to pay for it and rates are another form of tax”. This is essentially about reasonableness and the ability to pay, redeploy and review costs by all of government, together with the establishment of the significant potential that local government has - the cost and values of local democracy. Today, councils have nothing like the resources and are not financed in the same manner as Departments; their total budgets are proportionately very small. Yet, they are being asked to pay the lion’s share of a reform programme which will certainly benefit them AND the Departments abovementioned.

NILGA is keen to demonstrate that, over the period 2014 – 2021, unless a New Burdens approach is taken, the reform of councils is highly unlikely to achieve the Vision outlined above. This is why NILGA will develop a Programme for Local Government, in 2014 and 2015, to be positioned within the new overall Programme for Government planned for 2016.

Concerns re preservation of local identity: Our members have expressed some concerns that local identity could be lost in the move to councils covering a larger geographical area, and it is noted that there has been no attempt made in the Bill to look at how to develop effective **area-based working** in Northern Ireland. The Committee may wish to examine this issue in its consideration of the Bill and potential future issues for the Department to develop. NILGA asserts that as NI is the only area that has NOT adopted a **localism agenda** and implementation approach this should be the next stage beyond the development of strong Community Planning in NI.

Planning and Regulatory Committees: Guidance is urgently required as to the application of the governance arrangements expressed in this Bill to planning and other regulatory committees. NILGA is aware that work is currently ongoing in relation to the design and functions of Planning Committees – this should be considered by the Committee in due course.

3.0 ANALYSIS: Clause by Clause evidence

This provides detailed comments on the Bill clauses; the Schedules are included in the views on the clauses to which they relate, rather than separately.

Part 1 – Councils

Clause 1: Names of Councils

NILGA has no objections to this clause, but would highlight the need for the development of a high level of public understanding as to the bodies in relation to which they will be voting.

As the necessary subordinate legislation is unlikely to be in place before the election, it will also be necessary for the councils whilst in shadow form to make a decision on their new name and status.

Individual communication will be necessary between the Department and the new councils in this regard, due to the variety of circumstances across the region.

Clause 2: Constitutions of Councils

NILGA has no objections to this clause but would highlight the need for timely production of these documents. If they are not to be available by May 2014, then departmental guidance will be required from the time of the election, until they do become available.

Part 2 – Councillors

Clause 3: Qualifications

NILGA has no objections to this clause.

Clause 4 (and Schedule 1): Disqualifications

Sub-paragraph 2 of Schedule 1 removes the bar on council employees (who do not work directly with or provide advice to a council or one of its committees) from being elected or acting as a councillor. Robust guidance will be necessary in relation to this issue, particularly in relation to potential conflicts of interest as a result of an employee also acting as a councillor.

NILGA would also ask that the possibility of staff being permitted to stand for election only in Councils other than the one by which they are employed should be considered.

Clarity is sought as to when this part of the Bill will be commenced, given the potential timing of Royal Assent for the Bill and the 2014 election.

Clauses 5, 6,7,8,9

NILGA has no objections to these clauses.

Part 3 – Positions of responsibility

Clause 10 (and Schedules 3 and 4): Positions of Responsibility

This clause outlines those positions within the new councils which are to be determined as ‘positions of responsibility’.

It is the view of NILGA that it should be for each individual council to decide how best to apply proportionality at local level, and to which positions. If this is not to be the case, the following issues are highlighted as problematic:

- In the event of a Council choosing to have an Executive model, NILGA notes that all positions on a Cabinet-style executive are to be determined as positions of responsibility and filled in accordance with Schedule 3, whilst only the chair and deputy chair on a streamlined committee executive are to be included in the positions of responsibility. Other positions on a streamlined committee executive will be filled in accordance with Schedule 4.

This can cause issues such as the following potential skewing towards larger parties:

- Cabinet style – membership is a position of responsibility (up to 10 positions of responsibility per year)
- Streamlined committees – e.g. if 2 committees of four people each:
 - Positions would only go to the biggest parties
 - These are not positions of responsibility
 - Only 4 positions of responsibility per year
- Clarification is required in relation to committee chairs, as it would seem impossible to choose a chair of a committee (Schedule 3, Part 3) if the party concerned doesn't already have a place on it under Schedule 4. The logical scheduling of this would seem to indicate that the choice of committees would need to precede the choice of positions of responsibility
- Appointing by running a **new list for each committee skews the arrangements** in favour of the larger political parties.
- Schedule 4, 2 (2) excludes independents. There may be a need to include smaller parties or independent Councillors on committees if the chosen process does not provide an effective opportunity for them to be represented. An alternative would be to provide a mechanism for coalitions to be formed.
- There is no interpretation in Schedule 4. Clarification is required as to whether Schedule 4 is linked to the interpretation in Schedule 3 (part 4).
- There is no mechanism specified for appointments to outside bodies that are not prescribed. The Department has informed NILGA that they intend amending Clause 10(f) to ensure clarity. There is no intention to issue a prescribed 'list' by regulation.
- There appears to be no satisfactory mechanism to support area-based working (which, in the Northern Ireland context, may run the risk of being perceived as raising equality concerns). Guidance will be required to set up satisfactory area-based mechanisms and governance arrangements.
- It is noted that the Partnership Panel is not explicitly considered in relation to positions of responsibility.

