



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Business Improvement Districts Bill:
Consideration of Stakeholder Comments and
Proposed Amendments

29 November 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Ms Pam Brown
Mr Mark Durkan
Mr Fra McCann
Mr David McClarty

Witnesses:

Mrs Gail Cheesman	Department for Social Development
Mr Henry McArdle	Department for Social Development
Mr Antony McDaid	Department for Social Development

The Chairperson: I remind members that we are reviewing the Business Improvement Districts Bill in the context of what we have heard from stakeholders and the responses that we heard yesterday from the Department. We have sought to identify a range of issues that we have with a number of clauses and are seeking to identify appropriate action to recommend to the Department. There are a couple of documents to work from in your tabled items folder. The Committee Clerk has prepared a paper highlighting the key issues raised and how members might want to consider the way forward. The paper has been prepared on the back of the conversation yesterday. In your packs, you will find a clause-by-clause table. It highlights the concerns of the stakeholders and suggested amendments and departmental responses. Members should read that in conjunction with the Committee Clerk's paper that was tabled this morning. Are members content that we work through that paper, along with the clause-by-clause table?

I thank Antony, Henry and Gail for being here to support us this morning. You will know that we worked our way through the clauses yesterday, using the clause-by-clause table. Have you copies of that?

Mrs Gail Cheesman (Department for Social Development): Yes.

The Chairperson: Clause 1 is about the arrangements with respect to business improvement districts (BID). The Committee Clerk has provided a suggested way forward. I remind you that this is not definitive. If, as we work our way through this, members want to add something different or suggest something else, feel free to do so.

The paper on issues for consideration states:

"The Committee may wish to recognise the broad support for this clause but ask the Minister to provide reassurance that the role and responsibility of the district council is made clear and unambiguous in the regulations."

That might apply to anybody's role, for that matter. This is not the formal clause-by-clause decision-making session; this is just to keep us focused on where we are. Are members happy enough?

Mr Durkan: I have given a number of questions asked by us as a Committee around that yesterday. So, obviously, as it stands, it is not that clear or unambiguous.

The Chairperson: OK. Are members happy enough with that suggested way forward?

Members indicated assent.

The Chairperson: The paper has suggested that we might want to get written clarification on clause 2. I think that you referred to that, Mark, as did Sammy, with regard to the cross-border issue.

If members are happy, we will move on to clause 3. Are there any issues with clause 3? The paper suggests:

"The Committee may wish to recommend that the Department reviews the work of BIDs academies and how they contribute to the development of BIDs expertise to provide support to the development of BIDs with a view to helping establish such an academy here."

Mr Douglas: I would like Henry to remind us whether the Scottish Parliament put money towards its BIDs.

Mr Henry McArdle (Department for Social Development): It did, yes. It put in money at the initial stage, and it is still providing some funding for set-up costs and support arrangements.

Mr F McCann: How much does the Scottish Parliament provide? Most organisations that are starting off need that injection of resources or finance to allow them to get off the ground. Do you see a similar situation here?

Mr McArdle: Obviously, the decision would be for the Minister, and the Minister has committed to looking at the arrangements in other jurisdictions. In Scotland, a start-up fund grant of £20,000 is available. Until recently, there was no start-up funding available in England or Wales, but both of those are reviewing the position and have made announcements. England has a loan fund in place, and Wales has announced a grant fund of similar values. There are different arrangements in different jurisdictions, and the Minister has committed to looking at what is in place in other jurisdictions.

Mr F McCann: Is that £20,000 across Scotland or £20,000 per BID area?

Mr McArdle: It is £20,000 per BID area. Most jurisdictions have a cap on the overall grant available per annum. I think it is somewhere in the region of £200,000 in Scotland, for instance.

Mr Durkan: Getting buy-in from businesses is crucial. They have to see that government is prepared to put its money where its mouth is. The gamble cannot be purely for the public.

Mr Antony McDaid (Department for Social Development): I think that part of the arrangement is that you get the grant but you also show that you have additional funding from the private sector.

