



**Northern Ireland  
Assembly**

**Bill Research Paper 02/07**

**19 October 2007**

## **THE LIBRARIES BILL**

This paper is intended as a brief introduction to the Libraries Bill, which is currently at Committee stage in the Northern Ireland Assembly. To facilitate Members' consideration of the Bill, this paper provides background details about the current library service in Northern Ireland. This is followed by an explanation of the Bill, including its policy and legislative context and its key provisions. The paper finishes with a summary of the responses to the public consultation and potential issues for consideration.

Library Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

## SUMMARY OF KEY POINTS

The Libraries Bill was introduced as a result of the Review of Public Administration (RPA). The RPA was a comprehensive examination of public administration and was launched by the Executive in June 2002. It was taken forward by direct rule ministers during the suspension of devolution which began in October of that year.

The RPA decision on libraries was announced in March 2006. The Review decided that a regional Library Authority should be established to deliver the public library service in Northern Ireland. The Review proposed the disbandment of the five Education and Library Boards. It also recommended the transfer of education functions to a new Education and Skills Authority, which would be established at the same time as the new regional Library Authority.

The Libraries Bill takes forward the RPA proposal to create a regional Library Authority for Northern Ireland. Two consultation exercises have taken place on the Bill's proposals. The first ran between January and April 2007. Some revisions were made to the draft legislation as a consequence. A second consultation took place in June/July 2007.

The majority of respondents to the public consultations were in favour of the principle of a single Authority, though some objections were raised. The majority of comments on the Bill's proposals were mainly in relation to equality and financial matters, the schools library service and staff Transfer Schemes.

Key provisions of the Bill are:

- It will create a regional library Authority,
- remove the responsibility for the provision of library services from the education and library boards,
- provide for the creation of schemes to enable the transfer of assets, property, rights, liabilities and staff from within the library sector from the education and library boards to the Authority,
- require the Authority to provide a free public library service for persons living, working or studying in Northern Ireland.

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## INTRODUCTION

The Libraries Bill [NIA Bill 5/07] (the Bill) was introduced into the Northern Ireland Assembly on Monday 11th June 2007 by the Minister for Culture, Arts and Leisure. The Assembly agreed the Second Stage of the Bill on 19<sup>th</sup> June 2007. This paper provides some background information on the public library service and the policy and legislative context of the Bill. The paper summarises the main findings of the public consultations on the Bill and outlines the key provision of the Bill. The paper ends with some overall conclusions and potential issues for discussion.

## 1. BACKGROUND TO THE BILL

This section of the paper provides some background information on the current public Library Service in NI and recent strategic developments of the service. Section 1.1.1 outlines the role of the education and library boards. Some facts and figures about the current public library service are presented at Section 1.1.2. Recent policy developments in relation to the delivery of the library service are outlined at Section 1.1.3.

### 1.1 EDUCATION AND LIBRARY BOARDS

The Public Library Structure in Northern Ireland (NI) is currently composed of five area boards. Each Board is established under *The Education and Libraries (Northern Ireland) Order 1972* as the local authority responsible for:

- the provision of primary and secondary education within its area
- the provision of a youth service within its area
- the provision of library services to schools and the public

Boards must also have regard for the need for pre-school education.

### 1.2 NORTHERN IRELAND LIBRARY FACTS AND FIGURES<sup>1</sup>:

- There are currently 111 public libraries.
- Almost half of the population (49%) are registered members of a library.
- 1.3 million people live within two miles of a public library.
- There are two million books available to borrow free of charge.
- Users have free access to 4 million catalogued items.

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<sup>1</sup> [www.dcalni.gov.uk](http://www.dcalni.gov.uk)

- Users have free access to computers and internet facilities.
- Over 1,100 computers are available over the 111 locations.
- The Electronic Libraries project (ELFNI) provides a single ICT network and library management system across the whole of Northern Ireland. It allows all public library users to search a single catalogue and request any item no matter which library or Board it is housed in.

