



Local Government Bill Committee for the Environment

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Introduction

The Rainbow Project (TRP) is the largest LGB&T organisation in Northern Ireland which seeks to promote the health and well-being of lesbian, gay, bisexual and/or transgender (LGB&T) people and their families.

We provide a range of services including information and support, education and training, counselling, personal development courses, health promotion, sexual health testing, advocacy and lobbying.

We recently undertook a programme of work, in partnership with local government officials and key stakeholders, which sought to develop working models for local government to begin engaging effectively with local LGB&T communities.

It is important that Councils recognise the needs of LGB&T people within their Council area, particularly when they are carrying out their equality and good relations duties under Section 75 of the Northern Ireland Act 1998.

The requirement to recognise the needs of LGB&T people will become ever more important within and throughout local government in light of the Local Government Bill, which will include the transfer of additional responsibilities to local authorities from central government, the establishment of new functioning structures and the adoption of new standards and ethics.

It is in that context that we offer comment on the Local Government. The priority of The Rainbow Project is to ensure the inclusion of the most marginalised groups and citizens in the new local government structures. It is our view that the best model of community planning will be delivered with a process that seeks to get people around the table that are not normally around the table, to determine the widest and best possible view of what is required in a local community.

In this context, we also endorse the submission of Community Places on behalf of the Community Planning Manifesto. Any comments on clauses in this submission that conflict or are different to comments in the Community Places submission on the same clauses, take precedence and reflect the views of The Rainbow Project. All other comments in the Community Places submission are endorsed. The Community Places response is enclosed in Appendix I.

Comment

For the purposes of this response, The Rainbow Project submits comments on the following clauses:

Clause 56 – Code of Conduct

Clause 70 – Community Planning Partners

Clause 76 – Community Involvement

Clause 77 – Guidance

Clause 92 – Performance Indicators and Performance Standards

Clause 56 – Code of Conduct

The Rainbow Project welcomes that there will be a new Code of Conduct for Councillors, along with a framework and role for the Commissioner’s Office.

The Code of Conduct must be underpinned with protections for those designated under Section 75 (1) of the Northern Ireland Act. Any action or decision made by a council official or councillor which impacts negatively, with no attempt at mitigation of those negative impacts, should be considered a breach of the Code of Conduct. It is right and proper in a democratic society that those that are afforded the privilege to represent the people are held to a higher standard and expected to represent all people with respect and show dignity.

Recommended new Clause

56 (3) The principles will be underpinned by fairness and equality, taking account of those categories enumerated in Section 75 (1) of the Northern Ireland Act 1998.

Clause 70 – Community Planning Partners

Community and Voluntary organisations will be important stakeholders in the Community Planning process. While we acknowledge that the local authority and the Departments and Statutory agencies on the community planning partnership will be primarily, but not exclusively, responsible for providing the resources to deliver the Community Plan, the development of the plan is equally as important as delivering the plan and because of this it is important that the community and voluntary sector are listed as community planning partners.

It is also important to ensure that the representatives of the community and voluntary sector on the community planning partnerships reflect communities, including those ‘hard to reach’ or ‘invisible’ communities.

Recommended new clause

69 (2) (d) and act in co-operation and conjunction with community and voluntary bodies from the outset of the process, with consideration for hard to reach groups, as enumerated in Section 75 (1) of the Northern Ireland Act 1998.
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Clause 76 – Community Involvement

Community involvement is a key ingredient in community planning. It is crucial that it reaches out to everyone living in a council area – including those often described as “hard to reach”. Legislative provision elsewhere seeks to ensure this by encouraging a proactive approach to engagement. However Clause 76 (1) simply requires a council and its community planning partners to ensure that “arrangements are made so that persons have the opportunity to express their views and have them taken into account”. The passive and

overly bureaucratic language used is unlikely to encourage good practice. More active language should be used to ensure that councils and community planning partners actively seek and encourage participation in the process of community planning.

In Scotland the words used are “take suitable action to encourage” while in England the phrase “seek the participation” is utilised.