Mr F McCann: Match funding. It might not be a bad idea to write to the Minister to say that there are different things in place in Scotland, Wales and England, and that the Department should look at that. If you are trying to encourage businesses to form a BIDs community, it is wise to try to get some resources to help it to start.

The Chairperson: OK. Interestingly enough, I made the tail end of a meeting with a number of traders yesterday afternoon in the constituency. One of the local councillors arranged a meeting with

some of the traders to basically try to look at some voluntary promotional work around that neighbourhood. The departmental officials who were there were very quick to point out that, because it was not an area that was defined as deprived or disadvantaged, they could not do anything for them. That was at the outset of the meeting, before they even had a discussion. Notwithstanding that, officials were there. Traders were then going to start doing a bit of work to see whether they could do something to promote the area. It is like a voluntary BID. A lot is expected of the business community in some of those areas, and the Department needs to look very seriously at how it can be proactive in supporting that. Going to a meeting and saying basically that there was nothing that it could do was not a good start.

Mr F McCann: It goes back to what we were saying yesterday. We have been talking about the serious implications of the economic downturn. With areas like that, it is OK saying that it is not a deprived area, but the closure of shops along any stretch of road or arterial route can have a serious impact on the surrounding area. It may not be a bad idea to write to the Minister to point out those questions and say that if BIDs are getting off the ground, there needs to be something to allow them to start up.

The Chairperson: I agree. I was struck by what was described as the counterfactual in the University of Ulster report yesterday morning. We need to take on board the fact that if we do not do something, an area will end up as a problem area. Are members happy enough with that approach so far?

Members indicated assent.

The Chairperson: Clause 4 is about the duty to comply with arrangements. It is linked to clause 1, in that we just want to make sure that the regulations will be unambiguous and transparent. Are members content?

Members indicated assent.

The Chairperson: OK. Clause 5 concerns BID proposals. Again, it is about seeking assurances that the consultation process will be detailed and that the regulations will be transparent and unambiguous. We need to take on board the possibility of BIDs coming forward in areas where there is a relatively high proportion of residential accommodation. That cannot be ignored in the process, even though they may not be eligible to pay or may not have to pay under the regulations. I think that if there is a proportion of residents living in an area, we are duty-bound to ensure that they are formally consulted.

Mr F McCann: That is 100%.

The Chairperson: The question that I would ask is how that would be provided for. Are members happy enough with that broad approach?

Members indicated assent.

The Chairperson: Clause 6 concerns the entitlement to vote. This also relates to the last conversation. It is obviously about who is entitled to vote, and the non-domestic rates, and so on. Are members content with how the Bill provides for that entitlement to vote?

Mr F McCann: Chair, there are two questions. First, can members in a BID area vote by proxy?

Mr McDaid: It is a postal vote anyway.

Mr F McCann: Secondly, what if there is a strong residents' group in the area? At the end of the day, local businesses will try to tap into residential neighbourhoods that may survive. Would it not be wise to ask representatives of those groups to sit on the boards of the BIDs so that there is feedback to the Committee?

Mr McArdle: That is down to local arrangements and local agreements. A BID area with a strong residential population would be very foolish to ignore that population. In the example of Clarkston that I gave you yesterday, the community bought into the BID proposal from the very start and was involved in it. Businesses put their own money in to drive it forward, and I imagine that they determine

who is on the board. They may well be able to co-opt somebody from the community, but it will be down to local arrangements. I do not think that that is something that we should legislate for.

Mr McDaid: Just those who are liable to pay any levy will get the opportunity to vote, and because residents do not pay any levy, they would not have that opportunity.

Mr F McCann: I know from experience that — Mickey has just told me that this was discussed yesterday —

Mr Brady: Henry gave an example.

Mr F McCann: Unfortunately, I was not present. Henry, you will know from experience that sometimes businesses and other organisations do not take the residents into consideration when they move ahead with plans.

Mr McArdle: Yes.

The Chairperson: The evidence is that it would make sense for people to communicate with each other and consult. From my point of view, and I have heard others say the same, as was mentioned yesterday, there is a prospect of community planning coming up, and we have to have some linkages. That is important because that community planning legislation is very important under the review of public administration (RPA). There needs to be a clear understanding that there must be a link, particularly if it affects a residential community that is at the heart of a BID. I am not necessarily advocating that they have to have entitlement to vote in that ballot, but we need to make a clear linkage so that people have involvement in it.

