



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Local Government Bill:
Northern Ireland Local Government
Association

5 December 2013

NORTHERN IRELAND ASSEMBLY

Committee for the Environment

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Ms Pam Brown (Deputy Chairperson)
Mr Cathal Boylan
Mr Colum Eastwood
Mr Tom Elliott
Mr Ian McCrea
Mr Ian Milne
Lord Morrow
Mr Peter Weir

Witnesses:

Councillor Myreve Chambers	Northern Ireland Local Government Association
Alderman Arnold Hatch	Northern Ireland Local Government Association
Mr Derek McCallan	Northern Ireland Local Government Association
Councillor Sean McPeake	Northern Ireland Local Government Association

The Chairperson: I welcome Derek McCallan, chief executive of the Northern Ireland Local Government Association (NILGA); Alderman Arnold Hatch; Councillor Sean McPeake, who is no stranger to us; and Councillor Myreve Chambers. You are all very welcome. I am sorry that we have kept you for quite a while. I saw you sitting in the Public Gallery. We have quite a few briefings today. Derek, you will give us a five- or 10-minute briefing, and then we will take questions.

Mr Derek McCallan (Northern Ireland Local Government Association): Thanks, Madam Chair, but, as always, I will defer to the elected members, with our president commencing. We are conscious of the time, but, because this is the biggest Bill affecting local government since 1972, we have presented you with an issues paper to impress on you the particular issues.

Alderman Arnold Hatch (Northern Ireland Local Government Association): Thank you, Chairperson, for the opportunity to give some evidence, albeit that time is short today. The overarching purpose of our evidence is to encourage the Committee to cut out any unnecessary bureaucracy and control from the Bill and to enshrine the intent of the vision for local government by creating strong local government and ensuring that councils can self-manage as a democratic part of government that is accountable to the citizen. We have already given detailed written evidence. I will speak on Parts 1 to 6 of the Bill and lead the discussion on Part 3.

Last week, we highlighted the Bill's highly prescriptive nature and the desirability of enabling more flexibility in how members may be selected for positions of responsibility and committee membership. We fully support the principle of proportionality but believe that local solutions that are politically

acceptable, fully inclusive and agreed on should be permitted. We also noted that there is a need for clarification on committee chairs and on the relationship between schedules 3 and 4 on the prescription of outside bodies. Should the Committee so wish, we can further discuss the issues that we previously highlighted as arising in Parts 1 to 6 and possible solutions. After all, NILGA has become an improvement tool as well as an advocate for local government, should the Department care to co-design things with us.

In many respects, the crux of what we are saying today is that we need very clear guidance on how to deal with the issues. The Minister cited

"programmes that impact across a number of district electoral areas" — [Official Report, Vol 88, No 2, p64, col 1].

as one type of decision requiring a qualified majority vote (QMV). That could be interpreted as relating to many decisions that a council makes, and that is simply too wide and too vague. Therefore, we need some clinical guidance. NILGA encourages the Committee to ensure that the Department engages fully with local government in drafting those particular standing orders to explain exactly what we mean by something that impacts across district electoral areas (DEAs). It is not clear what that means or what it might be.

On the issue of call-ins in clause 45, there is a critical need to agree and clarify the definition of the requirements for call-in and to identify formally the range of circumstances to which call-in applies. We believe that the Department must be fully open to changing those arrangements through a formal review process. If use of call-in seems to be causing concern in the new councils, we need to be able to review the situation. The vision is to create a strong, empowered local government, not to imprison it in open-ended regulations.

Time constraints today mean that we would welcome an opportunity to come back to the Committee. Alternatively, may I suggest that a subgroup of the Committee take a day out, hosted by NILGA, and go through the Bill line by line. We are forced, because of your time constraints, to cut back on what we want to say and on allowing you to ask pertinent questions. Therefore, we invite you to consider that possibility early in the new year so that we get the time to go into the nitty-gritty of some of the clauses.

The Chairperson: Thank you. That is a good idea, and I will consult members to see whether they would be interested in forming a subgroup.

Mr McCallan: Madam Chair, with your indulgence, we will ask Councillor Chambers to continue as we work within your time constraints.

Councillor Myreve Chambers (Northern Ireland Local Government Association): NILGA is keen for the Committee to consider the financial impact and administrative burden that Part 8 of the Bill will have on councils. The main issue that requires solving for local government in this is in clause 50, which deals with access of the public and press to committees and subcommittees. NILGA would like the Committee to note that it is fully supportive of openness and transparency in government, and that includes openness and transparency in councils. We place value in the ability of elected members to have early policy discussions within subcommittee meetings, which are minuted but to which the public and press, by default, do not have access. Minutes of those subcommittees would be published and presented for open committee meetings. NILGA's view is that that allows for freer discussion and debate. To extend clause 50 to subcommittees would be damaging to the democratic process. NILGA strongly recommends that clause 50 be applied to committee meetings but not those of subcommittees.