Recommended amendment to clause 76 (1)

<p>76 (1): A council and its community planning partners must seek the participation of and encourage persons mentioned in subsection (2) to express their views and ensure that their views are taken into account in connection with:</p>
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| <ul style="list-style-type: none">a) Community planningb) The production of a community plan for the district; andc) The review of community plans. |
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Clause 77 - Guidance

We welcome that the Department will issue statutory guidance. **The Rainbow Project believes that it is necessary for Councils to be legally required to engage with community bodies, individuals and all public and community service providers.** The Departmental guidance for community planning which sets out quality standards for community engagement, provision for local and thematic community plans as well as steps that ensure that the community planning structures must be fully representative of all community bodies.

The community bodies represented within the engagement structures must be underpinned by Section 75 of the Northern Ireland Act 1998, including the LGB&T community. In order for community planning to be effective in delivering for communities, the structures must allow marginalised and hard to reach communities the opportunity to engage and be involved. This opportunity must, in the first instance, be underpinned by the statutory guidance.

This guidance should cover those areas covered in the Community Places submission and from The Rainbow Project’s perspective, particularly the following:

- How community planning partners from community and voluntary bodies are identified;
- Engagement Quality Standards for Community Planning;
- In line with council’s role as a ‘facilitator’ of community planning: **proactive approaches to engaging and reaching out to the ‘harder to reach’** e.g. low income groups, rural communities or LGB&T Communities;
- Developing thematic (issue based) and local Community Plans;
- Outcomes based approach to measure progress and improvement; and
- Promoting equal opportunities; and

Additional Advice Notes should be provided to develop a shared understanding and greater consistency in the implementation and practice of community planning and to share

learning and good practice. A useful resource is the BIG Lottery Fund supported Community Planning Toolkit available at www.communityplanningtoolkit.org

Preparation of Guidance

The Bill requires that before the Department issues guidance it must consult councils and – (a) such associations or bodies representative of councils; (b) such associations or bodies representative of officers of councils; and (c) such other persons or bodies, as appear to the Department to be appropriate. Specific reference should be included to consulting with community and voluntary bodies to ensure that the views of all those who are essential to the practice and implementation of community planning have an opportunity to shape and improve the process.

Recommended amendment to clause 77 (2) (c)

77 (2) (c) such other persons or bodies, including community and voluntary bodies, as appear to the Department to be appropriate.

Clause 92 – Performance Indicators and Performance Standards

We welcome that the Department may introduce factors (“performance indicators”) and standards (“performance standards”) as we believe these are important to the effectively delivery of community planning. We also welcome the performance indicators and standards as (a) strategic effectiveness, (b) service quality, (c) service availability, (d) fairness, (e) efficiency and (f) innovation. This can be more proactive however, rather than ‘may’ the department should (using the term ‘will’).

Recommended amendment to clause 92 (1)

The Department will by order specify – (a) Factors (“performance indicators”) by reference to which a council’s performance in exercising functions can be measured; (b) Standards (“performance standards”) to be met by councils in relation to performance indicators specified under paragraph (a).

However we are unclear as to whether the specification of performance indicators and standards only requires one of the specified areas (a – f) or all of them at least once. The view of The Rainbow Project is that the performance indicators and standards must include all the above areas and community planning partnerships should not be able to for example improve service quality to the detriment of fairness, or make services more available to the detriment of service quality.

It is important that the indicators and standards cover all the listed areas.

Recommend amendment to clause 92 (3)

In deciding whether to specify performance indicators and standards, and in deciding them, the Department must aim to promote improvement of the exercise of the functions of

councils generally and in particular in terms of the following –

- (a) strategic effectiveness;
- (b) service quality;
- (c) service availability;
- (d) fairness;
- (e) efficiency; and
- (f) innovation.

Conclusion

The Rainbow Project welcomes the opportunity to provide comment on the Local Government Bill. We would request the opportunity to provide the committee oral comment about any aspect of the submission.