Are people happy enough with what we are pursuing at this stage? Depending on the responses, we will take decisions on that.

Clause 7 is on approval and is about the 25% issue. The evidence tells us that none of the BID proposals has not attracted the support of 40% or more, whereas the approval rate is set at 25%. We will not deal with the change in the clause today, but we need to consider whether we want to look at a change. A couple of people have asked me whether we should try to make the figure higher than 25%. If we want to set it higher, we could propose to do so.

Mr McDaid: There is provision in clause 8 for alternative conditions, and they should be able to increase that threshold if they want to or if the BID proposer decides to do that. If you want that formally in the Bill, it could be changed in clause 7.

The Chairperson: That is helpful. Members have that information, and we can provide for it if we wish.

Clause 9 is on the power of veto in local councils. The issue is to do with the prescribed circumstances and whether they are ambiguous or unambiguous.

Mr F McCann: I raised the issue yesterday of where that leaves councils. Councils are involved in a wide range of activity, and most of them will be given the power over local economics within a boundary. The paper says that the Department has indicated that the conditions will be prescribed. What conditions or circumstances are you talking about?

Mr McArdle: Obviously, this will be subject to consultation, and we will seek views on what circumstances should apply. I will give a couple of examples. We gave an example yesterday where a council may consider that the BID proposers have been unfair in drawing up their boundary by including or excluding some business or have drawn a line in a funny way to deliberately exclude or include. There was one example of a proposal for a stand-alone geographical area, and because there was a big store close by that would generate a lot of income through a levy, they included it in the BID proposal. That proposal was rejected because it was seen to be unfair. So, there are examples of that type of thing, or of where a BID proposal is totally out of step with plans for the area; for instance, if a master plan or existing planning document is in place and the council feels that the proposed BID is out of step with that plan. Most of those issues should be determined and agreed upon in consultation. No BID proposal should come forward without the support of the council. It would not happen.

Mr F McCann: It does not say that.

Mr McArdle: No, it does not say that, but it will say it in the regulations. What we do not want to be is prescriptive in the Bill and then find that there are other circumstances that might need to apply. So, what we want to do is suggest some of those types of things in our consultation on the regulations and ask people to come up with other examples where it might be appropriate for the council to exercise its veto.

If a BID proposal comes forward to a council and the council vetoes it, the BID proposers would also have the right to go to the Department. Is that correct?

Mr McDaid: Yes. They have a right of appeal under clause 10.

Mr McArdle: They can appeal to the Department. That system would be in place to bring transparency, openness and a fair approach to it. The experience from other jurisdictions is that it never gets to the Department.

Mr McDaid: A veto has never been used.

Mr McArdle: A veto has never been used.

The Chairperson: I presume that, ultimately, within the context of RPA, you would have area-based plans and a community-planning process, which are all on a statutory basis. So, I presume that a BID, for example, would have to fit in with all of that.

Mr McDaid: Yes. Absolutely.

The Chairperson: I think that, given the fact that it is enabling legislation and you want it to be flexible, protections need to be built in because, sometimes, councils actually make bad decisions. We know that. It is happening as we speak. It may not happen elsewhere, but we have a history of it here. So, we need to ensure that people are protected, both with regard to the council and broader well-being through the community plan and area-based plans, which are all approved. We still need to protect BID proposers who may not get a fair shake with a council.

Mr F McCann: Chair, I do not disagree with what you are saying. I think that most people around the table who have had experience of councils have seen that, but, equally, we have seen it on the other side. So, it needs to be fairly clearly laid out. As you said, that may come in the regulations. They will guide it. However, I go back to what I said yesterday; new powers are being given to councils that may create conflict. If a council develops some type of strategy that the BID people object to, you may end up with conflict. That happens quite a lot on an individual basis. The regulations need to be clear about the way in which this is going.

Mr McArdle: What we are seeing here is that a BID is a partnership between the BID proposers — the private sector — and the council. If one of them is not on board, it will not work.