Part 9 of the Bill deals with the conduct of councillors. Last week, NILGA led on the discussion about the code of conduct, which we strongly support. We look forward to its publication but again raise the issue of the need for a specific appeal mechanism, which I think is vital, that should be enshrined in the new legislation, as well as the need for a procedure for minor complaints. NILGA members are also keen that the Committee explore a wider approach to conduct; for example, to utilise and apply the mechanism for elected members on policing and community partnerships and other formal partnerships prevailing in councils that are crucial to safer communities and the local economy. Just because these are different governing departments does not mean that good conduct benchmarks cannot be transferred. That would be a good use of time and money, with good outcomes.

Part 10 addresses community planning, and its introduction will be of great benefit to councils and the communities that they serve, especially taken alongside other and existing transferring powers. It is good that the foundation programme, which was jointly developed with local government, has now been issued. To ensure that community planning can succeed in the Northern Ireland context, we believe that a number of key issues must be addressed.

There is widespread concern in the local government sector that the proposed legislation is not strong enough to compel partners to participate fully, ensuring investment of time and budget by senior decision-makers in order to fulfil the identified objectives. Although 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. Those resources should be found from all participating partners. Colleagues in Scotland with long-standing 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 be strengthened through the insertion of appropriately worded clauses — for example, at clause 69(3) — to provide the required reassurance to councils that partners will have to attend, sending senior officials, and, where required, to align their budgets accordingly. For example, it could explicitly state that the determination and implementation of a community plan would require specified and relevant partners to invest the human and financial resource to achieve a key performance target within the plan. That would be a good approach and would put plans on a businesslike footing, with the community as custodians, through council, of a local public purse.

There is a particular issue with how Departments have been included in the Bill. At present, Departments are tucked away under a miscellaneous heading rather than grouped with councils and partners that also have duties. The wording of the proposed duties of Departments needs strengthening to ensure that all parties that are relevant to the success of community planning have strong obligations placed on them. A reciprocal relationship with performance improvement is vital in a central government/local government partnership relationship.

Overall, community planning is, in many respects, an opportunity for councils to have responsibility for many of the things that we do not have the delivery power over. We are not in England, Scotland or Wales. We do not have one quarter of the public purse but one twentieth. Therefore, do not, please, give us weak community planning wording that places a responsibility on councils and a get-out clause for Departments and agencies. Thank you very much for listening.

Councillor Sean McPeake (Northern Ireland Local Government Association): I will touch on three issues: key performance improvement, the partnership panel and the proposed control of councils by Departments. The performance improvement model proposed in the Bill is largely taken, as you know, from the Welsh model, without consideration being taken of the differences between councils in Wales and those in the North. We believe that, since councils here are largely financed through the rates system rather than through a central government grant, the approach outlined in Part 12 is too top-down. Additionally, we are concerned about the objectives specified in clauses 87, 88 and 92, in that there are already duties to report on fairness and sustainability. The list of duties, as lifted from the Welsh legislation, must be re-examined to be relevant to us and to reflect the duties with which councils are already expected to comply.

The selective approach that has been taken to drafting Part 12 is also of serious concern to us. In the Welsh model, there is a requirement on directorates to work with the councils prior to interventions to do with performance improvement. We encourage the Committee to examine the Welsh model to ensure that the more constructive, collaborative ethos in Wales is replicated here.

The Committee is also encouraged to examine the policy proposals made by policy development panel B (PDP B) to the strategic leadership board in 2009. I understand that a memo was sent to you yesterday or the day before about the partnership approach to the development of future guidance and performance indicators. The Welsh model and other more top-down approaches to performance management in other regions have provoked criticism and have been largely abandoned in favour of a self-managed approach. That, coupled with a dedicated improvement body, would be less bureaucratic and less costly and would not take resources out of the front line and into the machinery of over-regulation. NILGA says that to adopt a system that is perceived to have failed elsewhere will be disastrous for the transformation of local government here. Ask Welsh local government and the Wales Audit Office.

Briefly, on the matter of an improvement body for local government, we suggest that that is urgently required. That is being dynamically developed and is timed to be in place in line with the new councils taking full effect by April 2015. NILGA seeks to complete the consultation on that, which is currently well developed, and to report to the Committee before or during February 2014. We recognise and support the work that has already been done by Dr Clive Grace, commissioned by Belfast City Council, earlier this year. It requires that a performance framework for councils be constructed as a whole system, taking into account not institutions but policies and the capacities of the sector. The improvement body could be funded through subordinate specified bodies legislation made under the Local Government Finance Act 2011. We enquired about that and understand that a working group has already been set up. We particularly request that the Committee consider the scale of powers provided to the auditor and Departments on performance improvement and ensure that a proportionate approach be taken. Council performance improvements must be self-managed.

Clause 103 must be amended to ensure that a Department can intervene in the work of a council only on matters pertaining to the policy function of that Department. The clause could be redrafted to echo the content of the supportive approach that is designed for Welsh Ministers, as previously highlighted.

Clause 97 in particular over-empowers the local government auditor. A policing role for the auditor is inappropriate, and the clause reduces the democratic role to a bureaucratic function. It is ultimately up to the electorate to decide whether a council is successful. There is potential benefit to the local government auditor being asked to provide assurance on the implementation of an agreed framework, but we suggest that it is inappropriate of the auditor to comment on work in progress or to make predictions about future workings of councils.