Part 4 – Discharge of Functions

Clause 11: Arrangements for discharge of functions of council

NILGA has no objections to this clause, but would suggest that the list of functions reserved for the council is more clearly defined, for example, to exclude minor technical land disposals, way leaves, small loans etc.

Clause 12: Arrangements by one council for discharge of functions by another council

This clause permits a council to have any of its functions carried out by another council, provided that the functions are not the responsibility of an Executive of either council. If the function is the

responsibility of an Executive of either council, the Department may issue Regulations under Clause 29 to enable the function to be carried out by another Council.

NILGA strongly supports the ability of a council to have its functions carried out by another council, but is unclear as to why Departmental 'permission' is necessary in some instances, dependant on governance arrangements. This clause seems unnecessarily complicated – the department's intervention would only be welcomed as a position of last resort.

Clause 13: Arrangements for discharge of functions by councils jointly

This clause permits councils to exercise functions jointly and establish, if required, a joint committee for this purpose. Again, if any such functions are the responsibility of the Executive of either council, Clause 30 enables the Department to issue regulations to permit joint exercise of functions, which NILGA would view as an unnecessary complication.

NILGA strongly supports the ability of councils to exercise functions jointly and form joint committees. It will be necessary for councils to review all existing partnership arrangements, to assess where regulations will be necessary, and to ensure that service continuity remains unaffected. However, through mechanisms now being developed as part of the second phase of the Improvement, Collaboration and Efficiency programme (I.C.E.), regulations should be light touch and councils should be enabled to work jointly through their self determination of such matters.

Clause 14: Exercise of functions not prevented by arrangements under this Part

NILGA has no objections to this clause.

Clause 15: Appointment of committees etc for the purpose of discharging functions

NILGA would seek clarification as to why a committee appointed to regulate and control the finance of the council cannot have an external member.

Clause 16: Appointment of committee to advise on discharge of functions

NILGA has no objections to this clause.

Clause 17 and Schedule 4: Appointment of councillors to committees, etc.

This Clause and Schedule govern the means of selection of councillors onto committees, and outlines a prescribed method utilising a formal quota-type arrangement.

NILGA welcomes, in principle, a means of ensuring that committee membership can be arrived at in a way which ensures proportionality. However, NILGA is concerned that the prescription of only this one method is unduly restrictive and does not permit local arrangements which have broad agreement to be utilised as an acceptable alternative. For instance, this method may continue to favour larger parties, and hence mean that councillors from smaller parties or independents, who may have been permitted to sit on committees in the past, will now be excluded.

NILGA would seek the inclusion of alternative methods of selecting committee membership to provide councils with flexibility, notwithstanding the overriding principle of proportionality.

Note: Whilst selection of persons to positions of responsibility is excluded from this Schedule, NILGA notes that the application of the default method for such positions may be applied flexibly through the picking (or otherwise) of positions by parties and by the ability of nominating officers to pass on particular nominations. The prescribed method for selecting committee members may also be applied flexibly by nominating officers deciding to nominate fewer members to committees than they are entitled to, thereby leaving some positions available for alternative parties/independents.

Clause 18: Joint Committees: further provisions

Clause 19: Disqualification for membership of committees

Clause 20 and Schedule 5: Declaration required of persons who are not members of council

Clause 21: Voting rights of persons who are not members of council

Clause 22: Termination of membership on ceasing to be member of council

NILGA has no objections to Clauses 18 to 22, or Schedule 5. Clarification is sought in relation to Schedule 5, as to whether persons who are not councillors will be subject to the same complaints procedure as elected members.

Other Issues related to Part 4: Audit Committees

The Assembly's Environment Committee has raised on a number of recent occasions the matter of Audit Committees and external members thereon, taking the view that each council should be obliged to appoint an Audit Committee, and must appoint an external, independent person to sit thereon.

NILGA believes that these views represent best practice, and would support the inclusion in the Bill of an appropriate clause which has the effect of ensuring that all Councils must appoint an Audit Committee, and that all Councils must appoint a suitably qualified and experienced external person to sit as a non-voting member of that Committee.

