



11 November 2013

Ms Sheila Mawhinney  
Clerk to the Environment Committee  
Northern Ireland Assembly  
Room 416  
Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST  
BT4 3XX

Dear Sheila

**Response to Consultation on the Local Government Bill**

I attach the formal SOLACE response to the Local Government Bill. SOLACE has used this written response to set out briefly the issues which the Committee need to consider when scrutinising this Bill.

Given the many issues in this expansive piece of legislation SOLACE will be keen to discuss and submit additional evidence if the Committee so desires.

Yours sincerely

A handwritten signature in black ink, appearing to read "Liam", followed by a long horizontal stroke that ends in a hook.

Liam Hannaway  
Chairman  
SOLACE NI

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

<b>1.0</b>	<b><u>INTRODUCTION</u></b>
1.1	<p>SOLACE welcomes the opportunity to provide evidence to the Committee for the Environment on the ‘<i>Local Government Bill</i>’ and believes that the introduction of the Bill is a further step forward in the local government reform programme.</p> <p>SOLACE recognises that the Bill is enabling legislation and that much of the detail will be contained in subordinate legislation and guidance which is still in the process of being developed. It is imperative that this legislation (and associated guidance) is developed in partnership with local government prior to its introduction to the Assembly as there will be no opportunity to make amendments once that has occurred.</p>
1.2	<p>SOLACE 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 it more workable and promote a level of partnership working between Central Government and Local Government. This Bill is very bureaucratic and prescriptive with the Centre regulating and controlling the actions of Local Government. SOLACE would be open to discussing the revised approach in Scotland and Wales in a later submission to the Committee.</p>
<b>2.0</b>	<b><u>KEY ISSUES</u></b>
2.1	The following provides a summary of the priority issues as identified by SOLACE.
<b>3.0</b>	<b>Positions of responsibility (Part 3)</b>
3.1	SOLACE welcomes the prescriptive nature of the Bill in terms of how Members are selected for positions. However it may be beneficial to allow a Council, where all its members are content, to revise the groupings and apply local solutions or arrangements.
<b>4.0</b>	<b>Qualified Majority Voting (Part 7)</b>
4.1	<p>SOLACE would highlight that local government within Northern Ireland has operated for many years on the basis of a simple majority vote. It is accepted that qualified majority voting may be seen to be desirable as a form of protection for political minorities in circumstances where there is a sizeable political majority in a Council area. Where a council is equally divided politically, such a system may have an impact upon the decision making process and ability of councils to get things done in local areas.</p> <p>SOLACE would recommend that careful consideration is therefore given to the identification and detailed definition, through regulations, of the specific types of decisions to be subject to QMV and that further engagement and detailed discussions should take place with local government in this regards.</p> <p>SOLACE 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.</p>
<b>5.0</b>	<b>Call in (Part 7)</b>
5.1	SOLACE does not have any objections to the principle of “call in” being available, however, it