On the work of the partnership panel, which we touched on last week at the stakeholder event, we very much welcome the proposal. We reiterate our concern that the wording in the Bill makes no reference to strategic, regional, local government membership. Therefore, we suggest that clause 106 be amended to ensure that the association representative of district councils is included in the membership and operational arrangements for the panel, which, after all, is the case in Scotland and Wales. The Bill, as with the present mechanism, diminishes the role of the elected member. No regional body is a bad democracy. We also recommend that the clause enshrine the ability of local government to nominate its own representatives through an agreed appointment process.

Finally, NILGA is strongly opposed to the word "control" in Part 14, the title of which is "Control of councils by ... Departments". We believe that Departments should work with councils alongside the partnership panel rather than attempt to control. We will seek specific consultation on Part 14. The levelling and widening of control over councils as expressed in the Bill is costly in time and money to both parts of government and enshrines a punitive process rather than enabling outcomes.

The Chairperson: I forgot to say to all members and to you that the session is being recorded by Hansard.

Mr McCallan: Thank you for that. As I wrap up on behalf of the members of the association, let me express our gratitude not only for today but for the analysis and input that Committee members have made to something that is important for local democracy. Not since 1972 have we had a Bill placed in front of the people here that requires being studied forensically and got right. Our view, Madam Chair, is that local government is perhaps the most public-spirited area in public service in NI. Members will work across constituencies for constituents on any matters, even those that they are not responsible for, and, from the perspective of the Bill, we believe that our input is really important and that the legislation should be co-designed with us.

In conclusion, I think that we have to look at the outcome of the Bill rather than at the minutiae. It should be a triumph of local democracy, and, at present, a lot of it is good. We are a constructive organisation and a solutions provider, but some of the Bill will divide, control and diminish local government. Our public spiritedness and professionalism are limitless, but our capacity, resources and patience are not. Thank you for your time. We are happy to take questions.

The Chairperson: Thank you very much indeed, Derek, and the councillors. You have been very proactive in helping us to look at the Bill.

The issues that you raised today were all voiced at last week's stakeholder event. We heard that you think that the Bill is top-down, over-bureaucratic and too prescriptive and that you think that we do not have same power here, so the Welsh model does not apply. The departmental officials, mainly Ms

Linda MacHugh, responded. How do you feel about her responses? Were you satisfied? Were you reassured by them? Do you want to make any comment to the Committee about the Department's responses to your queries last week?

Mr McCallan: I think that more work is needed, and that work involves cooperation, trust and partnership. We do not have all the right answers, but we have the capacity to provide solutions to make things better. There are enhancements to the Bill that would help local communities, local democracy and local investment. We are acceptant of the fact that the Department is required to do its function. We want to be enabled to do ours. The NILGA members may wish to strengthen that comment.

Councillor McPeake: There are many strands to what we have talked about today. The more that you talk about it, the more issues come up, and that was very relevant at the stakeholder event. I would welcome further engagement if you were to take up the offer of coming to meet us so that we can tease out all the issues. It is only through taking that holistic approach that we will get a desired Bill, which is one that will work for all of us.

Mr McCallan: In answer to your question, Madam Chair, the feeling that I get is that there is an attitude problem. There seems to be a reluctance to share, work together and work with, which are the words used in the Welsh and Scottish models. It seems that we will regulate and we will control. It is an overall attitude. We are not satisfied at this point that that has changed, despite the many meetings that we have had with the Department.

Mr Weir: Thank you for the presentation. The key points focus clearly on some of the issues. Without prejudice to the position that the Committee takes, I have seen NILGA's full submission, and where there are problems, they are reasonably fixable, but there is a lot of detail in it. The suggestion of a subgroup from the Committee doing the equivalent of the guts of a day with you to go through the Bill line by line would be very helpful.

I have a couple of comments to make before I ask a couple of questions. The appeal mechanism and the code of conduct seem to be a no-brainer and need to be put in place.

First, on direct regional representation on the partnership panel, do you envisage that level of amendment making specific reference to a regional body without necessarily naming NILGA?

Secondly, the issue of control of councils under clause 107 was raised, and Councillor McPeake said that that is, at best, fairly excessive. You referred to the fact that there is a potential amendment in connection to that. On the performance improvement proposals, you mentioned the cut-and-paste job from Wales. I wonder whether there has been any discussion with the Department around alternatives.

I will get all the issues out in one go. In Alderman Hatch's initial comments, he talked about proportionality and finding a local solution. Is that on the basis that, if there were an agreed solution, presumably, with a sufficient level of buy-in for QMV, that would be presented to the Department for ratification? It strikes me that if you have something that everybody is agreed on, it seems a bit perverse to say, "No, you cannot have that".

On the QMV side of things, as you said, there is concern if things are too widely drawn on, for example, the capital investment side and projects crossing DEAs. Belfast, in particular, has made the point that virtually any capital project that it does will have an impact on a range of DEAs. That could become a factor. Do you think that QMV should be restricted purely to circumstances in which it is used as a call-in mechanism? On that point, if you have that mechanism, there must also be some device that qualifies whether a call-in is legitimate. In the legislation, it is, essentially, the chief executive getting the approval, or otherwise, of a lawyer. The concern is that that could create very different responses.