November 2013

Call for Written Submission to the Environment Committee

We welcome the introduction of the Local Government Bill and the opportunity to engage with the Environment Committee. We support the overall aims and principles which the reform process seeks to achieve. Our comments and recommendations below largely focus on the introduction of the new power of community planning and while we are broadly supportive of the Bill we have identified a number of issues where improvements could be made to enhance and strengthen the Bill for the benefit of local and central government, people and communities.

Our proposals seek to achieve the following objectives:

- (a) To provide a framework for real and meaningful partnership work between councils, statutory agencies and communities;
- (b) To enable community planning to reach out to and engage people in all communities;
- (c) To focus the work of community planning on outcomes which make a meaningful difference and on improving the co-ordination and delivery of public services in communities and constituencies.

Our response includes proposed amendments to the following clauses:

Clause 69: Community planning;

Clause 70: Community planning partners;

Clause 71: Production of community plan;

Clause 73: Review of community plan;

Clause 74: Monitoring;

Clause 76: Community Involvement;

Clause 77: Guidance;

Clause 78: Duties of departments in relation to community planning;

Clause 81: Interpretation;

Clause 82: General Power of Competence;

Clause 90: Consultation on improvement duties;

Clause 92: Performance indicators and performance standards;

Clause 93: Collection of information relating to performance;

Clause 98: Audit and assessment reports; and

Clause 106: Partnership Panel.

Clause 69: Community Planning (definition, partners etc)

Improving Delivery of Public Services

One of the most valuable strengths of effective community planning is its ability to improve the co-ordination and delivery of public services in local areas and constituencies. This is the fundamental aim of Community Planning in Scotland and Wales. However the Bill makes no reference to improving public service provision. Minister Durkan's comments on introducing the Bill and the Explanatory Memorandum do however make specific reference to the aim of improving service provision. The Bill should thus be amended to align with this emphasis.

The equivalent legislation in Scotland describes Community Planning as a process by which the *public services provided in the area of the local authority are provided and the planning of that provision takes place.*

Recommendation: Amend clause to read

69 (2) (c) identify actions to be performed and functions to be exercised including those related to the planning, provision and improvement of public services by the council and its community planning partners for the purpose of meeting the objectives identified under paragraphs (a) and (b).
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Community Planning Partners

Community and voluntary bodies will be important stakeholders in the delivery of Community Planning. They have experience, knowledge and assets which they can offer, access to resources not available to statutory agencies and experience in providing local projects, services and facilities. It is thus vital that they are active participants in developing and delivering community planning. To facilitate this it will be essential that they are included from the outset of the process. The legislation in Scotland uses the term co-operation to include community bodies. The Bill should do likewise and be amended as follows.

Recommendation: Insert new clause
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69 (2) (d) and in co-operation and conjunction with community and voluntary bodies from the outset of the process.

It is clear that the Community Plan will provide an overarching framework (the 'plan of plans') to set the vision and agenda for the work of the 11 new councils, their community planning partners and representatives from community and voluntary bodies. In order to ensure appropriate commitment to the implementation of the community plan and to achieve improved outcomes long-term objectives and actions should be identified, agreed and performed.

Recommendation: Amend clause to read
69 (2) (a) identify and agree long-term objectives for improving-
69 (2) (c) identify and agree actions to be performed and functions to be exercised by the council and its community planning partners for the purpose of meeting objectives identified under paragraphs (a) and (b).

Linking the Community Plan and the Local Development Plan

We are fully supportive of the introduction of a statutory link between the community plan and the local development plan (plan strategy and local policies plan) in Clause 69 (5). The integration of both processes can help achieve more sustainable and cohesive communities. This statutory link between the two processes should result in a more coherent and responsive approach to the identification of need and delivery of services, evidence based policymaking, improved connections between regional, local and neighbourhood priorities and reduced delay, uncertainty and unnecessary overlap. Opportunities will exist to undertake joint community consultation activities, monitoring, review and to develop a shared evidence base. This will help to minimise consultation fatigue and delay, make best use of resources and more closely align the aims and priorities of both plans. Furthermore, in a society emerging from conflict and which remains deeply segregated along economic, social, and cultural lines it provides a platform to address issues of multiple deprivation, contested space and community cohesion. It is interesting to note that the Republic of Ireland is also highlighting the important connection between spatial and community planning in their reform proposals.