Part 5: Permitted Forms of Governance

Clause 23: Permitted Forms of Governance

NILGA notes the three systems of governance proposed and would again highlight the concerns expressed in our comments on Clause 10. It is anticipated that the governance system would be a decision for the council whilst in shadow form, but that a large amount of the preparatory work will be required prior to the election.

NILGA would support those councils that wish to operate executive arrangements to do so, and is content that these councils will not be prevented from establishing committees for the discharge of functions such as planning and licensing. More information is still required in relation to those statutory committees which will exist outside of the executive arrangements, and whether such committees will be subject to the same rules in relation to QMV and call-in.

Clause 24: Power to prescribe additional permitted governance arrangements

NILGA would highlight that subsection (6) (c) of Clause 24 is a potentially unnecessary barrier to local agreement on governance.

Part 6: Executive Arrangements

Clause 25: Council Executives

It is noted that via this clause, the Chair and Vice-Chair of a council would not be permitted to be members of an executive. This is in marked contrast to the operation of a traditional committee system where the Chair and Vice-Chair can be part of the decision-making mechanism, with the Chair having a casting vote at council meetings.

NILGA would refer the Committee to our comments in paragraph 2.2 in relation to this matter.

Clause 26: Functions which are the Responsibility of an Executive

Clause 27: Functions of an Executive: further provision

Clause 28: Allocation and Discharge of Functions

Clause 29: Discharge of functions of and by another Council

Clause 30: Joint exercise of functions

NILGA has no objections to these clauses, although we would again highlight that the arrangements required to enable a council to work with the executive of another council seem unnecessarily bureaucratic and unwieldy, as noted in our comments on Clause 13.

Clause 31: Overview and Scrutiny Committees

Time must be built in to the process to allow proper scrutiny, and a register of decisions will be required. Clarity is sought in relation to the definition of 'implemented' as used in clause 31 (3). Council decision-making processes can be lengthy and multi-stage in nature and it will be important to identify more appropriately, at what stage scrutiny will be required to take place.

Clarity is also sought in regard to the relationship between call-in, and overview and scrutiny procedures. Which would take precedence? The department's view on a decision making 'flow' would be most helpful.

Clause 32: Overview and Scrutiny Committees (supplementary provision) and Schedule 6

NILGA supports councils in making their own decisions in relation to voting rights of non-members of overview and scrutiny committees.

Clause 33: Scrutiny Officers

Guidance would be welcomed in relation to where a scrutiny officer would be best placed within the structure of the new council (e.g. director level?).

Clause 34: Reference of matters to overview and scrutiny committee etc.

Clause 35: Dealing with References under section 34(1) (c)

Clause 36: Duty of council or executive to respond to overview and scrutiny committee

Clause 37: Publication etc. of reports, recommendations and responses: confidential and exempt information

NILGA would propose that the Department is required to work closely with local government to develop appropriate guidance in relation to overview and scrutiny committees. Any changes required (such as recruitment of a scrutiny officer, development of procedures for referring individual decisions, reporting and publication of recommendations and responses) will need to be planned for well in advance of 2015.

Clause 38: Meetings and access to information etc.

Clause 39: Meetings and access to information etc. (further provision and regulations)

NILGA has no objections to these clauses, although it is noted that departmental regulation is intended. It would be helpful if these regulations were not unnecessarily duplicative of the Freedom of Information legislation.

Part 7: Meetings and Proceedings

Clause 40: Meetings and Proceedings (and Schedule 7)

Clause 41: Standing orders

Clause 42: Regulations about Standing Orders

NILGA has no objections to these clauses, and is working closely with the Department to develop agreed standing orders.

Decision-making

Clause 43: Simple Majority

Local government in Northern Ireland has operated for many years on the basis of the simple majority vote. NILGA has no objections to this clause.

Clause 44: Qualified Majority

Whilst NILGA recognises the previous consensus reached on thresholds, there is some debate within the sector in relation to the 80% level specified in this clause. The provision for review contained in the Bill is welcomed.

Agreement and clarification is required about the specific decisions to which QMV will automatically apply. Local government will need to work very closely with the Department to develop guidance on the application of this clause, particularly as the Department's intentions (for example as stated in recent speeches to the Assembly) seem to incorporate a wide range of council working, that is separate from the usage to those areas set out in statute.

The Minister has mentioned decisions on capital projects, "programmes that impact across a number of DEAs" and response to a legitimate call-in on adverse impact grounds. Guidance in relation to dealing with these issues will require detailed consideration. In particular, "programmes that impact across a number of DEAs" could be interpreted as relating to many decisions which a Council makes, and therefore it will be necessary for this proposed definition to be explained in clearer terms. NILGA would be opposed to a definition which is expressed in such broad terms.