The Chairperson: OK. Are we happy enough, then? Again, we are just teasing out those issues to get further detail. So, again, on clause 10, it is really just about ensuring that we get greater clarity on those matters in the regulations, and so on. Are members happy enough with that?

Members indicated assent.

The Chairperson: On clause 11, which deals with the commencement of BID arrangements, are we happy enough to seek clarification on the implication of the BID company assuming that particular role? Are people happy enough with that?

Members indicated assent.

The Chairperson: Fair enough. Clause 12 deals with the imposition and amount of the BID levy. Are we happy enough with the issue as it stands at the moment? Is there anything further you wish to raise?

Members indicated assent.

The Chairperson: We move on, then, to clause 13, which deals with liability and accounting for the BID levy. We have been asked whether we need further clarity on that. If we do, we should ask for it. The process is to get some written clarity and then everybody is happy. OK?

Members indicated assent.

The Chairperson: Clause 14 relates to the BID revenue account. Do members want to raise anything further on that matter with the Department? If not, we will move on.

Members indicated assent.

The Chairperson: Clause 15 deals with the administration of the BID levy. Are members happy with that as it is? Do we need any further information on that?

Members indicated assent.

The Chairperson: We move on, then, to clause 16, which deals with the duration of the BID arrangements, which is set for five years. Are members happy with that as it is?

Members indicated assent.

The Chairperson: Clause 17 deals with regulations and ballots. Are members happy enough with clause 17 as it is?

Members indicated assent.

The Chairperson: We move on to clause 18, which deals with the power to make further provision. Again, this has been welcomed by councils. We have been asked whether we need any clarity on whether the provisions made under the clause will be consulted on.

Mrs Cheesman: We could maybe offer some clarification to the Committee at the moment. It would depend on the kind of amendment. If it is one of the consequential amendments as a result of other legislation being amended, we would not consult on it. However, if, for example, under clause 18(2), we were amending a statutory provision, that would have to be consulted on. So, it would depend on the kind of amendment that was being proposed.

The Chairperson: Are members happy with that explanation? Thank you, Gail, for that.

Members indicated assent.

The Chairperson: Clause 19 looks at further provision as to regulations. Are members happy with that as it is?

Members indicated assent.

The Chairperson: We move on to clauses 20, 21 and 22. Are members happy with those clauses?

Members indicated assent.

The Chairperson: We move on to a couple of other items that are noted in the paper in front of you. One issue is about why landlords or property owners are not included in the legislation, and the other issue is about local service level agreements with councils. I think the University of Ulster raised that yesterday, but I do not think that we got any final views. I understand that the landlords issue has been raised with the Department.

Mrs Cheesman: Yes. We would like to offer a bit of clarification. Different jurisdictions do it differently. Our legislation is proposing that you do not include landlords if they have a tenant in place. It would be the tenant who would be liable to pay the BID levy. If a property is vacant, the landlord would be liable to pay the levy. I think perhaps that, when the folks were presenting yesterday, they

made it sound like vacant properties would not pay any levy and, therefore, the BID income would be reduced, but that is not the case with our legislation. It would be an either/or scenario.

Scotland, for example, has provision to include all landlords, even if they have a tenant. In practice, however, only two BIDs in Scotland actually do that. One was an industrial BID, so it was fairly easy to identify who the landlords were. One of the towns did it as well, and it proved to be extremely complex.

We would certainly say that if landlords want to contribute on a voluntary basis, they may do so. You may recall that an earlier clause allows people to contribute voluntarily. We, and, I am sure, the BID, would have no objection to that. We would propose that, because of the complexity, we do not insist that landlords must be included.

I offer one final clarification. The academics referred to how, in America, property owners are included. BIDs operate slightly differently there. In BIDs over there, all the property owners pay the levy, not the tenants. It is probably the case that they pass it on in the rent or something, but the bills are issued to the property owners, not the tenants. So, it is a slightly different scenario. If I have not explained that well, I am happy to make further points of clarification.

Mr McDaid: In the consultation on the policy proposals, we asked whether landlords should be included in the legislation formally, and 80% of the respondents said no.

