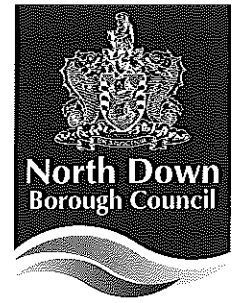


Your Ref:

Our Ref: 230609



Committee for the Environment
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

14 November 2013

Dear Sir / Madam,

Local Government Bill

Please find attached a submission that was considered today at the Council's Policy and Resources Committee.

I apologise for the lateness of the submission, but trust it is otherwise in order. Should you have any queries please contact Stephen Grieve on 028 9127 8066 or Stephen.grieve@northdown.gov.uk.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'T. Polley', written over a horizontal line. The signature is fluid and cursive.

**Trevor Polley
Chief Executive and Town Clerk**

Submission regarding the Local Government Bill to the Committee of the Environment

1. Introduction

1.1. The Council welcomes the opportunity to make a submission the Committee on the Local Government Bill.

2. General

2.1. In line with the modern governance arrangements the use of terms such as Chief Executive (rather than clerk) and employee (rather than officer) should be considered.

3. Part 1 Councils

3.1. The Council would seek inclusion in the Bill of provisions to allow the granting of City or Borough status along with the titles of 'Mayor' and 'Lord Mayor' as appropriate.

3.2. The council welcomes to need to create and maintain a 'constitution', but considers that Committee & Executive Terms of Reference and the scheme of delegation referred to Clause 10 (4) should also be included.

4. Part 2 Councillors

4.1. Clause 4 & Schedule 1 Paragraph 1(2). The removal of the bar on all employees of a Council could present problems for line managers, who may struggle exercise appropriate authority over an employee who is also a Councillor. This may lead to potential difficulties in the work force, all of which is highly undesirable.

5. Part 3 Positions of Responsibility

5.1. In addition to the three given methods, it would be preferable for Councils to be able to allocate positions of responsibility on their own broadly proportional basis.

5.2. Schedule 3 Part 2 – If vacancies or a new Position of Responsibility are to be filled using STV, it is likely that the largest party will win the election and therefore potentially skew the proportionality principle. It would be preferable to use direct replacement in the case of vacancies and one of the nomination methods for filling additional positions.

5.3. Council at present would use the word 'term' to mean the whole period between local general elections, as opposed to the period between annual meetings. A definition would add clarity.

6. Part 4 Discharge of Functions

6.1. Clause 11(3)(b) – Council would suggest that the list of functions which cannot be delegated is amended to include 'affordable borrowing limit' under Local Government Finance Act (2011) rather than 'borrowing money'.

6.2. Clause 11(3)(c) – Suggest that this is amended to allow delegation of the acquisition or disposal of small or technical corrections of land.

6.3. Clause 15 - Audit Committees currently provide valuable oversight and risk management roles within Councils. Best practice would dictate that these

committees have appropriately qualified external persons as members. Council considers that it would be advantageous to include specific provisions in the Bill to place these Committees on a statutory footing and give Councils the power to allow these members to have voting rights, if they considered that appropriate. This would align provisions for other external members to have voting rights as outlined in Schedule 6 paragraph 1(1) in respect of Overview & Scrutiny Committees.

7. Part 5 Permitted Forms of Governance

7.1. Council welcomes the range of governance arrangements although there may be need for capacity building for other Councillors and Management with regard to the advantages of the new forms of governance.

8. Part 6 Executive Arrangements

8.1. Clause 25(2) Simpler terms would be 'cabinet' and 'streamlined committees'.

8.2. Guidance regarding the qualification and seniority of the Scrutiny officer would be helpful.

8.3. In order to maintain a broad range of responsibility for members who are not members of an Executive Council would consider it advantageous to include provisions to allow the discharge of some Council functions by area committees, similar to those in place in England and Wales.

9. Part 7 Meetings and Procedures

9.1. Clause 44 Given the significance or sensitivity of 'Qualified majority' decisions Council suggests that it would be appropriate to include a higher quorum threshold for the making of these decisions, say 50% of council or committee membership must be present and voting. However, in the interests of efficiency of decision making 'qualified majority' decisions should not be the norm.

9.2. Clause 45 'Call in' procedures as drafted require greater clarity:

(1)(a) – the Bill could better define what 'proper consideration of the facts' means in practice and how significant does a 'fact' have to be before it merits the decision being reconsidered; &

(1)(b) – In the interests efficiency of decision making it is suggested that the wording be amended to 'disproportionately affect adversely a significant proportion of the inhabitants...'

