



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Local Government Bill: NIPSA

5 December 2013

NORTHERN IRELAND ASSEMBLY

Committee for the Environment

Local Government Bill: NIPSA

5 December 2013

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:

Mr Pat Baker	NIPSA
Mr Bumper Graham	NIPSA

The Chairperson: I welcome Bumper Graham, assistant general secretary of the Northern Ireland Public Service Alliance (NIPSA) and Pat Baker, the chairperson of the NIPSA local government panel. My sincere apologies for having kept you waiting for so long. It has been a long meeting with several presentations. You have waited there so patiently. We are really pressed for time. I will give you five minutes and then open the meeting to questions from members.

Mr Bumper Graham (NIPSA): Thank you very much, Madam Chairperson. We are the trades union side lead, and Pat is the chair of the local government reform joint forum, which is the body established by the Minister to deal with the industrial relations process.

Our interest is primarily in the 10,000-plus staff who work in local government and in the transferees, who will come mainly from the Civil Service but also from the likes of the Housing Executive. In that area, the Northern Ireland Public Service Alliance represents people in all sectors.

Local government has often said that it wants to be the employer of choice; we would like to see that become the case. I have to say that, at present, local government employees see themselves being treated as third- and fourth-class citizens; they are certainly the poorest paid of public servants. They are being treated abysmally by the Department of the Environment in the RPA process, and they face great concerns for the future, as we see local government in the vanguard of the privatisation of our public services. Morale is at an all-time low. I have been a trades union official for 35 years, so I am used to the Maoists of the public service, the senior civil servants who believe in perpetual revolution. We never seem to get one reform done before another is visited upon us.

Peter Hain, when Secretary of State, said at the outset of RPA that it would be a short, sharp refocusing of our public services. Yet, a decade on, we still have not seen RPA rolled out. That is doing considerable damage to the morale of local government workers and those who are due to transfer to local government.

The system established by the Department of the Environment is a myriad labyrinth of working groups, working parties, task and finish groups, etc, which is not doing the industrial relations process any good. The one award that it would win would be the Sir Humphrey Appleby award, if any of you are aficionados of 'Yes, Minister'. He would give it five stars, or a gold award, as a way of confusing and avoiding having to deal with the trades unions. That has been our greatest concern. We have, by and large, been frozen out of much of the work that the DOE is leading. For instance, we raised issues in relation to the finance working group, and the senior civil servants looked at us quizzically and asked why the trades unions would be interested in the finance working group. We said that the converging of rates determines the amount of money that councils will have for service delivery, and service delivery — with all due respect to our colleagues from the Northern Ireland Local Government Association (NILGA) who have just left — is not done by councillors. It is done on behalf of councillors by the staff of local government. Likewise, with respect to the subgroup that is looking at debt, debt has to be repaid. That has an impact on rates, and that has an impact on staffing. Therefore many areas of the work that is going on impact and impinge upon staff, and we feel that we have been frozen out.

I listened with considerable sympathy to the points made about the process of subordinate regulations. I would like to have thought that, as we have been at this since 2002, there could have been a single, all-embracing Bill rather than this hotchpotch of legislation. We had a major row recently due to the lack of consultation on the statutory transition committees and particularly about regulation 18, which broke the terms of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and breached the Northern Ireland Executive's guiding principles on the protection of staff. We sit here, only six or seven months away from shadow councils, without a clue what power and authority shadow councils will have and what that will mean for staff. The important thing in this is that staff are continuing to try to deliver the services that are provided by local government. They will have to move seamlessly into providing the new and additional services. It raises very big concerns about the capacity and resources that will enable them to do that. As a trade union, we want to see effective delivery of our public services. We want to see public services being delivered in a better way than they are currently being delivered. Therefore, we broadly welcome the principles that underpin the likes of community planning.

The concerns set out in our submission can be broken down into four sections. There are concerns about the constitution/standing orders etc. I think that Tom suggested that there should be a single set of standing orders. We would endorse that. We would expect to be consulted on that with regard to how they may impinge upon staff. One of the problems that we have had with the current arrangement is that councils go into committee and make decisions that are detrimental to staff and those decisions are applied with no scope for the industrial relations process. Two examples that I can give immediately are the debacle of the Greenvale Leisure Centre in Magherafelt, which the local government auditor has commented upon, and, indeed, the current situation with Exploris, where, had we been consulted, we would have been able to tell Ards Borough Council that there was no way that the private sector company would be able to fulfil its obligations under TUPE and pensions. Those decisions were taken behind closed doors. It was a breach of industrial relations law in how it affected staff. We want to see a more open and transparent approach to engaging with staff on issues.