The final point is for Councillor Chambers. You mentioned community planning and the need to strengthen that provision. Do you have any thoughts on how that could be strengthened? It is legitimate to say that it needs to be strengthened to ensure that it works and that the appropriate people are at the table. My concern is that no matter what is in the legislation, a lot of community planning will depend on the willingness of groups to show up. There may be a legal requirement on somebody to be there, but what about the extent to which the Housing Executive, the local health trust etc buy into it? I wonder how we will crack that problem, because I am not sure whether there is a

form of words in legislation that can automatically do that, although it might help. What do you have to say in response to that range of questions?

Mr Boylan: Thanks, Peter, for putting that on record on behalf of us all.

The Chairperson: Have you left anything for anybody else, Peter?

Mr Weir: If I have not, it will be a short session, Chair.

Councillor Chambers: My experience of bodies coming on board in partnership with local government has not been very good. Even the PCSP, for example, has not been very good. Maybe two of three or two of six turn up. They neither have an input nor do they appear, with the result that you are left with the elected members and the independents.

We will be heavily audited and performance managed. Community planning is massive, one of the biggest areas in which local government will be involved. However, there is nothing in the legislation that says that you "must" do this, "must" do that or "shall" bring your money to the table, or whatever the case may be. We will be audited on our performance in managing community planning, but it cannot be left to local government to fund it, and that is my fear. The public know that community planning is coming to local government, and their expectations have been built up to such an extent that they believe that it will be the panacea for everything. Unless there is cooperation on revenue and time with the Departments and outside bodies, community planning will, in my view, be a Cinderella of the Bill.

I think that this has to be legislated for: they have to be there, and they have to bring their resources. I had a conversation with a person from a statutory body, whose view was, "If the reform of local government had been brought in when it was supposed to have been brought in, things may have been different. We have produced plans for up to 2018. Do you think that we will change our plans when community planning comes to local government?" I said, "No, we don't expect you to change your plans, but we could at least be part of them and influence what you do in the future."

The Chairperson: Can you align your plans with the Departments' existing plans?

Councillor Chambers: The problem is the different timescales. The South Eastern Education and Library Board's plans for our new area could differ from what is required, but, because of all the changes, it will not change direction. Unless some reciprocal arrangement is made, and the Bill is designed to cater for such issues, community planning will be a Cinderella, but it should not be. Everybody should grasp this opportunity and take it forward, because it will define what their area is like in the future. That is what is required rather than the piecemeal attitude of, "We can't do that, because we are already doing this", or "You can't do that, because we're already doing something else". It is up to the community to decide, with everybody else, what it wants. Unless everybody is on board with their resources as well as their time, it will not work. I do not know whether that answers your question.

Mr Weir: Yes.

Councillor McPeake: I will follow on from Peter's point. This is where I see the worth of the partnership panel coming into play. Some sort of mechanism would cajole, force, call it what you like, the Departments to align their plans to local plans and to report back if that was not happening the way it was supposed to. More specifically, I want to address the wording of the Bill. We are not saying that NILGA has to be prescribed in legislation; our suggestion is to match what is, I am told, currently in place for the Department for Employment and Learning (DEL). Within its framework, it is stipulated that it must ensure that an association that is representative of district councils takes part in —

Mr McCallan: That relates to employment and takes relevant legislation from elsewhere and puts it into tailored NI activity.

Mr Weir: Does DEL use a particular form of words? If so, could that be forwarded to us?

Mr McCallan: There is a particular form of words. As you say, today is not really about finding the words, but they do exist in statute in NI, and that is what we are keen to do. We are keen to make

sure that anything good in the Bill is kept and anything that requires improvement is modified. That should not be done by edict or chastising, but by making it to a completely good Bill rather than having a curate's egg that is good in parts.

I am trying to respond quickly to some of the many questions raised. Mr Weir made a point about clause 97. In particular, we think that the role of the local government auditor should, perhaps, be taken literally: it should audit what is being done. Trying to future-proof, predict or say that we think that local government should be doing this or that redefines the role of the local government auditor and starts to bring in, for example, the need for a performance framework for local government.

Interestingly, chief executives and elected members are delighted that there is ministerial and departmental interest in the performance of local government. We just need to have a system that will reflect the national and local performance priorities in the Programme for Government. Let us not build in so much rigidity and so many processes that the time of intelligent people will be taken up with performance management that is way over the top and of no consequence to ratepayers or taxpayers. A framework could simplify that, which is what Councillor McPeake was referring to when he mentioned the extract from Clive Grace's performance and accountability report. Auditors do different things in other jurisdictions: let us be contemporary about this.

I reiterate our president's comments about qualified majority voting and call-in. There was a long-standing, cross-party piece of work, which was almost like Jon Snow doing the election statistics. I mention that not to be facetious but because people looked at the political demographics and the flexibility and the tolerance levels of a cross-party approach, and they came to an agreement. If they came to an agreement and the political demographics are still there, why tinker with that? It was professionally, politically and passionately delivered in 2009-2010. All we are saying is that, if there is a construct in place that shows consensus, let us not play about with it.