Clause 45: Power to require decisions to be reconsidered

Again, whilst NILGA recognises and supports the previous consensus reached on thresholds, there is debate within the sector in relation to the 15% figure, and concern in some councils that this system may lead to unnecessary bureaucracy and delay.

There is particular concern in relation to the grounds for call-in detailed at 45 (1) (b) which seems vague. Agreement and detailed clarification of what this actually means in practice will be critically important, as will guidance on the role of the legal advisor stipulated in 45(2).

NILGA will work closely with the Department to ensure that satisfactory standing orders are developed in relation to Part 7 of the Bill.

Part 8: Access to Meetings and Documents

General Comments: This part of the Bill will place a greater administrative burden and cost on councils in respect of the issue of documents and their storage. Capacity building on the new procedural arrangements will also be necessary for members and officers.

Clause 46: Admission to meetings of councils (and Schedule 8)

NILGA has no objections to this clause, but would recommend that 46 (6) (b) is modified to take into account the safe capacity of the council chamber and resultant health and safety issues.

Clause 47: Access to agenda and connected reports

Clause 48: Inspection of minutes and other documents after meetings

Clause 49: Inspection of background papers

NILGA has no objections to these clauses. The potential for duplication/conflict with Freedom of Information requirements should be examined. In addition there seem to be differing time requirements for keeping documents. It might be simpler, for all documents to be kept for the same amount of time, provided that this does not contravene other legislation.

Clause 50: Application to committees and sub-committees

There has been a high level of debate within local government in relation to the application of this part of the Bill to committees and sub-committees.

It is acknowledged that in a modernised system, it is likely that more access will be required at committee level than at present, but there is serious concern about the application of this legislation to sub-committees.

Currently, early member policy discussions take place in sub-committee meetings which are minuted, but to which the public and press do not have access. This allows for freer discussion and debate. It is the view of NILGA that to extend clause 50 to sub-committees would be damaging to the democratic process, with initial debate possibly taking place in unminuted meetings, prior to meetings to which the public and press would have access. It is therefore strongly recommended that clause 50 is applied to committee meetings but not sub-committees.

Clause 51: Additional Rights of access to documents for members of councils

Clause 52: Councils to publish additional information

Clause 53: Supplemental provisions and offences

Clause 54: Exempt information and power to vary Schedule 8

Clause 55: Interpretation and application of this part

NILGA has no objection to these clauses, but would note the need for staff guidance and training to ensure that this part of the Bill is properly implemented.

It is noted that the references to media in this section of the Bill include news agencies, newspapers and broadcast media, but there is no reference to online media.

Part 9 – Conduct of Councillors

Clause 56: Code of Conduct

NILGA welcomes the issuance of a mandatory code of conduct for councillors which will specify appropriate principles and provisions to govern the conduct of Members. NILGA will play a full part in the consultation specified in Clause 56(8).

Clause 57: Guidance

NILGA notes that the Commissioner may issue guidance under this clause. NILGA would support the issuance of guidance in relation to the conduct of councillors, believing that this will provide useful information to Members as regards the application of the Code.

NILGA would suggest to the Committee that a provision requiring the guidance to be issued for consultation should be inserted into the Bill, in line with other provisions elsewhere in the Bill which require guidance to be issued for consultation. In particular, this would be essential as part of the guidance will relate to Planning matters, which will be a significant new role for Members of the new Councils.

Clarification is also required as to the issuer of guidance, as it is our understanding that the Department intends to issue detailed statutory guidance. Is this the guidance outlined in Clause 57 or is it additional to the Commissioner's guidance?

Clause 58: Investigations

NILGA welcomes the role of the Commissioner in investigating complaints under the code. However, the role of the Commissioner has been expanded since the Department's Policy Proposals were consulted upon. The original proposals had received widespread support, and the Department must fully explain its rationale for making the change.

NILGA notes that the Department has informally indicated that the role of the Commissioner may be reviewed in several years' time, with a potential to introduce Standards Committees. NILGA would support such a review during the 2015-2019 electoral term, and would seek an amendment to the Bill to confirm such a review in law, along with a requirement for future reviews at set intervals.

Members require the Committee to consider the potential for a proportionate approach taken to complaints, similar to the approach taken in Ombudsman investigations, with a preliminary internal consideration of the complaint. NILGA would also seek – and can provide details of - a system which deals with minor complaints. NILGA would support a procedure which would permit speedy resolution of such issues without the need for more formal investigations.

Clause 59: Investigations: Further Provisions

NILGA would assert that the guidance to be issued by the Commissioner should incorporate full details of the procedure to be adopted for investigating complaints.