Mr F McCann: Was that 80% the landlords? *[Laughter.]*

The Chairperson: What you are saying is that it would be an either/or situation.

Mr McDaid: Yes.

The Chairperson: If a BID goes through all the rules and regulations, is a legal and viable BID, meets all the criteria and is balloted, you are saying that the Bill will provide for properties with or without tenants.

Mr McArdle: There will be one payer for every property.

Mr McDaid: Basically, it will be the person who is responsible for any non-domestic rates.

The Chairperson: OK.

Mr F McCann: If the business community in a BID area decides, as part of the scheme, that it wants to brighten up the area with a matching paint scheme, and there are landlords in between, will it just leave those properties alone?

Mr McArdle: No. Every property in a BID area will have a levy attached to it. If there is a tenant, he would pay the levy. If there is no tenant, the owner would pay. Whoever is liable for the rates of a property would pay the levy and would be entitled to vote.

Mr F McCann: So, there is a levy on all properties.

Mr McArdle: Yes. The position in Scotland is slightly different in that they are non-domestic properties.

Mr McDaid: It is all non-domestic.

Mr McArdle: There can be two bills for one property: in other words, there can be one for a tenant and one for a landlord. If the BID proposers suggest that landlords should be included, what they are advocating would be a levy on the tenant and the landlord. This was rejected in England. The concern was that landlords would simply receive their bill and increase the rent, meaning tenants would pay double. We did not think that that was a fair approach.

Mr F McCann: The point I am making is, say for talk's sake you were speaking about the Lisburn Road where there are a number of —

Mr McDaid: You are thinking about domestic and non-domestic properties.

Mr F McCann: Yes.

Mr McDaid: Obviously, domestic properties would be left out. This relates to non-domestic properties.

Mr F McCann: So, if you have a row of shops with breaks for —

Mr McDaid: Domestic houses or residential properties?

Mr F McCann: Yes. Would the scheme bypass them?

Mr McDaid: Yes. You do not often get situations in which there is a residential property bang in the middle, but the person who owns that property may well be asked whether they wish to —

Mr F McCann: It would be on the generosity of the —

Mr McDaid: It would be a voluntary contribution.

The Chairperson: Just to finish the point, there would be a lot of streets in which the retail sector is at ground level and where the two or three storeys above are empty. What would happen in that scenario?

Mr McDaid: If the properties are empty or residential, they would not be included. If they are commercial premises or offices and stuff like that —

The Chairperson: If they are not used: you see a lot of that, just the ground floor is occupied and the upstairs is not.

Mr McDaid: Again, it would be down to the BID proposer to decide whether to include those premises in the BID. It can be explicit in that it could include just all ground-floor premises, or it can include office space above as well. It is flexible.

Mr McArdle: If it is commercial property, theoretically they could chase after the landlord for a BID levy, but they may well decide that that is not worth doing.

The Chairperson: The reality will kick in.

Mr McDaid: They will just stick to the ground floor.

Mr Campbell: As far as the BID levy on domestic property is concerned, where there is a tenant and the bill goes to that tenant, is there anything in the legislation defining the method of payment once the tenant receives the BID levy?

Mrs Cheesman: Yes, the intention is that they will get their bill and it will tell them to pay it into a particular bank account that has to be held by the council. I suppose they could do it electronically or by cheque, but they will be given details of the account into which it has to be paid, which is the BID revenue account that is ring-fenced by the council. I guess that businesses will choose to do it electronically if that is easier for them, but if they want to lodge a cheque into that account —

Mr Campbell: My concern is that if there were a particular cadre of tenants who, under welfare reform, fell into the category of direct payment of their rent to the landlord, and they were — No?

Mr McDaid: No. We are talking about only non-domestic properties. I think you are referring to domestic properties in which somebody would be living and which would be residential. They would not be included in BID schemes. If the BID scheme —

Mr Campbell: I thought you said that domestic properties with tenants would be included.

Mr McArdle: I am sorry. We were talking about tenants who are shopkeepers.

Mr Campbell: Oh. Did you mean business tenants?