The Library Authorities within each of the Education and Library Board areas are located at the addresses in Table 1 below. The Public Library Service currently employs close to 1,000 staff. Of these, around 170<sup>2</sup> are employed on headquarter functions in library headquarter buildings across the five boards; the remainder are located in local branch libraries.

<b>Table 1.</b>	Address of Library Authority H.Q.
Belfast Education and Library Board (BELB)	Central Library Royal Avenue Belfast BT1 1EA
Southern Education and Library Board (SELB)	Library Headquarters 1 Markethill Road Armagh BT60 1NR
North Eastern Education and Library Board (NEELB)	Area Library Demesne Avenue Ballymena BT43 7QB
Western Education and Library Board (WELB)	1 Spillers Place Omagh BT78 1HL
South Eastern Education and Library Board (SEELB)	Library Headquarters Windmill Hill Ballynahinch BT24 8DH

### 1.3 RECENT DEVELOPMENTS IN RELATION TO THE DELIVERY OF LIBRARY SERVICES

In 2001 the Department of Culture Arts and Leisure (DCAL) began a review of the library service.<sup>3</sup> Its aim was to create a new policy framework for the public library service. New guiding principles and priorities were put out for

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<sup>2</sup> Research and Library Services query 10 August 2007. The Libraries Bill and the proposal for a new centralised headquarters may have implications for these staff. DCAL said that it will provide more precise figures on the number of staff affected once a decision on the new headquarters location has been made and staff transfer scheme set up. In relation to the estimated 170 staff, DCAL state that some of the library HQ buildings, such as Omagh and Belfast also house some staff in support functions (e.g. security and cleaning) 'shared' between branch libraries and the HQ.

<sup>3</sup> A report entitled "Tomorrow's Libraries – views of the Public Library Sector" was published in 2002

public consultation in October 2005,<sup>4</sup> and DCAL finalised its new library policy framework in July 2006 with *Delivering Tomorrows Libraries*<sup>5</sup>. This framework sets out DCAL's overall vision for libraries, specifies plans and actions geared towards increasing the service's focus on its customers and specifies a series of performance measures.

## 2. THE LIBRARIES BILL

This section focuses on the Libraries Bill. The policy and legislative context of the Bill is presented at Section 2.1. This is followed in Section 2.2 with a summary of the findings of the public consultations on the Bill. The key provisions of the Bill are specified at Section 2.3.

### 2.1 POLICY AND LEGISLATIVE CONTEXT OF THE BILL

The Libraries Bill was introduced by DCAL as a direct result of the Review of Public Administration, (RPA)<sup>6</sup>. The RPA was a comprehensive examination of public administration and was launched by the Executive in June 2002. During the suspension of devolution which began in October of that year, it was taken forward by direct rule ministers.

The RPA decision on libraries was announced in March 2006 by the Secretary of State<sup>7</sup>. The Review decided that a single library Authority should be established to deliver the public library service. It proposed the disbandment of NI's five Education and Library Boards. The Review further recommended the transfer of education functions to a new Education and Skills Authority<sup>8</sup> which would be established at the same time as the new Library Authority<sup>9</sup>.

A draft Order in Council entitled *The Libraries (Northern Ireland) Order 2007* was drawn up by DCAL. A consultation on the draft Order was held between

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<sup>4</sup> "Northern Ireland Libraries: A Framework for Change" October 2005 DCAL [http://www.dcalni.gov.uk/framework\\_for\\_change-2.pdf](http://www.dcalni.gov.uk/framework_for_change-2.pdf)

<sup>5</sup> "Delivering Tomorrows Libraries" [http://www.dcalni.gov.uk/1mb\\_final\\_libraries\\_doc-2.pdf](http://www.dcalni.gov.uk/1mb_final_libraries_doc-2.pdf)

<sup>6</sup> The aims of the RPA are covered in "Better Government for Northern Ireland: Final Decisions of the Review of Public Administration". March 2006

[http://www.rpani.gov.uk/bettergovernment\\_doc-final\\_decisions.pdf](http://www.rpani.gov.uk/bettergovernment_doc-final_decisions.pdf)

<sup>7</sup> <http://www.rpani.gov.uk/speech210306.pdf>

<sup>8</sup> The establishment of which will require separate legislation.