The clause covers a situation where a councillor has become a member of another council, but does not cover a situation where a Council ceases to be a member of a council prior to, or during, an investigation.

Clause 60: Reports etc

NILGA would contend that Clause 60(1) should compel the Commissioner to issue a report when he decides that there is no case to answer or that he does not intend to take any action, rather than the current version which only says that he “may” issue such a report.

It may be the case that allegations against a Member may be in the public domain, and hence it is important that in cases where there is no case to answer or no action will be taken that a publicly available report must be made.

Clause 61: Interim Reports

Clause 62: Decision following report

Clause 63: Decisions on Interim Reports

Clause 64: Recommendations

NILGA has no objections to these clauses.

Clause 65: Disclosure and registration of councillors’ interests

NILGA would seek the inclusion of appropriate details of all interests to be declared under this clause to be incorporated into the Code and related guidance, to ensure full consistency across Councils.

Clause 66: Extension of 1996 Order

NILGA has no objections to this clause.

Clause 67: Expenditure of Commissioner under this Act

Clause 67(3) requires the cost of the service, as estimated by the Commissioner in accordance with clauses 67(1) and (2), to be apportioned between all Councils in such manner as may be prescribed.

NILGA would seek consultation with the local government sector regarding the apportionment of fees. There are a number of methods by which the apportionment could be carried out, and discussions should be held with the sector in order to agree the most appropriate method.

NILGA would also seek to ensure that the legislation reflects a need for the Commissioner to account to Councils regarding how their contributions have been spent in each financial year.

Clause 68: Interpretation

NILGA has no objections to this clause.

Other Issues in relation to Part 9

The Bill makes no reference to any form of appeal for a Councillor who may be subject to censure, suspension or disqualification as a result of a report of the Commissioner. NILGA views it as extremely important that a right of appeal, other than to a judicial review, is enshrined in the Bill.

Officers in district councils already have a right of appeal in the event of disciplinary action, including dismissal, being taken against them. In wider society, the right of appeal is of course a fundamental part of the justice system.

The Committee will also need to consider to whom appeals should be directed.

Additionally, training will be required to ensure members and officers understand the code and its accompanying guidance.

NILGA members are also keen that the Committee explores a wider approach to conduct, for example, to apply this mechanism to Policing and Community Safety Partnership members and other formal partnerships.

Part 10: Community Planning

General Comments:

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.

NILGA is 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. In the experience of our colleagues in other regions, and through local pilot working, it is evident that the community planning process can lead to sizeable efficiency savings at local level. It is vital that, as in other regions, there is a strong statutory duty placed upon relevant public bodies and statutory agencies to participate in and contribute to the community planning process, and a mechanism to utilise the savings made to further the implementation of the community plan.

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 key principles of the model, mindful that a comprehensive review of it is being taken to bring in improvements to it, it is vital that the legislation and supporting guidance takes account of the specific circumstances in Northern Ireland.

Clause 69: Community Planning

The alignment of council-led community planning to the development planning system is welcomed, as is the link to sustainable development.

Clause 70: Community Planning Partners

NILGA looks forward to the publication of a proposed list of specified, core, community planning partners for consultation, and prior to an order being made.

It is considered vital to the success of the community planning process that partners are compelled to attend relevant meetings, and align plans and budgets to the community plan, but there is no indication that the forthcoming order will be any more than a specified list of organisations. This is why NILGA asserts that the wording must emphasise the need for human and financial resource investment in a community plan. The success of this key initiative will be dependent upon the sum of the parts. The Bill must therefore offer no ability for partners to avoid their responsibilities or, worse still, suggest that such responsibilities and costs could be borne by others.

Clause 71: Production of Community Plan

Clause 72: Duty to Review Community Plan

Clause 73: Review of Community Plan

NILGA has no objection to these clauses.

Clause 74: Monitoring

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.

Will there be any sanction for partners who fail to participate adequately? The Environment Committee is encouraged to ensure Community Planning arrangements are as strong as possible, and an instrumental part of this, it is suggested, would be to ensure that a robust accountability mechanism is put in place, linked to the work of the Partnership Panel.

Clause 75: Implementation

It is unclear how community planning "performance" will be assessed. Part 12 of the Bill ensures that 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 will need to be taken into account. Participating Departments must reciprocate and clearly have a performance duty.

Clause 76: Community Involvement

Clear guidance and training will be required to ensure that councils are fully supported to meet the requirements of this Clause.

Clause 77: Guidance

The Department may issue guidance on any aspect relating to community planning, the production and review of community plans and the duties of councils and community planning partners, further to consultation with local government. It will be important that this consultation is a collaborative

process between DOE and Local Government. 'One size' is unlikely to 'fit all', – and this will need to be reflected in the guidance and reporting arrangements.