Clause 70: Community Planning Partners

Naming the Partners

In other jurisdictions the statutory partners are listed in the primary legislation along with a provision for changing the list as circumstances require at a later date. In light of the fact that our new councils will have fewer powers than councils elsewhere and that more statutory partners will thus be involved it is all the more important that the primary legislation reflects this. The Bill should list the Community planning partners who are under a duty to participate.

Recommendation: Amend clause
70 (1) List Community planning partners

We welcome the requirement that the Department must consult with those it considers “appropriate” when it is determining who the partners should be. In the interest of certainty, consistency and clarity the Bill should specify that this will include community and voluntary bodies.

This will ensure that the views of all those who are essential to the practice and implementation of community planning have an opportunity to shape and improve the process.

Recommendation: Amend clause to read

70 (3) (c) such other bodies and persons as the Department considers appropriate, including community and voluntary bodies.

In naming (as we suggest) the partners the Bill should also allow for additional partners to be identified and added as required to successfully implement community planning.

Recommendation: Insert new clause

70 (5) The Department may by order modify subsection (1) above by adding a reference to any eligible body.

Clause 71: Production of a Community Plan

A specified timeframe should be set for when the first community plan must be published. It will be important that councils and community planning partners are given the necessary time to produce, in conjunction with community and voluntary bodies, a robust and quality community plan. Each of the 11 Councils first community plan will provide the blueprint for further community planning within their district. As such, it is essential that all those involved have the time to produce a robust and comprehensive community plan. At the same time it is also important to ensure that the community plan is produced without unnecessary delay and in a timely fashion. The introduction of a timescale for the production of the first community plan therefore has a twofold role. We recommend that a community plan should be published no later than within three years of the formation of the new councils.

Recommendation: Amend clause to read

71 (4) (a) must be produced as soon as is reasonably practicable after community planning for the district has reached the stage described in subsection (2) and no later than within three years of the formation of the new councils;

Clause 73: Review of Community Plan

We welcome the provision in the Bill (Clause 76) for community involvement in the review of a community plan. It is widely recognised that good practice in consultation includes the provision of feedback which indicates how the views of people have been considered. Thus the council and its community planning partners should report on the means of consultation including a summary of

the outcomes of this consultation. It will be essential that community involvement is consistent and robust across the 11 new council areas.

Recommendation: Insert new clause

73 (2) (a) (iii) report on means of consultation with the persons listed in 76 (2) including a summary of the outcomes of consultation.

In order to ensure that a review of a community plan is conducted in a timely fashion a time scale of six months should be introduced for when the plan should be published after a review.

Recommendation: Amend clause to read

73 (6) The council must, as soon as is reasonably practicable after becoming subject to the duty under subsection (4) and within six months, publish an amended community plan.

Clause 74: Monitoring

Making a Difference

Elected representatives, Councils, communities and ratepayers will all wish to ensure that community planning is having an impact at constituency and local area levels. Monitoring of progress in delivering the community plan and reporting on its impacts will be important to all those involved. This should be reflected in the Bill and is a key focus of community planning in Wales and Scotland and increasingly in the Republic of Ireland. An outcomes based approach provides councils and their community planning partners with a framework to both identify and measure progress made towards meeting the objectives of the community plan. It also helps with the better alignment of regional, council and local priorities.

Recommendation: Amend clause to read

74 (3) (a) progress towards meeting the community plan objectives and outcomes for its district.

Clause 76: Community Involvement

Community involvement is a key ingredient in community planning. It is crucial that it reaches out to everyone living in a council area – including those often described as “hard to reach”. Legislative provision elsewhere seeks to ensure this by encouraging a proactive approach to engagement. However Clause 76 (1) simply requires a council and its community planning partners to ensure that “arrangements are made so that persons have the opportunity to express their views and have them

taken into account". The passive and overly bureaucratic language used is unlikely to encourage good practice. More active language should be used to ensure that councils and community planning partners actively seek and encourage participation in the process of community planning.