	<p>would be concerned with the current broad definition of the two circumstances in which call-in can apply (as set out at Clause 45 (1) of the Bill) and the potential for a high percentage of council decisions being subjected to call-in and thereby making effective decision making more difficult.</p> <p>SOLACE would therefore urge the Department to liaise with local authorities in order to develop and agree robust and clear definitions around the criteria for each of the two circumstances and to examine and detail the practicalities and process for implementing such procedures (e.g. procedure, format and time limits for any requisition to be submitted).</p> <p>SOLACE would also recommend that consideration is given to limiting the power to call in a particular decision/recommendation to a single requisition/challenge.</p>
<b>6.0</b>	<b>Conduct of councillors (Part 9)</b>
6.2	<p>SOLACE has consistently supported the establishment of a statutory ethical standards framework and a mandatory code of conduct for all Councillors and therefore welcome, in principle, the proposals set out within the Bill.</p> <p>SOLACE 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. SOLACE would seek further engagement with the Department in developing such frameworks.</p> <p>SOLACE would be concerned however that the legislation does not contain a specific appeal mechanism, other than through a Judicial Review. SOLACE would therefore recommend that a right of appeal is clearly set out within the Bill.</p> <p>SOLACE would further recommend that consideration be given to extending or creating a supplementary guidance to the Code of Conduct to cover the role of elected Members on public bodies.</p> <p>SOLACE would welcome, in principle, the enhanced role of the Commissioner to investigating complaints under the code, as this would ensure independence in the process. However, further detail of the procedures to be adopted by the Commissioner in undertaking any such investigations and the associated capacity and resource requirements around this would be helpful.</p> <p>Clause III provides the Department with the power to remove the provisions in relation to surcharge. In light of the mandatory code SOLACE would question why the sector needs a mandatory code of conduct and the power to surcharge.</p>
<b>7.0</b>	<b>Community Planning (Part 10)</b>
7.1	<p>SOLACE would fully support the proposal that local authorities lead and facilitate community planning and would view this as a key enabler for the integration of services to address local needs. Local councils are uniquely and ideally placed to lead and facilitate community planning.</p> <p>It would appear that the Community Planning model proposed in the legislation is largely similar to the Welsh community planning model. Whilst there is no objection to the adoption of the model, it is vital that the legislation and supporting guidance takes account of the specific circumstances in Northern Ireland. This model has been refined and improved upon and this legislation does not reflect these changes.</p> <p>In other jurisdictions (e.g. Scotland, Wales etc) there are significant regional support structures in place to support and promote local government improvement and community planning. There are currently no similar support arrangements within Northern Ireland and we would suggest that the establishment of a regional support structure to support improvement and community planning is included in the proposals.</p> <p>It is also important to note that local authorities within other jurisdictions have larger remits and</p>

	<p>deliver other key public services such as 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.</p> <p>SOLACE notes that the Bill make a clear distinction between what is required between 'community planning partners' who must 'participate in community planning and 'assist the council', and the NI Departments who will have 'a duty to promote and encourage community planning'.</p> <p>The effectiveness of the community planning process and the delivery of improved outcomes will be dependent on the strength of relationships between councils, departments and other public bodies. SOLACE 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. SOLACE would also suggest that consideration be given to the possible introduction of a statutory duty upon all relevant public bodies (including Gov Departments) and statutory agencies to participate and contribute to the community planning process.</p> <p>Furthermore, it would appear that there is no mechanism included in the Bill for redress for non-compliance with community planning duty. The Department has advised that this may be a role for the Partnership Panel but the Council would suggest that a more robust accountability mechanism is put in place.</p> <p>As referred to in Paragraph 1.2, SOLACE 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.</p>
<b>8.0</b>	<b>Performance Improvement (Part 12)</b>
8.1	<p>SOLACE would firstly highlight that any performance improvement regime should not be bureaucratic or take up scarce resources complying with what may be or may not be a useful exercise.</p> <p>SOLACE would advocate that any performance framework brought forward does not depart from existing legislative and statutory obligations of councils and is set within the context of community planning and providing councils with the appropriate flexibility to address local needs.</p> <p>SOLACE would recommend that the Committee should advocate for the ability for local government to have control over its own improvement, through a collaborative agreed approach, rather than having to deal with an outdated top-down legislative arrangement.</p> <p>SOLACE with NILGA, through the 'Case for Change' Report established the ICE Programme (Improvement, Collaboration and Efficiency) which was a methodology to improve the delivery of services in a more collaborative way. We believe this approach is a much more enabling approach to identify improvements and problems in Councils rather than the prescriptive approach in the Bill.</p> <p>The current policy shift in neighbouring regions is towards greater self-regulation and away from overly bureaucratic and centralised scrutiny/inspection, subject to the achievement of a set of agreed (with central government) targets or outcomes.</p> <p>Part 12 of the Bill, relating to Performance Improvement arrangements, appears to mirror much of what is contained in Part 1 of the Local Government (Wales) Measure 2009. It should be noted that in Wales there are 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</p>

