



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Consultation on Shadow Arrangements and the Draft
Local Government (Transitional, Supplementary and
Incidental Provisions and Modifications) Regulations
(Northern Ireland) 2014: DOE Briefing

13 March 2014

NORTHERN IRELAND ASSEMBLY

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Consultation on Shadow Arrangements and the Draft Local Government (Transitional, Supplementary and Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014

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Members present for all or part of the proceedings:

Mrs Pam Cameron (Deputy Chairperson)
Mr Colum Eastwood
Mr Tom Elliott
Mr Alban Maginness
Mr Barry McElduff
Mr Ian Milne
Lord Morrow
Mr Peter Weir

Witnesses:

Ms Julie Broadway	Department of the Environment
Ms Tracy Johnston	Department of the Environment
Ms Linda MacHugh	Department of the Environment

The Deputy Chairperson: I remind the witnesses that the session will be recorded by Hansard. With that, I welcome Julie Broadway, Tracy Johnston and Linda MacHugh.

Thank you very much for attending. You are very familiar with the format here. I invite whomever would like to lead off to make a short presentation.

Ms Julie Broadway (Department of the Environment): We have recently issued a consultation on regulations that will provide for the activities of the new councils during the shadow period. The regulations will allow the 11 new councils to operate alongside the 26 current councils between the election in May and 1 April 2015.

The regulations make provision for the administration of the new councils during and after the shadow period, including making preparations for the discharge of their functions and service delivery and ensuring the continuity of the exercise of all council functions after 1 April 2015. They also allow positions of responsibility to be filled during and after the shadow period. They deal with the interaction between the existing and new councils during the shadow period by ensuring that existing councils provide new councils with information, assistance and staff, and by applying the code of conduct to councillors of existing councils as well as new councils.

The regulations disapply certain legislative provisions during the shadow period so that, for example, it is clear that the new councils will be responsible for striking the rate for 2015-16. They ensure that by-

laws made by the new councils cannot come into operation until 1 April 2015. They also cover the winding-up of the existing councils.

I will also cover things that the regulations do not. They do not specify individual tasks that each new council must undertake during the shadow period. Apart from the requirement to agree the council's annual budget and strike a rate for 2015-16, which were provided for in a commencement order made under the Local Government (Boundaries) Act (Northern Ireland) 2008, the detail of the work that the new councils will be expected to carry out in advance of April 2015 is contained in the local government programme plan.

The regulations deal with the Local Government Bill only in cases in which it is necessary to modify its provisions during the shadow period; for example, for positions of responsibility. They do not deal with borough or city status, as separate legislative provision will be made on those issues after the election and after we have had a chance to talk to the incoming councils about what it is that they want us to provide for in the transitional provisions.

On the consultation, we had to issue a correction slip clarifying that the planning element of the code of conduct will apply from 1 April 2015.

We are happy to take any questions, or would you like Tracy to give a summary of the regulations?

The Deputy Chairperson: That would be useful.

Ms Tracy Johnston (Department of the Environment): The regulations are made under section 20 of the Local Government (Miscellaneous Provisions) Act 2010, which allows us to disapply or modify provisions in local government legislation for new councils. They will also then be made under what will be section 123 of the Local Government Bill when it becomes an Act, and that allows us to make transitional provision.

Regulation 2 provides for the functions of the new councils during the transitional period. It allows them to make the necessary preparations to become fully operational on 1 April 2015. It also makes the administration of the new councils subject to provisions of existing local government legislation. The regulation provides for the appointment of a clerk or chief executive to the new council by open competition, just in case there are any problems with the statutory transition committees' appointment process for chief executives. It also allows the councils to use the seal of one of their predecessor councils until they can make the necessary decisions on their name and commission a new seal to be made.

Regulation 3 relates to by-laws, and it modifies the provisions of the Local Government Act 1972. If the new councils wish to make any by-laws during the transitional period, those cannot come into operation before 1 April 2015. That is when councils will get their service delivery powers and their enforcement powers, so they can enforce their new by-laws from that date.

Regulation 4 places a duty on the existing councils to assist the new ones. It makes sure that they provide the new councils with information, assistance, facilities, premises and staff. It also makes provision for the costs incurred by the new councils during the shadow period to be apportioned among their predecessor councils in proportion to the population of each of the amalgamating districts. Therefore, for example, Armagh City and District Council makes up 30% of the population of the new Armagh City, Banbridge and Craigavon District Council, so it will pay 30% of the costs of the new council during the shadow period. That includes the costs of facilities and staff provided to the new council, as well as expenditure. The only exception to that is Belfast City Council. It will pay the full costs of the new Belfast City Council during the shadow period.

Regulation 5 relates to the local government code of conduct for councillors, and it applies the code to councillors of existing and new councils during the shadow period. As Julie mentioned in her introduction, the planning section of the code will not apply at all before 1 April 2015, when the new councils take on their planning functions.

Regulation 6 deals with positions of responsibility in the new councils during the shadow period and for the full four-year term of the new councils, which commences on 1 April 2015. It is proposed that the shadow period will be treated separately from the full four-year term that starts on 1 April 2015 for the filling of positions of responsibility. The rationale for that is that we cannot be sure that each of the new councils will be on the same page with their organisational design and ready to fill the positions straight away after the elections. Therefore, the regulation allows them a bit of flexibility during the

shadow period to make the decisions about committee structures and the things that they would like to operate. It also acknowledges the fact that they will have functions during the shadow period different from those when they are fully operational. Councils will look more at convergence and things like that rather than at service delivery, which the existing councils focus on.