Mr Weir: There were two specific issues with the call-in. First, to be fair, there is no agreed or worked-out position that somebody will determine the legitimacy of a call-in. Do you have any thoughts on whether the one formula offered in the Bill is the right one or whether there is an alternative?

Secondly, there is the question of definition.

Alderman Hatch: That is really what we are asking for.

Mr Weir: From a definitional point of view, it is about trying to ensure adequate minority protection without creating gridlock. The issue that you raised about there being too wide a definition for QMV seems to identify it as an area of concern.

Alderman Hatch: We raised this question again today because we see it as one that needs to be looked at closely and clarified so that it does not cause councils to be unable to function. In the midst of all the transformation, councils must be able to deliver services and make decisions. So that is what we have called for, and I agree with you that it needs to be looked at and specified carefully.

My one further point is on the listing of bodies that are partners in community planning. Councils have been given the function of leading, but leading a Department such as the Department of Health or the Department of Education will not be easy — look at the Scottish model. It could be 10 years before the programmes of work align; it will not happen overnight. So we need to keep the expectations of the community under control. It will take a lot of talking to gain the trust of those big organisations because, as Myreve said earlier, we are delivering only one twentieth of the Northern Ireland Budget, so this has to be proportionate. If local government, which is the small player in the budgetary field, is required to observe performance measures, the same rules should apply to the Departments' performances. If they fail to perform, we will find it difficult to perform our community planning role.

Mr McCallan: I am sure, Madam Chair, that that will come out eventually in the review of Departments and the role of the Northern Ireland Assembly, which we look forward to participating in further. However, there is one opportunity to solve this. One of the great things about shadow council is that you can test things. In the period from 23 May to April 2015, there is an opportunity, perhaps through informal all-council activity, to ensure that the sort of point raised by Mr Weir about guidelines on what can constitute legitimate call-in can be tested and illustrated. We have the capacity to do that. I know that the Department is as exercised as we are about getting this right in time for April 2015. However,

there are things that can be placed in a Bill, and there are things that can be tested only in real time — we want to do both.

The Chairperson: I recall that Ms MacHugh said that there would be guidance on and a set of criteria for, for example, eligibility for call-in. Is that what she said?

Mr Weir: There must be a definition of eligibility. There is also a separate issue that, however it is defined, whether through legislation or regulations, ultimately someone must take a decision. When councillors sign a bit of paper that says, "We want this decision called in", it could be 100% legitimate, vexatious or somewhere in between. Someone outside the council must make a decision on whether it fits the criteria. It is a question of identifying the appropriate person or body to make that decision, and that is important. There might not be a better solution, but I am not entirely comfortable with the legislation as it is now: it states that it is enough to get a town clerk to send it to a lawyer. However it is changed — for example, by getting the opinion of a panel of lawyers — the problem is that there could be, depending on who is asked, 15 different solutions and different interpretations in different areas. I can see that leading to problems.

Mr Eastwood: Thank you very much for your presentation. There is quite a lot in it and, unfortunately, we do not necessarily have the time to go through all of it. I would very much welcome an opportunity, early in the year, to do that. All of us should be open to improving and enhancing the Bill, particularly community planning, much of which can be strengthened. I have had some experience on Derry City Council of trying to get outside bodies to come to committees, in preparation for RPA, that were specifically set up to deal with such issues. We were not always successful in getting people to come and engage in the way that we would like, although some were better than others. However, that is beside the point, and we can go through all that detail at another time.

Specifically on public and press access to subcommittee meetings, I understand that there are occasions when you need to be able to do things outside the full glare of publicity. That is very important. However, I am slightly concerned that we might get to a stage where subcommittees would be doing a lot of the work — almost all of it — and then standing committees would merely be rubber-stamping it. I do not know what you think about that. There has to be some way to ensure that there is as much public scrutiny as possible while allowing a bit of privacy when required. Have you any thoughts on how that can be engineered?

Alderman Hatch: At the moment, anything that relates to staffing issues must go to committee, for obvious reasons. So I imagine that you could set down areas for which it was acceptable to meet in committee without the public or press present. Commercially sensitive information, such as a new contract, should be discussed in committee. However, the result of that discussion should go to the full council for ratification.

Mr McCallan: Supplementary to that, I am aware that the Bill has current specifications, which outline that personal, confidential or legal issues can be discussed outwith media and public access. Our issue is more to do with the governance of councils and outcomes. Councils are not homogeneous — they never should be, otherwise the local aspect of government is lost — and a number of them use the subcommittee process, perhaps for elected members for the first time, to discuss how to deal with, say, spatial planning, or a particular locality issue. All I am saying is that we should be careful that we do not punitively overburden councils to an extent that it prevents the local democratic thinking that ultimately leads to decisions.

We must add a caveat. I think that it was Councillor Chambers — forgive me if I am wrong — who pointed out in our presentation that we are on record as wanting openness and transparency. Decisions can be recorded, and they can be on the infamous Twitter, the internet or available in hard copy in libraries as soon as possible. This is not about withholding information; it is about the ability to discuss.