In other jurisdictions (e.g. Scotland, Wales) there are significant regional support structures to support and promote local government improvement and community planning. There are currently no similar support arrangements within Northern Ireland and the Committee is encouraged to ensure that the Department considers this, in partnership with local government.

Clause 78: Duties of Departments in relation to Community Planning

This clause is too weak. The committee is strongly encouraged to consider how to legislate more effectively for the sharing of accountability. As noted at Clause 74, the Northern Ireland Departments are responsible for the policy framework, funding and priority setting for many of the agencies who may be community planning partners. NILGA is deeply concerned by the prospect that Departments will consider that it is not 'reasonably practicable' to 'aim' to promote and encourage community planning and that they may not provide the appropriate oversight into the contribution of their agencies to the community plan.

It is also concerning that this clause is tucked away in a 'miscellaneous' section of the Bill. It is requested that the Committee proposes to move this clause alongside Clause 70.

Clause 79: Establishment of Bodies Corporate

Clause 80: Amendments of the Planning Act (NI) 2011

Clause 81: Interpretation

NILGA has no objections to these clauses

Part 11: General Powers of Councils

Clause 82: Council's general power of competence

NILGA welcomes the introduction of the general power of competence, whilst acknowledging that clear and detailed guidance will be required in relation to the operation of this new power. This guidance must be developed in partnership with local government and it must provide both clarity and protection for councils and local people. Particular guidance may be required in relation to the use of the general power of competence in relation to cross border working.

A capacity and confidence building exercise will be required to ensure that any fears surrounding roll out can be dealt with at an early stage. An agreed approach will be required to ensure that departments do not abdicate their responsibilities and require councils to perform duties in lieu of departmental action.

It will also be necessary to ensure community expectations are managed, since any action to be taken will be subject to resource constraints.

Clarity is sought in relation to Clause 82 (4)(b), as it is not clear why councils should be given the power to do something 'otherwise than for' the benefit of the council, its district or persons resident or present in its district.

Clause 83: Boundaries of the general power

Clause 84: Limits on charging in exercise of general power

Clause 85: Powers to make supplemental provision

Clause 86: Limits on powers conferred by section 85(1)

NILGA has no objections to these clauses.

Part 12: Performance Improvement

General comment: There is 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.

NILGA proposes 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. Local government reform was intended to achieve 'strong local government', and the view of NILGA is that the following clauses are not the best way to underpin this principle.

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.

NILGA will provide a separate report to the Committee within the next few weeks, proposing an alternative performance management arrangement, and would be grateful for the Committee's consideration of this. This request is made in view of the very real concerns expressed by the scores of contributors to this document.

Clause 87: Improvement: general duty

NILGA notes that these clauses have been lifted from the Welsh legislation, without tailoring to the Northern Ireland situation. It is particularly noted that there is an overlap between and duplication of existing statutory duties such as those expressed in S75 of the Northern Ireland Act 1998 (duplicating the fairness requirement) and S25 of the NI (Miscellaneous Provisions) Act 2006 (duplicating the sustainability requirement).

It is also noted that this Part of the Bill enhances the Local Government (Best Value) Act (NI) 2002, but that the 'Best Value Act' refers to 'continuous improvement in the way in which...functions are exercised, having regard to a combination of economy, efficiency and effectiveness'. NILGA would encourage the Committee to ensure that there is 'read across' between the two pieces of legislation, the Local Government Bill currently making no reference to 'economy'.

Clause 88: Improvement objectives

NILGA would draw the Committee's attention to the reporting that is already in place on these issues, and the requirement, for example in reporting on sustainable development progress to OFMDFM, to demonstrate continuous improvement. We would query whether current reporting

arrangements will be satisfactory, or whether a parallel system will be initiated, doubling the administrative burden on councils in some areas.

Clause 89: Improvement: supplementary

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.

Clause 90: Consultation on improvement duties

NILGA has 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.

Clause 91: Appropriate arrangements under sections 87(1) and 88(2)

NILGA has no objections to this clause, provided a collaborative, partnership approach is taken to the production of departmental guidance.

Performance indicators and performance standards

Clause 92: Performance indicators and performance standards

It is vital that the Department develops, in partnership with local government, an agreed approach to the setting of performance indicators. It would be preferable if the wording of 92 (2) was changed, so that ‘specifying’ is changed to ‘agreeing’ and ‘consult’ is replaced by ‘negotiate with’.

Similarly, it would be preferable if the wording of 92(3) was changed, so that ‘specify’ is changed to ‘agree’.

It is also proposed that an agreed, specific guidance should be issued, in relation to the composition and calculation of indicators and standards and those standards/indicators must be reviewed annually by the local government auditor.