<sup>9</sup> By April 2008, however it has been announced that the ESA will now be established by April 2009 at the latest.

In relation to staff working in RPA affected areas, Government has since stated:

- That staff will transfer should their respective functions transfer,
- If it is proposed to physically re-locate work, staff would move within their existing contractual mobility obligations,
- Currently the affected sectors are working together on the arrangements for re-location.

-All such proposals would be subject to the normal consultation processes.

<http://www.rpani.gov.uk/index/faq/employment.htm>

January and April 2007 and the legislation was revised as a result<sup>10</sup>. DCAL also carried out an equality screening exercise which concluded that a full Equality Impact Assessment (EQIA) in relation to the draft Order was not needed<sup>11</sup>. Following the return of devolution in May 2007 the draft Order was introduced in the Assembly on 11 June 2007<sup>12</sup>.

On Tuesday 19<sup>th</sup> June 2007, at the Second Stage of the Bill, the Minister indicated his approval for the Bill, explaining its purpose:

*The Bill will establish a single library service for the whole of Northern Ireland and will streamline the five existing library services, providing a unified seamless service that can ensure equity in delivery and transmission of best practice. The Bill will establish a non-departmental public body (NDPB) at a regional level to deliver that service — a library authority that will be led by a board comprising people who will be selected specifically for their ability to oversee a library service that meets modern needs.*<sup>13</sup>

Thereafter Members debated the principles underpinning the Bill. Such debate echoed issues identified during DCAL's public consultations on the draft Bill—see Section 2.2 below.

## 2.2 PUBLIC CONSULTATION FINDINGS

Two consultation exercises have taken place on the Bill's proposals. The first followed the publication of the draft Libraries (NI) Order 2007 and ran between January and April 2007. It included meetings with a range of key stakeholders. DCAL received 24 written responses from library bodies and other interested persons and organisations, including trade unions. Some revisions were made to the draft legislation as a consequence, and a second consultation with key stakeholders took place in June/July 2007<sup>14</sup>. Some key issues stemming from the consultations are provided below.

### 2.2.1 Single centralised authority

The majority of consultees were in favour of the principle of a single Authority. Many of those in support felt it would reflect the RPA objective of streamlining the management and delivery of public service and build on existing joint working at regional level<sup>15</sup> in the five library services. Many thought that it

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<sup>10</sup> Consultees had asked that the commitment to a continuing free service was made clearer and that the maximum permitted size of the Authority Board be increased.

<sup>11</sup> [http://www.dcalni.gov.uk/libraries\\_ni\\_order\\_2007\\_screening\\_report.pdf](http://www.dcalni.gov.uk/libraries_ni_order_2007_screening_report.pdf)

<sup>12</sup> [http://www.niassembly.gov.uk/legislation/primary/2007/niabill5\\_07.htm](http://www.niassembly.gov.uk/legislation/primary/2007/niabill5_07.htm)

<sup>13</sup> <http://www.niassembly.gov.uk/record/reports2007/070619.htm>

<sup>14</sup> A public notice inviting written submissions to the Bill was placed in the *Newsletter, Irish News, Belfast Telegraph* and the *Belfast Telegraph North West edition* on 25 June 2007. In addition, individual invitations were issued to 56 organisations. The closing date was 17 July 2007.

<sup>15</sup> For instance, the Electronic Libraries project (ELFNI). Implemented by the five Library Authorities, it provides a single ICT network and library management system across the whole

would give the library service a higher public profile and that the quality and reach of the service and overall levels of library use would improve.