We also have concern in and around the directions and improvement area. Again, I sympathise — I did not think that I would often sympathise with NILGA, but on this occasion, I do — with the potential of one central government Department setting one set of directions or improvement notices and another doing likewise and the two of them pulling in opposite directions. We see some scope for DOE to, at least, provide some sort of coordination role in that.

Clearly, the big issues for us are the protection and interests of staff. In relation to clause 121, we certainly see a need for the staff transfer scheme to be embodied in the legislation in order to give full and absolute protection to the interests of staff in terms of continuity of employment, pensions etc. Another issue that relates to the Bill is that the previous Minister of the Environment, Alex Attwood, give us a firm commitment that he would provide that the local government reform joint forum staff severance scheme would be the scheme in the Bill. We need that because we do not want a situation where cluster 1 offers employees the absolute statutory minimum, cluster 2 offers the Rolls Royce, and cluster 3 decides, "Well, if we like the look of your face, we might give you a pretty good package. If we do not like you, tough." We believe that there is a need to enshrine the local government reform

joint forum staff severance scheme into legislation to ensure that people are treated equitably. However, I have to say that, clearly, we do not wish to see any great use of a voluntary severance scheme. I keep telling members that it is my job to disappoint them when it comes to their asking for voluntary redundancy. We do, however, see a limited need for such a scheme.

An issue that was raised by the Minister in the Second Stage debate was the potential for council employees to be elected to the employer council. There has been no engagement with the trade unions at all on this point, and we consider this to be an area where there is great potential for conflict. If a relatively junior-graded member of staff were elected as a councillor, where would they know to take their employee hat off and put their councillor hat on? That could raise all sorts of issues with supervisors, managers and, indeed, with other members of the workforce.

The other area that I wish to touch on is in relation to the code of conduct. I was at the stakeholder event last week, and I believe that the Department either misunderstood or misrepresented what we were saying about the code of conduct. The forum is working on a revised staff code of conduct, but in relation to the code of conduct for councillors, the point that we were making is that there needs to be a specific annex to that code that determines the relationship between councillors and council employees and vice versa, just the way that there exists a protocol in the Assembly between Members and Assembly staff. We want to see that as a separate annex to the code of conduct for councillors. However, we believe that it would be inappropriate for any complaints being tabled either by a council employee or a councillor to go through to the Commissioner for Complaints. There are established industrial relations processes that deal with this. Obviously, we want to see things dealt with at the informal level and discharged, but, if it had to come to a full, formal hearing, we would want to see the likes of the Local Government Staff Commission being used to administer a formal complaints process.

I will conclude on that point in mentioning the Local Government Staff Commission. The Department, or, to be more accurate, the Minister, recently announced his intention to wind up the Local Government Staff Commission in 2017. NIPSA firmly believes that, in fact, there should be a single, all-embracing public services commission, covering all of our public services. If that is not achievable, we see the continued need for the Local Government Staff Commission. It does valuable work and has kept many councils out of the newspapers on potential cases in the industrial tribunal system and saved much money for councils on that basis. When it comes to a value-for-money study, the staff commission demonstrates that it is a valuable asset. I consider that the decision by the Department was vindictive and irrational because the staff commission, along with the trade unions and the Public Service Commission, was saying that the Department got it wrong in relation to regulation 18 of the Local Government (Statutory Transition Committees) Regulations (Northern Ireland) 2013. This is revenge by the Department towards the Local Government Staff Commission.

In conclusion, our interest is to protect and promote the interests of the 10,000 staff who are currently delivering good, effective public services across the 26 councils, to integrate the staff who transfer and to see a much wider and better array of services being delivered by local government staff on behalf of the 11 councils.