	<p>included in the Bill.</p> <p>Presently the Local Government (Best Value) Act (Northern Ireland) 2002 states that a council 'shall make continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.' It is noted that the Bill would appear to depart from the Local Government (Best Value) Act (NI) 2002. Clauses 87- 89 of the Bill extend the areas which councils must have regard to in terms of improving the exercise of its functions in terms of: strategic effectiveness; service quality; service availability; fairness (equity); sustainability; efficiency and innovation. These objectives are identical to those specified in the Welsh legislation and do not necessarily reflect the Northern Ireland context.</p> <p>SOLACE would further highlight that there would appear to be tensions and potential duplication between these provisions and existing statutory duties of councils such as those expressed in S75 of the Northern Ireland Act 1998 and S25 of the NI (Miscellaneous Provisions) Act 2006 (duplicating the sustainability requirement). It is therefore recommended that the defined objectives are reviewed and further developed and defined in the context of Northern Ireland.</p> <p>In the absence of further definition on the performance objectives as set out, SOLACE would be concerned that there is now no explicit reference made within the Bill to a key aspect of Best Value - 'economy' - and, therefore potentially removing considerations around cost and value for money.</p> <p>SOLACE would point out that in considering each of the performance objectives individually and not collectively; there exist potential tensions between some of the objectives, for example, the interplay and balance between service availability and efficiency.</p> <p>Similar to the Best Value Act, SOLACE would recommend that the Department ensures that councils are enabled to consider and take into account a combination of and interplay between the performance objectives.</p>
<b>9.0</b>	<b>Local Government Auditor (Part 12)</b>
9.1	<p>If the arrangements specified in Part 12 of the Bill are taken forward, SOLACE would have concerns in relation to the capacity and resourcing of the local government auditor, which will need to be enhanced.</p> <p>SOLACE would also have concerns in relation to the proposed extension of the role of the auditor in terms of the auditing of councils' corporate and/or improvement plans, as this would potentially undermine the democratic process. SOLACE would recommend that the scrutiny of corporate plans should be undertaken by elected members who set the priorities for the organisation and should oversee delivery against these priorities.</p>
<b>10.0</b>	<b>A Partnership Panel (Part 13)</b>
10.1	<p>SOLACE would welcome the establishment of the Partnership Panel and believe that this would provide a further mechanism to enhance the engagement between central and local government. SOLACE would highlight the importance that the local government representation be nominated by the sector and agreed by the Department and should include representation from each of the new councils at a minimum.</p>
<b>11.0</b>	<b>Control of Councils (Part 14)</b>
11.1	<p>SOLACE would challenge the terminology "Control of Councils" as this seems to run contrary to a partnership approach being advocated by Central Government.</p> <p>SOLACE would be concerned that the power of intervention, previously provided to the DoE (but rarely used), is now extended to all NI Departments. Whilst recognising that specific functions will transfer from central to local government as part of the LGR process, the specific rationale for such provisions may need further clarification.</p> <p>SOLACE 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</p>

	<p>arrangement between central and local government. SOLACE would remind the Committee of the comments set out above in relation to Clause 103, and would again note that it will be important for guidance to be produced for government departments to ensure that they don't begin to micro-manage councils and do not place unrealistic reporting expectations on them.</p> <p>It is particularly noted that under this part of the Bill, there is no requirement to consult, either with local government in general, or with individual local councils.</p> <p>SOLACE would further recommend that the ability of other NI Departments to intervene must be restricted to matters pertaining directly to those departments who have transferred functions but retain the policy responsibility.</p>
<b>12.0</b>	<b>Conclusion</b>
12.1	<p>SOLACE would welcome the opportunity to work closely with the Department and the Committee for the Environment on the further development of all subsequent legislation and guidance.</p>