Mr McArdle: Yes.

Mr Campbell: OK.

The Chairperson: Are you happy with that, Gregory?

Mr Campbell: Yes.

The Chairperson: The last bullet point relates to existing service level agreements with councils. Paula raised that issue yesterday when she spoke about Newtownabbey. She said that the council there already does work in the area, so logic would make one ask why businesses would want to undertake that work if it is already being done. They might want to do something different.

Mrs Cheesman: That is correct. I think that it was Mr McCann who asked what would happen if a council could not commit to a five-year service level agreement. Is that right?

Mr F McCann: Yes.

Mrs Cheesman: It would be preferable if councils were able to do that. However, we came across an example in Scotland in which the council was only able to commit to a three-year service level agreement, and the BID proposer was prepared to accept that and work with it. If that were the case, it would be a matter for discussion and agreement between the BID proposer and the council to decide whether that would be a workable solution.

The Chairperson: Councils have four-year terms, which puts the five years you have proposed out of sync with their mandate periods. I do not know whether that can be —

Mr McDaid: It is about getting some sort of assessment of what businesses currently get so that they can show additionality. They will be able to see what councils will deliver over the next couple of years and what additional things they will be able to get on top of that.

I think that you talked about Glengormley, and the council there has worked very well to provide an awful lot of services for the town and for businesses. However, there may be stuff, over and above that, which could be worked into a BID. We spoke about our visit to Scotland. We were in a place called Clarkston, which is quite a small suburb of Glasgow and probably similar in size to Glengormley. Its BID is more focused on branding and placement, a website and a loyalty scheme. There are small-scale things that BIDs can do over and above what are delivered by councils, and that gives those areas a sense of place. In Clarkston, they have put little banners up saying "Clarkson BID" and the loyalty card scheme allows people to get discounts in various stores. So, even if a lot of services are provided by councils, there is other stuff that shopkeepers can consider doing if they come together as a collective.

As you said, it is key for BID providers to see what they already get, and that is where the idea comes from of getting some sort of baseline of what councils provide. That will allow providers to sell BIDs to other businesses as delivering something over and above that.

The Chairperson: What was that experience? Councils may be reluctant or unable to commit to a five-year agreement. It would be beyond the term of their mandates, but I do not know whether it would be a factor.

Mr McArdle: Irrespective of their budgets, councils can say what services they will provide up to a particular level. BID providers might see that councils provide basic services, such as street cleaning and bin collection, and ask what they will need to provide over and above that to boost their trading figures. It is about things such as marketing, promotion and, maybe, additional lighting.

In Clarkston, they have extensive signage, and every shop in the place has signs pointing to them. Street maps were also provided by the BID, which detail all the shops and the niche market stuff, and

they have the loyalty card scheme. All of this is paid for by the businesses through the BID levy. They see these things as being over and above what is provided by the council.

If councils are prepared to do public realm schemes, those would be included in the service level agreement. A council might decide that it is going to do a scheme over the next five years, which would allow the BID to concentrate on other things. This is really what it is about. It is not something that is going to be cast in stone or used to hold councils to ransom and tell them that they have to provide certain things. Councils may agree to do certain things, but their budgets might be such that they cannot do them. That does not mean to say that the BID proposers will have to take up the slack. The service level agreements will give a flavour of what is normally provided to an area and what BID proposers will want to pay for over and above that.

Mr F McCann: That is all good stuff. It is about self-promotion and building the thing up. Another aspect has been a bee in my bonnet for many years. In Belfast, £9 million was spent on public realm works. Within a week of that taking place, a utility company and a Department dug it all up again and replaced it with tarmac. Could something be built into a BID that Departments have to tell people in the area well in advance that work will be going on, and that it has to be put back on a like for like basis?

Mr McArdle: I have been involved in this, as you know, Fra, over the years while working in the Belfast regeneration office. It was always difficult to try to get utilities to fall into line. Obviously, they have to repair things, but it is a difficulty. The Department may well be trying to come to an arrangement.