In Scotland the words used are "take suitable action to encourage" while in England the phrase "seek the participation" is utilised.

Recommendation: Amend clause to read

76 (1): A council and its community planning partners must seek the participation of and encourage persons mentioned in subsection (2) to express their views and ensure that their views are taken into account in connection with:

- d) Community planning
- e) The production of a community plan for the district; and
- f) The review of community plans.

Clause 77: Guidance

We welcome that the Department will issue statutory guidance. Guidance will be essential in ensuring that effective and consistent community planning processes are developed across the 11 new council areas.

This guidance should cover:

- The aims and principles of community planning;
- How the community plan 'fits' with other plans – acting as 'the plan of plans'
- How community planning partners from community and voluntary bodies are identified;
- Engagement Quality Standards for Community Planning;
- In line with council's role as a 'facilitator' of community planning: proactive approaches to engaging and reaching out to the 'harder to reach' e.g. low income groups or rural communities;
- The role of community support networks in supporting engagement with communities;
- Implementation of the statutory link between the community plan and the local development plan;
- Developing thematic (issue based) and local Community Plans;
- 'Added value' of community planning;
- Feedback to those who have participated in the community planning process;
- Outcomes based approach to measure progress and improvement;
- How a council determines when a 'degree of consensus' has been reached;
- What community planning partners can do if they feel 'consensus' hasn't been reached;
- Ability for council areas to work together;
- Promoting equal opportunities; and
- General Power of Competence: good practice examples of its use; how it can be implemented to respond to the needs identified through the community planning process and how it can effectively respond to previously unidentified needs or gaps in the community plan.

Additional Advice Notes should be provided to develop a shared understanding and greater consistency in the implementation and practice of community planning and to share learning and

good practice. A useful resource is the BIG Lottery Fund supported Community Planning Toolkit available at www.communityplanningtoolkit.org

Preparation of Guidance

The Bill requires that before the Department issues guidance it must consult councils and – (a) such associations or bodies representative of councils; (b) such associations or bodies representative of officers of councils; and (c) such other persons or bodies, as appear to the Department to be appropriate. Specific reference should be included to consulting with community and voluntary bodies to ensure that the views of all those who are essential to the practice and implementation of community planning have an opportunity to shape and improve the process.

Recommendation: Amend clause to read

77 (2) (c) such other persons or bodies, including community and voluntary bodies, as appear to the Department to be appropriate.
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Clause 78: Duties of Departments in Relation to Community Planning

Departments will play an important role in the success of community planning. They will wish to be active and positive contributors to the implementation of community plans which have been developed by locally elected representatives and others. The wording in the Bill includes the term ‘aim to’. This passive and conditional language is unnecessary and unhelpful and should be removed. Ministers will also wish to play an active role in ensuring the public services they are responsible for are, through the community planning process, improving all the time and addressing the priorities in each council area. Like their counterparts in Scotland, England and Wales they will wish to ‘promote and encourage’ community planning (as the legislation in these jurisdictions allows).

Recommendation: Amend clause to read

78. So far as it is reasonably practicable to do so, every Northern Ireland department and Minister must -

(a) in exercising any function which might affect community planning promote and encourage community planning.
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Departments must have regard to the content of a community plan in relation to the exercise of that Department’s functions and agree with councils and their community planning partners how the Department can assist in the implementation of the Community Plan.

Recommendation: Amend clause to read

78 (b) must have regard to the content of a community plan in relation to the exercise of that department's functions and agree with councils and their community planning partners how the Department can assist in the implementation of the Community Plan.

Clause 81: Interpretation

This clause allows for community plans to be referred to by alternative names. If utilised this provision will undoubtedly lead to confusion and loss of identity of the new process. It is unhelpful and unnecessary. The Bill should aim for simplicity and the avoidance of confusion.

Recommendation: Delete clause

81 (4).

Clause 82: General Power of Competence

We support the introduction of the General Power of Competence and recommend that guidance should be provided to aid understanding of the scope and implementation of the power (See Clause 77: Guidance). This could include the contribution of the new power to the achievement of the community plan objectives and outcomes.