Mr Eastwood: There is definitely room for compromise. My concern is that, as often happens, much of the work will be done in these committees and then, all of a sudden, the public will be presented with a decision, without knowing much about how that was reached. I think that there is a halfway house between your position and that currently in the Bill.

Councillor Chambers: In our council, we have a few subcommittees, which are set up only for a specific purpose. Usually, they perform scoping exercises when the council is considering doing something. The subcommittees do not make decisions; they bring their findings to the main standing

committee, which, in our council, is the full council anyway. We do not have separate committees, so every member of our council has an input to everything.

What concerns me is that the prescriptiveness of the legislation would not allow those scoping exercises to be done by a small number of councillors in order to bring a report to the standing committee. I have no problem at all with issues being dealt with in public. I am more concerned about the scoping mechanisms in subcommittees. You cannot have the public present when discussing, for example, where the next leisure centre will be, because it may not even come to fruition. It may be cost-prohibitive. You do not know what the situation is, but, if the public are there, talk of a new centre will be in the stratosphere before you even get home.

Mr Eastwood: I completely understand that, and I have no fixed view on it.

Councillor Chambers: The issue is for subcommittees.

Mr Eastwood: We need to protect against the potential for everything to be done behind closed doors, but I understand where you are coming from.

Councillor Chambers: If the legislation is too prescriptive, it will prevent the council getting on with its normal day-to-day business.

Mr Elliott: Thank you for your presentation. It was very good and helpful, and I congratulate you on that. I agree with quite a lot of it — not all, but a vast amount. I do not know how we will get through the Bill, Chair, because we do not have the time today. Even if we spent a full day on it, I do not know whether we would get through it all.

Councillor Chambers: We can spend many days on this. *[Laughter.]* We want to get it right.

Mr Elliott: Derek, I am not sure that everybody would agree with your statement on the public-spirited nature of government. I am not disagreeing with you, but others may not think that.

Mr McCallan: You are quite right. I agree with your sentiment that they may not. I have seen people doing fantastic work on, for example, gritting. You would expect me to advocate the best in local government, and there is a lot of the best.

Mr Elliott: It was only a comment.

First, can you see all councils reaching a common agreement on the qualified majority and call-in, which are detailed in clauses 44 and 45, particularly on aspects required to go into standing orders?

Secondly, you mentioned the substantially increased costs of RPA. Have any councils carried out additional work to assess the cost to each individual council?

My third point is the concern about the preservation of local identity. With much larger councils, that will be quite difficult. Do you have any specific proposals on that?

Finally, does NILGA have any comment or view on the report of the remuneration panel?

Mr McCallan: I think that there will be common agreement. Look at the work done just two or three years ago on QMV and call-in. It was forensic, it was cross-party, it required a lot of man hours — or people hours, Chair — and agreement was reached. So, with minor local variation, I think that having common standing orders across the emerging 11 councils is achievable. It will, however, require legwork and brain work to get it right.

Common agreement was also reached in, for example, the north-east of England, where the Association of North East Councils looked at a code of conduct. Everyone worked together to achieve a code of conduct across the 12 unitary authorities, which used to number 25. It is one of the reasons why we get together regionally and produce a sectoral response. It is one of the added values of a local government association. I think that it can happen.

Mr Elliott: Do you see that being led by NILGA, Derek?

Mr McCallan: The members would prefer to use the word "coordinate", because we inform rather than lead our councils. The councils lead us, so we would coordinate it.

Eventually, a substantive, cross-party, all-council piece of work will emerge, and it will have examined not only the actual cost but the forecast cost of RPA. That has to work its way through the regional transition bodies as urgently and dynamically as possible, but significant work has already been done.

Our members may want to answer on the preservation of local identity and remuneration. I would say that there is a little bit of work to do. Consensus is building that whatever has been presented by the remuneration panel might require a little enhancement. However, I will, as always, pass to our members to talk about identity and so on.

Alderman Hatch: On identity, I understand where Mr Elliott is coming from. It is such a large geographical area. I can see community planning probably kicking in in order to tackle that problem in that, if a community has had issues, the elected members from that area could form a group or provide a platform for those issues to be addressed. The last thing that we want is a proliferation of parish councils spinning out of the 11 councils. However, that could happen. In France, which is supposed to be very democratic — although, when you scratch the surface, it is, perhaps, not — there are representative bodies and elected councils with very small populations. We are now in a situation where the populations are very much the same and very much larger. Local accountability will be difficult. Take, for example, my area of Armagh, Banbridge and Craigavon. They are three entirely different types of councils with different assets. You would like to think that you could deal with that; take the best out of it and ensure that the identity of the ecclesiastical capital of Ireland is maintained, together with that of other areas. That will take effort. One way of dealing with it is that small communities should have their issues and problems dealt with by the elected members in a district electoral area (DEA).

As regards remuneration, I think that I commented that the panel reflects the importance that it puts on councillors, which is very little.

Councillor McPeake: Chair, some of us were at the political reference group earlier in the week when that was tabled for the first time. We have not yet had the opportunity to discuss it through NILGA, although we will. I suppose that it will also be led by the National Association of Councillors (NAC), which will have a big input. It is early days yet. There is a lot more work to be done, shall we say.