Obviously, BIDs will have to discuss what is happening over the next five years and factor in any plans that are in place by councils and other Departments that have responsibility for certain things. You talked earlier about full community planning. All of that will be part of it. When the community plan is developed for an area, any Department or agency that is doing anything there will have to feed into that plan so that the proposers are not putting in place improvements through a BID that are going to be overturned by something else. All of that will have to be discussed. We suggest that it needs to be discussed primarily at local level. When functions are eventually transferred to councils, it will be easier to do that. If you have responsibility for planning, regeneration and other things at a local level, BIDs should be easier to deliver.

Mr F McCann: I have seen businesspeople in the city centre going out of their way to do decorate their shop frontages in order to promote a product, and then somebody comes along and digs a large hole outside their property, despite millions being spent on improving the street. There has to be a mechanism to hold people to account. It surprised me that they have the power to do that. There needs to be some mechanism built in, but I do not know whether it is through BIDs.

Mr McArdle: I do not think that it is through BIDs.

The Chairperson: Is there not legislation in place for utilities? I thought that it might have been through the Department of Finance and Personnel (DFP), but I cannot recall. I remember legislation going through. It was around the standard of reinstatement: if a utility does something, it has to reinstate the public realm. I know that public realm work was completed on the Glen Road, and then somebody came in afterwards and dug the flaming thing up. It is the same problem. That was very recently. At least, if they had the —

Mr Campbell: I think that it is a Department for Regional Development (DRD) requirement. It is ineffective.

Mr F McCann: It is totally ineffective. It is not followed up.

The Chairperson: Maybe we need to —

Mr McArdle: Enforcement is the issue.

The Chairperson: Should we try to get an understanding of this? It is important. I do not know whether it was through DFP, but I remember legislation going through some time ago. It is about expectation. Maybe we should use this as an opportunity to put further pressure on getting that level of reinstatement.

Mr McDaid: Obviously, if there is a BID in an area, it gives businesses in the area a voice to go to the utility companies and the relevant Departments to get information on the plan of works and stuff.

The Chairperson: Some retail areas do not have great capacity. Some are well organised; others a lot less. In a way, we are expecting them to have a voice. We need to have a voice here from the starting point. In fairness, we are the legislators; retailers are not. We cannot expect them to —

Mr McDaid: This is a very specific Bill about business improvement districts. That issue is much wider.

The Chairperson: I appreciate that, but we should use the opportunity to seek clarification from whatever Minister or Department is responsible to remind ourselves of the provision in legislation for utilities to give notice in advance and what they have to do by way of reinstatement. If I were a retailer who paid a levy to improve an area, and then somebody came in afterwards and undid that work, I would like it to be reinstated to at least the level at which they began.

Mr McDaid: That is a fair point.

The Chairperson: We should write to DRD, if that is who it is. Would members be happy for the Committee to do that?

Members indicated assent.

The Chairperson: OK. Are members happy that we have covered this for today?

Ms P Bradley: May I just ask one more question? I apologise for being late; I had an appointment this morning. My question may have been asked already. Councils have a major role to play in all of this. Are they getting any extra funding for it or are they expected to use what their ratepayers are already paying for? I know that they can claim money back, because I read that —

Mr McDaid: The likes of the ballot.

Ms P Bradley: Yes, they can claim that back from the BIDs, but is there any other money that they can claim back?

Mr McArdle: Proposals have been put forward that the Minister should consider start-up funding and other support. The Minister has given a commitment to consider the wider support arrangements that are in place in other jurisdictions — in Scotland, Wales, England and other areas. He will make a decision and a statement on that in due course. The Committee may wish to write to him about that.

Mrs Cheesman: Some councils choose to provide an administration resource to assist the BID, without getting any funding. It depends on their resources. For example, they might provide a staff member and the use of computers and office space. That is something that they are welcome to do without funding. Different councils take different approaches.

Ms P Bradley: If that is the case and a council provides support, the ratepayer, domestic or non-domestic, will have already paid to fund that member of staff anyway. It is like a double there. That is all that I wanted to ask about. My council had one as well.