Improvement planning and information

Clause 93: Collection of information relating to performance

NILGA is deeply concerned by this clause, which, taken in tandem with Part 14 of the Bill, is likely to place an unnecessarily large administrative burden on councils. Further comments will be made

below, in the evidence on Part 14. NILGA is strongly of the view that the burdens of inspection, data collection and reporting should be kept to a minimum.

NILGA would strongly support the development of a performance framework by local government, for local government, and believes that this framework should provide value for money, be affordable, transparent and fair, easily understood and capable of implementation.

Clause 94: Use of performance information

NILGA has no objections to this clause, and is fully supportive of the sharing of good practice between councils.

Clause 95: Improvement planning and publication of improvement information

NILGA has no objections to this clause.

Clause 96: Improvement information and planning

Clause 97: Improvement assessments

Clause 98: Audit and assessment reports

Clause 99: Response to section 98 reports

Clause 100: Annual improvement reports

Clause 101: Special inspections

Clause 102: Reports of special inspections

If the arrangements specified in Part 12 of the Bill are taken forward, NILGA has 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.

Local government would have concerns in relation to the extension of the role of the auditor to the auditing of councils' corporate and/or improvement plans, as this would potentially undermine the democratic process. It is the NILGA view 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.

It is also noted that the performance management and auditing system specified is designed for a local government system that administers a large amount of grant funding from central government. One of the key strengths of local government in Northern Ireland is that it is largely self-financing, and this strength will not change after transfer of functions, where funding will be allocated through a new rates formula.

NILGA is therefore of the view that such an intricate and bureaucratic top-down performance management and auditing system is wholly unnecessary, and that local government should develop its own improvement system, similar to that currently in place in Scotland, but of course tailored to NI. It is also of concern that the relationships between departments and the Auditor, as outlined in the Bill, seem overly complex and the Committee may wish to explore how this would work in practice.

NILGA has met with representatives of the Northern Ireland Audit Office, immediately prior to this submission, and is keen to work collaboratively with them to agree a self managed performance improvement framework.

Powers of direction etc

Clause 103: Powers of direction etc

NILGA has huge concerns in relation to this Clause, particularly when taken in tandem with Part 14 of the Bill. There is a certain degree of confidence in the powers of direction of the Department of Environment, who are experienced and confident as to how and when this power should be used. It will be necessary to ensure that the other government departments take the same approach and it would be helpful if guidance is produced for government departments to ensure that they don't begin to micro-manage councils and do not place unrealistic reporting expectations on them.

The ability of any NI department to direct must be restricted to matters pertaining directly to the functions of that Department only, and NILGA would seek an amendment to this clause (particularly at subsection (3)) to that effect.

Clause 104: Power to modify statutory provisions and confer new powers

NILGA has no objections to this clause

Clause 105: Application of certain local government audit provision

A serious concern of local government in relation to this Part of the Bill is the likelihood of increased audit and administration costs. NILGA would encourage the Committee to seek evidence from the local government auditor in relation to their plans for implementing this part of the Bill, and estimates of costs to the new councils.

Part 13: Partnership Panel

Clause 106: Partnership Panel

Local government is strongly in agreement that a partnership panel is necessary, but that the local government representation should be "nominated by the sector, agreed with the Department" and should include regional representation from local government (i.e. through the regional representative body for elected members) as well as representation from each of the new councils.

NILGA considers that the spirit of collaboration that a Partnership Panel will facilitate is not echoed throughout the Bill in terms of the statutory requirements for and roles of central and local government. In Wales, for example, the equivalent body is chaired by the Minister responsible for local government, and the Vice Chair is the Chair of the local government association. Therefore, partnership is delivered through shared, political leadership.

Part 14: Control of Councils by Northern Ireland Departments

Clause 107: Power of any Northern Ireland department to direct council to make reports etc.

Clause 108: Inquiries and investigations

Clause 109: Power of any Northern Ireland department to intervene in case of default by council

NILGA 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. We would remind the Committee of our comments 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. A clause of this nature must be included in this section.

Part 15 – Amendments of the 2005 Order

Clause 110: The local government auditor

NILGA 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.

Clause 111: Power to repeal provisions relating to surcharge etc

NILGA welcomes the provision to the effect that the Department may by Order repeal the relevant legislation relating to the previous ability of the local government auditor to seek a declaration that an item of account is unlawful and to seek the recovery of an amount not accounted for, ie impose a surcharge.

NILGA would urge the Department so to order with effect from the commencement of the new councils on 1 April 2015. It is the NILGA view that maintaining surcharge after the new Ethical Standards regime is put into place is unnecessarily controlling and duplicative.