The Chairperson: Thank you very much, Mr Graham. Obviously, it is your job and your role to protect staff, and we understand that staff must have had much sense of uncertainty over the years around whether RPA is going to happen or not happen. I fully understand that. There are new functions coming in and, as you said, transferees from Departments. There are a lot of changes, causing uncertainties and anxiety.

Mr Boylan: Thank you for your presentation. NILGA brought up the commissioner's role. Are you saying that you do not believe in that process? I am not saying that it should be introduced, but I am in favour of looking at it for the reason of holding the councils to account on decisions made in the likes of PCSPs. That is what we are looking at. I know that how we were to define that role would be vital in protecting the likes of the workers.

Mr Graham: It is absolutely right that there is a process of accountability in any democratic system, and, as a trade union official, I am used to it as much as yourselves, if not more so, in accounting to our various elected bodies. There is a distinction to be drawn between the staff who are discharging functions and those who take the political decisions.

On the specific point about the code of conduct, it is more that, if a councillor has a complaint about a member of staff or, on the reverse side, an employee has a complaint about a councillor, a process

should be provided for in the code of conduct but as a separate annex to it. The Assembly protocol is a good model, and it tries to deal with things informally. That is our general approach to industrial relations, but if you cannot deal with matters informally, there has to be provision for a formal phase. However, we do not see the Commissioner for Complaints as an appropriate body to deal with the specific aspects of complaint either between or from a councillor and a member of staff.

Mr Boylan: No problem. I have written down a lot of stuff, and I will try to quantify it and bring it into some sort of order in a couple of questions. You feel that your staff have been left out of the process in some situations. Could you expand a wee bit on that and on how they can input into that? Another thing is the training that staff require for the changes. You mentioned clause 38. On the subcommittee process, you are talking about decision-making, and I would look at new ways forward on that. I know that, being on a council myself, subcommittees sometimes make decisions. They go through proper processes and bring a reporting mechanism to the full corporate council. Are there any ways of trying to expand that, bring more views or consult properly? Maybe that is the best way forward. I do not want to block or inhibit the process of committees making decisions, but there might be a way to have a more open process. Will you talk about that?

(The Deputy Chairperson [Ms Brown] in the Chair)

Mr Graham: You asked about staff feeling isolated from the process. As I mentioned, there is a labyrinth of DOE-led groups looking at various aspects, and there has been no provision for any trade union input into that. I will give one example. When the Minister set up the local government reform joint forum, he was quite clear that it was to be the single body to deal with industrial relations and human resource issues. However, the Department has established an HR subcommittee. Why has it established an HR subcommittee when there is already the forum? What is that HR subcommittee doing? We have found it very difficult to get underneath the purpose of it and what work it is doing.

Capacity is an issue, and it is mainly senior people and people in corporate services and finance who are trying to do the day job that they are there to do but also to sit in on all those working groups and prepare for the new council. I refer the Committee to the work that was done by the social research centre at the University of Ulster, which conducted an examination into RPA in health — for my sins, I was involved in RPA in health as well — and came out with a very critical report on issues such as capacity and expecting people to continue to do the day job as well as all the other functions in preparing for the change from the 18 trusts to five trusts. It is no different in local government. In fact, you might argue that it is exacerbated.

There is one other point in that report that we have not touched on to date. It came out in some degree because I thought that Arnold Hatch was making the bid for Armagh with maybe a bit of support from you, Cathal. One of the big issues for staff is location and whether they will be required to move. That needs to be carefully handled, and there are ways around having people moving, and having people passing each other on the same road and maybe paying them excess fares. So, there is stuff that we want to do on that.

Clause 38 is a difficult area. A council, either in full session or in subcommittee, will be required to make decisions. Some, we will absolutely and totally oppose. Currently, I can give the example of privatisation of leisure services. We have recent experience of that. What we have found is that those decisions are taken behind closed doors and you then work backwards through the industrial relations process. However, the industrial relations process says that you should consult and negotiate with the trade unions at the earliest opportunity. Look, for instance, at the redundancy legislation. It says that once there is even the faintest possibility of a job loss, the employer is legally obligated to engage with the trade unions. If a decision to do certain things is being taken in committee and in secret, I believe that that is an infringement of the redundancy regulations. Our aim is clearly to protect and promote jobs in local government in this particular scenario.

Mr Boylan: How would you see that process working? If we were to look at this Bill, how do you see people being fully involved in that process? There are certain cases on which it may impact.