Mr McCallan: Our programme for local government in 2014 will assuage some of the issues that have been raised about local identity. What are we doing? We are developing in partnership a programme for local government. Why are we doing that? Because, if your timetable is met, there will be a new Programme for Government shortly after that. This time, we would like local authorities to be part of the new Programme for Government, rather than be referred to as an RPA item by which 26 councils become 11. There is a challenge for us, and for you, with regard to local democratic accountability, to refer back to Mr Elliott's identity issue. It is hugely important. Where there has been success elsewhere, let us bring the good from there and tailor it to NI.

The Chairperson: That is a good point. In producing the Programme for Government, we need to take into account local government issues, policies, aspirations and targets as well. Are you OK with that, Tom?

Mr Elliott: Yes. I have a number of issues, Chair; however, I would prefer to leave them.

Mr Boylan: Thank you very much for your presentation. Other members have already asked most of my questions. However, I noted a couple of points. Although, as the Chair said, we are talking about the Programme for Government, the Bill is vital. We need to go through it line by line to ensure that we get it right and that we empower councillors to represent and better their communities and to continue to do so in future. That is what this is all about. I noted what Alderman Hatch said. I welcome the comments about Armagh because there are different dynamics and diversities that we need to manage sensitively in community planning in particular.

With regard to subcommittees, I recognise that you need the opportunity to represent the people and to bring things to the table and report back, as you have said.

Councillor Chambers: It is flexibility.

Mr Boylan: Absolutely. I understand what one of the members was trying to say, and I am glad that you raised that important point. I want to make three points. You mentioned attitude, which I would like you to expand on, because we need to get to the bottom of it. We need to start on a fresh footing. Arnold, it was you who mentioned that issue. I would like you to expand a bit more.

Alderman Hatch: Yes, I find that we are continually trying to claw a situation back from a position taken by civil servants. For example, we were told that an area, I am not sure where, would need new legislation. Through work with our colleagues across the water, we found out that the legislation is already here. It is the Finance Act 2011, which specifies district councils as a representative body of two, three, or more, councils. The legislation was already there, but we had to find that out for ourselves. There was a reluctance to share that with us. We would like the Department's officers to be willing to say, "This is what we think. What do you think?" before it is written down and dictated to us. That is what I mean by attitude.

Mr Boylan: That is grand. It is new legislation — the most major piece of legislation for local government in 40 years. There is a lot of good stuff in it. A great deal of good work has been done already, but there are a few things that we need to look at.

Has consideration been given to whether a review should be initiated of all the issues and processes on community planning and holding partners to account to ensure that they are playing their part?

Councillor Chambers: To be fair to local government, there should be a review of the agencies taking part, because, at the end of the day, performance-management obligations will be set in the legislation on local government, which we will have to meet. If we do not meet them, and if we do not carry out all our functions, we will be subject to whatever penalties or surcharges there will be.

The same should apply to the representative and agency bodies that are coming to deal with community planning. If they do not perform, it will reflect on local government. There should be a review into the aspects of their cooperation, more than anything else.

Mr Boylan: That is the point that I am trying to make.

Councillor Chambers: There definitely should be, because, as I said, we will be performance-managed on all the aspects that are coming to local government, one of which is community planning. If only two or three of the partners are operating the system in the correct manner, the system will not work properly. Therefore it should have a review.

Councillor McPeake: Rather than a big-bang review, I see it as a constant review, mainly with the work of the partnership panel. If the partnership panel and the local government sector work together with Ministers, they will be hearing things consistently; therefore it should not come as a surprise if things are not working out as planned. The partnership panel should be meeting periodically with up-to-date reports of how the key players are working, or not, in different areas. In my view, that should be an ongoing review.

Mr Boylan: I was only throwing out the question about a review; I did not get into the detail of how long it should be, but you agree with the concept.

Councillor Chambers: Yes, definitely.

Mr Boylan: I have two quick points. I agree with expanding the commissioner's role. An issue that I have, and which we have noticed in other legislation, is the clear guidance and guidelines. You will agree that they need to be set in stone and to be robust. Are you getting the feeling that that is what is coming through the legislation?

Councillor Chambers: No.

Alderman Hatch: That is the very point: we do not get a sense of it until it has been presented to us. We would rather have a discussion about it and say, "This might work. That is a good idea. That is not a good idea". However, that is not happening.

Councillor Chambers: I am not sure that we are being listened to. We bring a lot of valid points to the table, but the civil servants seem to have a very illogical way of thinking. Getting them to define

the call-in procedures in our discussions with them was like pulling teeth. We cannot get them to define anything. Call-in procedures, and what you can call in against, need to be defined in the Bill rather than be left to anybody to define. I know that local and central government can be very bureaucratic, and, coming from the private sector, I know how bureaucratic it is. However, it will slow things down even more if there is not real definition in the Bill of what can and cannot be done.