9.3. Schedule 7 Paragraph 5(1)(b) In order to promote greater efficiency electronic notices should be specifically allowed.

10. Part 8 Access to Meetings and Documents

10.1. Clauses 43 – 45 It is not clear if these clauses also apply to executive arrangements.

10.2. Clause 48 This clause may become onerous on Councils in terms of resources required to keep physical copies of the range of papers. It would be of benefit if electronic copies would be satisfactory.

10.3. Clause 51(6) It would be generally understood that 'accounts' means the 'statement of accounts' as referred to Local Government (Accounts and Audit) Regulations. Clarity regarding this term may be required especially if 'accounting records' is what is intended.

- 10.4. Clause 52(2) This 'list' would possibly better understood as a 'scheme of delegation' and could include the 'terms of reference' for each committee, streamlined committee or executive if these are not included in the constitution.
- 10.5. Clause 52(1)(b)(ii) may have security implications should a member of security forces or allied staff be co-opted members of committees. Clarity is required as to whether these disclosures extend to committees formed under other legislation (eg PCSPs) and to the employees or office holders of community planning partners.

11. Part 9 Conduct of Councillors

- 11.1. Council welcomes the role of the Commissioner, however would feel that a mechanism for dealing with small or trivial complaints outside this, may be speedier and more cost effective. Council would also strongly advocate the need for an appeals mechanism should a complaint be upheld and for this mechanism go beyond simply an appeal on the grounds of a failure in the process.

12. Part 10 Community Planning

- 12.1. It is essential that community plans are integrated into the medium term financial plans of Councils and that expenditure is therefore 'affordable, prudent and sustainable'. This will inevitably mean there will a trade-offs between what is desirable and affordable.
- 12.2. Council supports the proposal for Councils to take the lead, along with Community Planning Partners, in Community Planning at a district level.
- 12.3. Clause 69(3)(b) This clause should include specific reference to making adequate resources available within the Partners' financial plans, in much the same way as should be required for Councils.
- 12.4. Clause 77 – Whilst Guidance in the form of "The Community Planning Foundation Programme" has been made available from the Department, further comprehensive Guidance on the proposed Community Planning Partners, the format of the Plan, proposals for review of performance and accountability are required as a matter of urgency in order for Councils to comply with this duty.
- 12.5. Clause 78 Provisions with regard to Departments should be much stronger – at least to have 'due regard', but it is desirable, in order to maximise the opportunities for success, to have them participate in the community planning process and commit resources to its successful fulfilment, if required.

13. Part 11 General Powers of Councils

- 13.1. These powers are welcomed although it is essential for Councils to have an input into the development of guidance in this area.

14. Part 12 Performance Improvement

- 14.1. Clause 87 There is an overlap in this clause with the Best Value Act, where councils are required to "make arrangements for continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness"?
- 14.2. Clause 96 It is essential that there is a close involvement with the Local Government sector to any guidance developed in this regard.
- 14.3. Clause 98 It is essential that the monitoring regime put in place is of collaborative and constructive nature. It is essential that if the Northern Ireland Audit

Office is to undertake this role that the organisation is appropriately resourced for the task at what is already busy time with regard to finalising annual accounts.

- 14.4. Clause 103 With regard to the powers of direction given to Departments it would be better to frame this in terms of working together before the option to 'direct' would be invoked.

15. Part 13 Partnership Panel

- 15.1. Council welcomes the inclusion of the Partnership Panel in the Bill and believes it will have a significant role to play in the interaction between the Central and Local Government sectors.
- 15.2. For the Panel to work effectively it is essential that it a 'partnership' and therefore it is imperative that there is equality between the Executive and Local Government sides. The tone of the legislation as drafted does not convey this sense of equality and partnership.
- 15.3. Clause 106 (4) Given that the First Minister & Deputy First Minister are to be given the power nominate Ministers, it would seem reasonable for Councils to nominate their members, rather than they be appointed by the Department following consultation. This would naturally be with reference to the principles of proportionality espoused throughout the Bill.
- 15.4. Provision should also be made regarding access of Councils & Departments to information and minutes of meetings.

16. Part 14 Control of Councils by Northern Ireland Departments

- 16.1. Council would have concern that compliance with this clause could be onerous and that there may be duplication of information requests. It may be beneficial for the Department to establish a protocol (in consultation with the Councils) to regulate or co-ordinate these requests.
- 16.2. Clause 108 & 109 – Council notes with concern that Councils will have no form of appeal against a finding of failure nor any requirement of a Department to engage with a Council to rectify the problem prior to such directions being made.