The provisions in the Local Government Bill will apply to the filling of positions of responsibility. However, as I said, positions allocated during the shadow period will be treated separately from those allocated for the four-year term. In practice, what that should mean is that, during the shadow period, each of the new councils will have two annual meetings. The first will be held 21 days after the election or within 21 days of the election. At the meeting, they will fill the positions of responsibility for the duration of the shadow period only. We have specified in the regulations that the new councils will not have a mayor or chairs, because the mayor and chairs of the existing 26 councils will still be in office until 1 April 2015. Instead, they will elect a presiding councillor and a deputy presiding councillor, who will chair the council meetings during the time. At that first meeting, new councils can also fill any positions on any committees or on anything else that they wish to establish. However, there will be no enabling power to allow them to appoint external representatives to external bodies during the shadow period, because, again, that power will continue to be exercised by the existing councils until April 2015.

There is then provision for them to hold a second annual meeting at any stage at which they are ready to in the shadow period. At the meeting, they will fill positions of responsibility for the four-year term of the council. That will be treated as if it were the first meeting after the election, so the positions allocated during the shadow period will not be considered. The running of d'Hondt, single transferable vote (STV) or Sainte-Laguë will be reset to the beginning. The reason for that is that, again, councils probably will not know all the positions that they need to fill. I think that it would be very difficult for them to administer that process at the beginning of the shadow period. That means that there will be no requirement for the councils to have an annual meeting in June 2015, because they will have already done that work before 1 April.

Regulation 7 deals with access by the new councils to information that is held by the existing councils. It states that new councils can have access to information held by existing councils and Northern Ireland Departments on the functions that they will have to fulfil from 1 April 2015 onwards.

Regulation 8 provides for anything done by an existing council before 1 April 2015 to be continued as if it were done by the new council after that date. That really just allows for all council business to continue without interruption.

Regulation 9 relates to the final meetings of existing councils and provides for the signing-off of the final set of minutes of existing councils and any committees that they operate. That needs to be done after 1 April 2015.

Regulation 10 concerns the winding-up of existing councils, and it allows each of the new councils to appoint an officer to manage the winding-up of the predecessor councils in the area and ensure that the final accounts of each existing council can be signed off in accordance with existing legislation.

The schedules disapply provisions in existing legislation for either the existing or new councils as necessary. The reason for that is to avoid any confusion between the roles of the two bodies during the shadow period. For example, certain provisions on things such as emergency planning and waste management have been disappplied. The new councils will not be fulfilling those functions in advance of 1 April 2015, and the existing councils will not have to prepare an annual budget or any estimates for the 2015-16 financial year, because they will not be in existence at the time and the schedules make it clear that that is the role of the new councils. That is one of the key pieces of work that they have to do during the shadow period.

The Deputy Chairperson: Thank you. I will lead off with a couple of questions about the positions of responsibility in the new councils. What type of relationship will exist between the shadow positions of a presiding councillor and deputy presiding councillor and the existing mayor and deputy mayor?

Ms Johnston: It is probably for the new councils to work out with the existing councils to decide how they will manage that in each individual area. What the regulations intend to provide for is to allow them to appoint someone to chair the council meetings to fulfil those functions, and they make it clear that there is no confusion with the role of the existing councillors and the mayors. The ceremonial duties will remain with the existing councils until 1 April 2015.

The Deputy Chairperson: What types of duties do you envisage the holders of the new positions carrying out?

Ms Johnston: During the shadow period?

The Deputy Chairperson: Yes.

Ms Johnston: The council chair and deputy chair will chair the meetings, as will any committee chairs and deputy chairs. It is just to provide for someone to preside over council business.

The Deputy Chairperson: Do you see any difficulties in running the parallel structures?

Ms Johnston: We have asked about that in the consultation paper. We cannot envisage any difficulties with the operation of that, but if councils come back and tell us that they can envisage difficulties, we will certainly try to take account of those in the provisions before the regulations are laid.

Mr Weir: I have a couple of questions. What will be uppermost in some councillors' minds is whether, if you have a presiding councillor and a deputy presiding councillor, depending on what is done in the short term with any committees, there will be any provision for any of those people to have any form of special responsibility allowance. Would it just be envisaged that they are doing a favour?

Ms Linda MacHugh (Department of the Environment): The remuneration issue has been ongoing for some time, and the Minister is now considering what his final decision is going to be about remuneration during the shadow period. We will have to await his decision on what the basic allowance will be and whether special allowances will apply.

Mr Weir: Some of us have been involved in the political reference group, and I suspect that only a relatively minor sum of money would be involved, but I do not think that the group discussed at any stage whether there would be a small pot of special responsibility allowance for the shadow period if people were to decide that they were going to be the presiding councillor. Perhaps that is by the by.

You will have a presiding councillor and a deputy presiding councillor elected through the normal procedure, but I think that what is proposed is that, if a council were looking at having temporary committees during the shadow period, the positions of responsibility could be allocated only once you have made a decision on the methodology of appointment. I think that that is correct. Presumably, again, if there were what are essentially temporary appointments, none would have any impact on appointments when it comes to deciding posts at the second meeting leading into 2015. Those would simply be calculated.

I appreciate what has been said about the external representation. Presumably, the partnership panel is meant to kick in from April 2015. Will it or will it be post-2015?

Ms MacHugh: The idea is that the partnership panel will get up and running at some time during the shadow period. So —

Mr Weir: Is there any provision for how the person from the council is to be appointed? You are saying that it is not envisaged that there will be an external representative, but that would be the one exception during the shadow period.

Ms MacHugh: That is very true, and it is something that we can look at.

Ms Johnston: We can amend the draft to take account of that.

Mr Weir: It may be that something needs to be amended. OK.

The Deputy Chairperson: No other members have any comments or questions. Thank you very much Linda, Julie and Tracy. We appreciate your attendance.