Clause 90: Consultation on Improvement Duties

The Contribution of Partners

The Bill requires councils to secure continuous improvements across all of its functions including that of community planning. This is welcome. However the Bill does not recognise that improvements in community planning can only be achieved if the statutory partners play a full and meaningful role. The Bill should enable partners to do so in relation to two aspects of improvement: consultation with service users and provision of information to the councils on progress.

In relation to consultation the Bill requires councils to consult with its own service users when reporting on improvements in community planning etc. In the context of community planning this should extend to the statutory community planning partners.

Recommendation: Amend clause to read

90 (1) (b) persons who use or are likely to use services provided by the council and its community planning partners.
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In assessing and reporting on improvement issues Councils will wish to consider the views of residents and communities. This will ensure that the views of all those who are essential to the practice and implementation of community planning have an opportunity to shape and improve the process.

Recommendation: Amend clause to read

90 (c) persons appearing to the council to have an interest in the district including those specified under section 76 (2).

In order to enable councils to assess improvements in community planning (as required by the Bill at clauses 87 and 89) a council's community planning partners will need to play a supportive role and provide inputs. This should be enabled in the Bill by the insertion of an appropriate new clause:

Recommendation: Insert new clause

90 (2) It is the duty of each community planning partner of a council to provide such information as the council may reasonably require in order to enable it to comply with its duty under section 93.

Clause 92: Performance Indicators and Performance Standards

This clause enables the department to specify performance indicators and standards. Before doing so the Department will wish to ensure that stakeholders such as community and voluntary bodies are consulted. This will ensure that the views of all those who are contributing to the practice and implementation of community planning have an opportunity to shape and improve the process.

Recommendation: Amend clause to read

92 (2) (c) such other persons or bodies, including community and voluntary bodies, as appear to the Department to be appropriate.
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Clause 93: Collection of Information Relating to Performance

In his statement to the Assembly when presenting the Bill the Minister confirmed the Executive's view that council led community planning provides a statutory framework to deliver on the objective of improving outcomes for everyone. It is thus important that this is explicit on the face of the Bill. An outcomes based approach will help councils and all their partners to set clear goals and milestones in order to make a difference. It will also provide a framework to measure progress and join up regional, council and local priorities.

Recommendation: Amend clause to read

93 (c) (i) measure the improvement in the outcomes of its performance during a financial year by reference to those self-imposed performance indicators which are applicable to that year.

Clause 98: Audit and Assessment Reports

While the new power of community planning will be led and facilitated by local councils its effectiveness is a responsibility of all the community plan partners designated under clause 70. Departments will also play an important and supportive role. All will wish to play their role in achieving successful implementation and in contributing to the work of the local government auditor as set out in clause 98. The Bill should be amended to facilitate this.

Recommendation: Insert new clause
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98 b (iii) that the community planning partners and Departments have discharged their duties under Part 10 Community Planning.

Clause 106: Partnership Panel

We support the introduction of a partnership panel consisting of Ministers and elected representatives to discuss matters of mutual interest and concern. This will provide an important mechanism for discussion of community planning issues including the inter-dependency of local and regional issues. The Panel would be enriched by extending the membership to include people from local community and voluntary groups who are active participants in community planning at council level.

Recommendation: Amend clause to read
106 (3) (a) councillors appointed by the Department and representatives appointed by the Department of community and voluntary bodies as defined by section 76 (3).

Appendix 1

Minister Durkan's Statement

The Minister refers to: It will also introduce “council-led community planning to provide a statutory framework for *councils to work in conjunction with other public sector service providers to deliver on our objective of improving outcomes for everyone*. The delivery of community planning will be supported at council level by the introduction of an updated performance improvement framework that focuses on the delivery of continuous improvement in service delivery against more strategic aspects

Local Government Bill Explanatory and Financial Memorandum Overview

Part 10: Community Planning.

This part introduces council-led community planning to provide a framework for councils to work in partnership with other *public service providers* in their district to develop and implement a vision for the economic, social and environmental well-being of their district and those living or working within it. Engagement with the community is a key feature of the community planning process.