Mr Graham: It is very difficult to be prescriptive about it. Some of the greatest concerns are that some of it is commercial in confidence and some of it is policy determination. However, as I keep telling employers, that does not prevent them engaging with the trade unions. Once a trade union breaches that confidence, the trade unions will rightly be excluded. Whether it be with central government, the health service or local government, I am well used to signing up to confidentiality clauses. Sometimes, that does not go down well within the trade union. Pat sits on NIPSA's executive

committee. At times, I have had to tell the executive committee that I cannot tell it the detail because we are in negotiations and have signed up to a confidentiality clause in respect of that. However, that at least allows us to be at the table, engaging directly and trying to influence the decision-making process.

Mr Pat Baker (NIPSA): Most councils have trust as one of their core values. Along with the HR manager, I gave a presentation on core values to the Committee about five or six years ago, and trust was one of those values. There has to be trust between management and the trade unions. I have sat as a NIPSA representative in confidence with management on certain groups.

The Deputy Chairperson: I apologise, but the Chair has had to attend another event on behalf of the Committee. I am filling in for her.

Mr Elliott: I have just a couple of very quick points. First, your written presentation focuses on consultations with trade unions. How wide a range of staff does NIPSA represent in local government? When there is a need to consult, how do you distil it somewhat, or do you have to consult all the unions?

My second point is about the Local Government Staff Commission. Bumper, you talked about a public service staff commission. Do you see that as covering all Government Departments and agencies — the totality of the public sector?

Mr Graham: As regards trade union structures, it is a multi-union situation. That is why I made the point at the outset that Pat acts as chairperson of the joint forum and I am the lead negotiator. What we say in the submission is endorsed by all the trade unions, and that includes Unite, GMB and other unions with smaller membership, such as the Services, Industrial, Professional and Technical Union (SIPTU) and the Union of Construction, Allied Trades and Technicians (UCATT). It is a multi-union position. On the trade union side, the forum is structured in such a way as to be reflective of the numbers of members of those unions who are primarily affected by staff. NIPSA's area is more affected than others, because we tend to represent clerical, administrative and managerial grades. The greatest impact is likely to be felt in and around the corporate finance-type end of services, so that is why we are taking the lead. It is on behalf of all of the unions.

NIPSA has always made a case for a single public service commission. Currently, you have that august body called the Civil Service Commissioners, and who knows what it really does? I do not hear any attempts being made to wind up the Civil Service Commissioners. There is also the Staff Commission for Education and Library Boards, of which I have been a member for a number of years. I have been carrying my P45 in my back pocket because we were told that it was going to be wound up when the Education and Skills Authority (ESA) is created. If I am to believe the press this week, I can shred my P45 on that one. You also have the Local Government Staff Commission. The health service has never had a staff commission. We would see the Local Government Staff Commission acting as the core base to be expanded to form a statutory public service commission, and we would much prefer that. There is the Public Service Commission that was created for RPA purposes, but that is purely for RPA purposes, and it is not on a statutory basis. So, we want to see a single public service commission covering all of our public services. That would be helpful for giving advice and guidance on HR and industrial relations issues and, more importantly, would also assist in the greater movement of people between different parts of the public service. If we are to enhance delivery of the public services, then moving away from silo government and silo delivery of public services will be important. The likes of a single staff commission could considerably assist in that.

Mr Elliott: I find that interesting, because I know that, at local council or local government level, because there is such a close interaction between the elected representatives and the staff, it is important, in fact vital, that you have the opportunity for advice from the Local Government Staff Commission, wherever that happens to be. In my time at local council, I found it invaluable.

Mr Graham: When we envisage a single public service commission, it is that it would do the overarching and interfacing work. You would also have specific directorates dealing with local government, health service and the Civil Service etc.

The Deputy Chairperson: Gentlemen, thank you very much for your attendance at the Committee.

Mr Graham: Thank you, Madam Deputy Chair. If the Committee requires any further information, we are happy to submit that in writing or, if need be, to reappear.

The Deputy Chairperson: That is much appreciated. Thank you very much.

Mr Elliott: Happy Christmas.

Mr Graham: Happy Christmas.

The Deputy Chairperson: Same to you.