Mr McArdle: Most councils see the benefit. If they have bought into the BIDs concept, they will see the benefit, not just to the BID area but to the whole town or city for which they are responsible. They will see it as being something worthwhile investing in. The council we spoke to in Scotland was fully up for that and was very supportive of the BID concept. It provided some resource — the BID levy was the biggest amount of resource — in certain areas. It is a matter for discussion between the council and the BID proposers.

Ms P Bradley: Thank you.

The Chairperson: Fra raised an issue that is outlined on page 48 of the clause-by-clause paper. Coleraine Borough Council had a query about potential exemptions and whether the BID proposer

would allow exemptions for churches, police stations, schools, and so forth. Can you elaborate on that?

Mr McDaid: Again, it is up to the BID proposer to decide who is in and who is out. Those types of properties are classed as non-domestic properties.

The Chairperson: They are not residential.

Mr McDaid: No, they are not. Again, it is up to the BID proposer

Mr F McCann: Anyone within the BID area, including the people mentioned in that paragraph, would have to pay.

Mr McDaid: Only if the majority voted for it: churches get involved in BIDS because they see that the improvement in the area is for the good of everyone. If people feel safe, they like to come to the area. Some churches contribute, but other areas may decide that they will not expect churches to pay. It is totally at the discretion of the BID proposer. All that will be detailed in any BID proposal that would be put to ballot. Everyone would have an opportunity to see who is in and who is out and what rate of levy they would have to pay.

The Chairperson: Would a non-ratepayer have a vote?

Mr McDaid: Our intention is that if there is a rateable value on the property, they would have an entitlement to vote.

The Chairperson: Churches, police stations, tax offices and government offices do not pay rates because they have their own arrangements. You used the example of a church and, logically, it makes sense for it to contribute. It might be able to contribute but does it have a formal vote if it is not paying the rate?

Mr McDaid: We are saying that they will have a formal vote. Although they do not pay rates because they are exempt, there is a rateable charge on the property. The fact that they are exempt is because of the type of tenant that they are. Charity shops get an exemption if they do not have any —

Mr F McCann: They have a charitable status.

Mr McArdle: The BID proposers may well decide that they will not include any of those; that they will include some; or that they will include them but will suggest a discount. It would be all set out in the BID proposal. We saw an example of one in which there are charity shops in the BID, and they all pay. In some other areas, there are none. You saw the stats yesterday and from the evidence given earlier.

Mr F McCann: Therefore, you start from a point at which all businesses pay, and then exemptions are made. I am just thinking of the example of a police station or a tax office; they would have to pay the same as anyone else. The only people who can exempt them are the BID proposers.

Mr McDaid: Yes, the initial proposers. The argument would be that the staff who work in the public sector premises will get the benefit of the BID because the area will feel cleaner and safer and will look nicer, and it is buying into the whole —

Mr Campbell: However, the discretion in the decision is down to the BID proposers?

Mr McDaid: Yes, when they are developing their proposals.

Mr McArdle: You have to bear in mind that the BID proposers have to strike a balance. They could include everyone in order to get a big levy, but if they do that, it might include a lot of dissenters, so they might not get the vote through.

They have to strike a balance between the number of businesses they include and the number of others that may not be businesses. If the latter do not see the benefit, they may not vote for the BID. So the proposal needs to be weighed carefully. The proposers need to put in a proper proposal that

they think will sail through a vote, effectively. So, if they include a lot of businesses that they do not think will vote for it —

Mr F McCann: The reason I asked the question is because I thought that you could have a town in which there may be 40 charity shops, a police station and 17 government buildings, and they would all be exempt from the levy. That would directly impact on the BID. However, as Gregory said, if it is the people involved in the BID who are making the decision, I am fine with it.

The Chairperson: Coleraine raised that issue because it said that it has a prevalence of such institutions in that borough.

Mr McDaid: I know that Coleraine has already carried out a scoping exercise, using European funding, to look at the viability of a BID in the area, so it may be worth finding out how that went.

The Chairperson: OK, members are you content that the Committee Clerk puts the comments from the last discussion into a letter to the Minister, just to get clarification on them and to get those points on the record, and that there will be a response? Is that fair enough?

Members indicated assent.

The Chairperson: Thank you, Gail, Henry and Antony.