Clause 112: Minor and consequential amendments

NILGA has no objections to this clause.

Part 16 - Miscellaneous

Clause 113: Guidance

NILGA welcomes the provision which ensures that any guidance to be issued under this legislation will be consulted upon with Councils, NILGA and any other relevant bodies' representative of councils, bodies' representative of officers and such other persons as the Department considers appropriate.

Clause 114: Transitional rate relief in consequence of changes in local government districts

NILGA welcomes the inclusion of the necessary measure to give effect to the proposed transitional rate convergence relief. It is noted that in the current reforms proposed for local government in the Republic of Ireland, transitional support has been recognised as necessary for a period of up to 10

years, whereas in Northern Ireland, relief has been mooted for a period of two or three years. NILGA would therefore suggest that the Committee consider making a recommendation to the Department that a longer transitional period be considered.

Clause 115: Commencement of the Local Government (Boundaries) Order (NI) 2012

Clause 116: Exclusion of non-commercial considerations

Clause 117: Control of disposals and contracts of existing councils and their finances

Clause 118: Persons ceasing to hold office

Clause 119: Validity of acts done by unqualified persons

Clause 120: Insurance against accidents to councillors

NILGA has no objections to these clauses, but in relation to clause 120, 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 that issue.

Clause 121: Schemes for the transfer of assets and liabilities; and Schedule 10

Clause 121 refers only to transfer of assets and liabilities, whilst the Schedule also refers to the transfer of staff.

In relation to Schedule 10, paragraph 2 (4), whilst NILGA understands that the Transfer Schemes will be statutory and therefore must be signed-off by a Department, NILGA also contends that a scheme for transferring local government employees to the appropriate new councils should be prepared by the existing councils and approved by the new councils (in shadow form) prior to submission to the Department for approval. Councils hold the relevant information to facilitate this process, the Department does not. In effect, much of the work will need to be carried out by councils in order to satisfy TUPE requirements. There is a risk of duplication or mixed messages if this is being done twice.

NILGA also notes that Schedule 10, paragraph 2 (4) requires that a scheme made by a Northern Ireland Department is to be consulted upon by that Department. Those to be consulted with include the employees concerned and/ or their representatives. It does not however include councils as the employers of those employees (either in their capacity as transferors or as transferees). It is also the case that TUPE will be applicable as per Schedule 10 (1-3) and as such councils (again as both transferor and transferee employers) will have direct statutory responsibility for consultation with employees and/ or their representatives. There is considerable potential here for error and confusion with two parties acting simultaneously to give effect to similar requirements.

Clause 122 – Compensation for loss of office or diminution of emoluments

NILGA notes that the Department intends to make Regulations which will, in effect, introduce the local government reform staff severance scheme. NILGA is concerned that elected members do not currently have a full understanding of this scheme and the potential financial implications involved. NILGA urges that action should be taken forthwith to address this concern, through the production of guidance.

In addition, NILGA is concerned that the proposed scheme, as it stands, may be in contravention of the Age Regulations, in particular, in its differential implications regarding added years for staff aged

under 55 and over 55. NILGA urges that an 'objective justification' exercise be carried out to address this concern.

Clause 123 – Supplementary and transitional provisions for the purposes of this Act and other purposes

Clause 124 – Interpretation

Clause 125 – Regulations and Orders

Clause 126 – Minor and consequential amendments and repeals

Clause 127 – Commencement

Clause 128

NILGA has no objections to these clauses, and would welcome the requirement to consult in Clause 125.

4.0 Conclusion

The Northern Ireland Local Government Association is grateful to the councils, councillors and officers who have constructively addressed the many concerns expressed by the sector in relation to the Bill.

This document serves not only to illustrate the concerns but, also, to demonstrate that self determination, the provision of mutually agreed solutions and the principle of real partnership can be brought into the Bill to make it better and implementable.

NILGA thanks both the Committee and the Department, in anticipation of being asked to assist in the enhancement and delivery of the Bill, in what is clearly the biggest change to local councils and local democracy for over four decades.

The Association looks forward to adding further solutions and evidence to the Committee in a dynamic, responsive manner, if it is enabled to do so.

Local government has a Vision and now aims to develop a Programme for new Local Government during 2014, to inform and enable participation within the next, overall, Programme for Government through the new NI Executive in 2016. In no small part, the finalised Local Government Bill should provide the room to enable this.

With the revisions to the Bill proposed NILGA remains confident that the Vision can be achieved for the public we serve, yet vigilant to ensure that progress is maintained.

A fully defined, demonstrable partnership which is citizen centred and more effective than it is now can create innovative, democratic and productive central / local government for all in Northern Ireland.

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