Mr McCallan: To encapsulate, I would not specifically refer to attitude. What we have is a suite of mechanisms that have to be looked at and participated in. I have no issue whatsoever with the talent, expertise and willingness of Departments and departmental people in trying to get solutions. However, it seems as if a labyrinth of processes has been put in place that are almost like cement, and you know that there is a different way. If we could, we should lift the lid on this and look at it afresh. None of this is insurmountable, and all of it can be done on time. That is the attitude that I am referring to. Let us enable rather than inform one way. There are solutions that will require us all to be positive.

The Chairperson: We also have to bear in mind that this is primary legislation; it is enabling legislation. There will be a raft of regulations and guidance coming through. This is months before the statutory transition committees (STCs) and all the rest of it. There is always a consistent message from you that you have not been consulted properly, that there is not enough communication between Departments and NILGA, and that there is a top-down approach.

Mr McCallan: There are 12 Departments mechanically administering 11 local administrations, which takes the democracy out of the two-tier elected member role. That should not be driven by institutions or processes. The outcome should demand that we de-institutionalise this and have a healthy participative two-tier partnership.

The Chairperson: Working together, yes.

Mr Boylan: You mentioned primary legislation, Chairperson. Whether it is enabling legislation or not, we should have foresight of subsequent legislation. We need to have a better understanding of it to decide what we need to do. Sometimes, in legislation that we have done in the past, it has been a catch-up issue. We now have an opportunity to look at that.

The Chairperson: OK. I need to bring the discussion to a conclusion. I am aware that the NIPSA representatives have still to make their presentation. There seems to be quite a bit of interest from members for a subgroup. Peter looks puzzled at the suggestion of a subcommittee.

Mr Weir: No.

The Chairperson: OK. I will make a suggestion. We are going into recess, and plenaries will not start again until 13 January. Our first committee is on Thursday 9 January. If we put in an extra meeting on Tuesday 7 January, perhaps we can take up your suggestion of looking at the Bill clause by clause.

Mr Weir: May I make a slightly different suggestion? I have no problems with having an extra meeting. To be fair, if we are going to tease out these issues, it would probably make sense to have a subgroup meeting with NILGA and have a half day or a day's session on the clause-by-clause. It may be something that we need to come back to next week, but, if we are having an extra meeting, in part to agree a subgroup or, alternatively, if the whole Committee is sitting, we need to have a relatively small number of people in the room to work through the issues. I do not know whether we could maybe look at agreeing something next week to have a meeting scheduled. I am happy enough if there were to be an extra session in early January or whenever. I detect a lack of enthusiasm, that some might not be quite so keen, but I know people will have a wee bit of reluctance to see anything eating into the period when we are in recess. I think that, to be honest, if there are a few of us there, it may be easier to schedule it prior to our going into full session rather than trying to fit round dates, because once you get to the first or second week of January, things start kicking in full-throttle. It might be a wee bit easier to get a day set aside during that Committee week for a sub-group meeting. On the mechanics of that, if something could be worked up and then a proposal brought back next week at our last meeting, we could consider it then.

Councillor Chambers: May I suggest that it be open to the full Committee to come or as many members as wish? The more contact with members of the Committee, the happier we will be, because it is only through the interaction of the Committee and ourselves that we will get the Bill right.

The Chairperson: I sense that there are more people interested than just a subgroup. If it is a special meeting open to all members; whoever is free or interested can turn up. I am not calling a meeting to set up a sub-committee.

Mr Weir: I think that something should be arranged. I appreciate that, technically speaking, we are all sitting around the table, but I think that something that has a smaller table may be more productive. Although I would not exclude anyone on that basis.

Mr Elliott: As I said earlier, NILGA provided a very good paper and obviously has a significant interest in this, as you would expect. We need to be careful as a Committee, because if we are going to meet NILGA a couple of times, you could have requests from other organisations and some organisations that we will not get to meet at all. I have had requests from a couple of organisations to meet over the Local Government Bill, so all I am saying is that, as a Committee, we need to be careful. I mean no disrespect at all to NILGA, because I think that it is doing a very good job and has provided very good information. I am just trying to protect us.

The Chairperson: It is a special group; it is a representative group.

Mr Weir: I appreciate Tom's point, but I think the other point where there is some distinction is that it is the representative body representing the 26 councils, so we are having a different sphere on this issue —

Mr Elliott: Peter, you will get people saying that they are ratepayers and that they are paying for local councils, for local government reform, so they are equally entitled. That is all I am saying.

Mr Weir: It is a representative body; that puts it in a different sphere, with the best will in the world. Unless we are going to get all 1.8 million people in Northern Ireland and individually quiz them on that, there are lots of elements —

Mr McCallan: They are all outside at the moment, Chair, the 1.8 million other than ourselves.
[Laughter.]

Mr Weir: On a rotating basis, maybe we can.

Mr McCallan: Whatever the Government's requirements, we will comply with them, Madam Chair, but whether on potential climate change or the ecclesiastical capital of Ireland, we are here to do business with you.

The Chairperson: Surely. We will have a word with members and perhaps set a date, and I will come back to you to confirm if that is OK. Thanks very much indeed.

Alderman Hatch: I wish you all a very happy festive season. It may not apply to yourself, Madam Chair, but it may well do. The culture here is to celebrate Christmas. We wish you a productive 2014.

The Chairperson: Yes, and the same to you: merry Christmas.