Some objections were raised to the proposal for a single Authority. Several respondents thought that library services should be a local government service. Others said that the creation of a 'quango' is an unsuitable and unnecessary arrangement for library provision. Referring to GB and Republic of Ireland models, some respondents considered that a single authority would be too *large* for NI's 1.7 million population and would not be responsive to local and sub-regional needs.

### 2.2.2 Equality issues

Government departments are required to carry out Equality Impact Assessments (EQIAs) to screen their policies for any adverse impact on equality of opportunity<sup>16</sup>. Having completed an initial equality screening exercise on the Libraries Bill, DCAL concluded a full EQIA was unnecessary. Equality Commission Guidelines<sup>17</sup> indicate the steps which a public authority should take when screening a policy and state that the following criteria must be considered:

- 1. Is there any indication or evidence of higher or lower participation or uptake by different groups?*
- 2. Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?*
- 3. Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them?*
- 4. Is there an opportunity to better promote equality of opportunity or good relations by altering the policy or working with others in government or in the larger community?*

The Equality Commission state that if the answer to any of these four questions is yes, consideration must be given to whether to subject the policy to the equality impact assessment procedure.

Several consultees disagreed with DCAL's conclusion that an EQIA was not needed and maintained that the establishment of a 'centralised' library headquarters could have adverse equality impacts for current library headquarters staff. The location of jobs, according to one respondent, was

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of Northern Ireland and allows all public library users to search a single catalogue and request any item no matter which library or Board it is housed in.

<sup>16</sup> Under Section 75 of *The Northern Ireland Act 1998*, Government departments are required to have due regard to the need to promote equality of opportunity.

<sup>17</sup> See the Equality Commission for Northern Ireland's website:

[http://www.equalityni.org/sections/default.asp?cms=Policy\\_Section%2075%20-%20The%20Statutory%20Duty\\_screening%20and%20EQIAs&cmsid=89\\_98\\_100&id=100&se cid=6](http://www.equalityni.org/sections/default.asp?cms=Policy_Section%2075%20-%20The%20Statutory%20Duty_screening%20and%20EQIAs&cmsid=89_98_100&id=100&se cid=6).

important: “in the interest of fairness, the local economy and equality of opportunity”<sup>18</sup>.

One of the Education and Library Boards expressed concern over the: “...uncertainty affecting staff who are anxious about their future...” and urged DCAL to take steps to provide: “...more clarity around the transfer process and the impact of appointments to the new body”<sup>19</sup>

It is also noteworthy that this issue arose during the Assembly’s Second Stage debate on the Bill:

*I ask the Minister to consider carefully the location of the new library Authority. I am sure that he will consider all regions in Northern Ireland, including the north-west.*<sup>20</sup>

The Bill makes no reference to the location of the new library Authority headquarters, except that:

*The headquarters of the Authority shall be at such place as the Department may approve. (Schedule 2 15.1)*

DCAL’s Equality Screening Report<sup>21</sup> on the draft Order, states that a central headquarters will be required in place of the current five library headquarters. It also states that “equality implications” would be considered as part of the decision making process on its location.

In reply to a recent Research and Library Service enquiry as to whether a full EQIA would be carried in relation to the future location of library headquarters, DCAL responded<sup>22</sup>:

*We have now a Chief Executive (designate) in place for the Library Authority and one of the early issues that she will want to address is the organisational design including where various functions will be best located. This, and an equality impact assessment, will inform decisions on location.*

### 2.2.3 Regulatory Impact Assessment

A Regulatory Impact Assessment (RIA), another statutory requirement, is intended to identify the likely impact of a proposed policy on the economy, firms and workers. DCAL stated that a RIA was not required in relation to the

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<sup>18</sup> Consultation submission by Ms M McLaughlin. July 2007.

<sup>19</sup> Response by The Commissioners of South Eastern Education and Library Board. July 2007

<sup>20</sup> Assembly debate on the Libraries Bill 19 June. Speech by Mr Pat Ramsey.

<http://www.niassembly.gov.uk/record/reports2007/070619.htm>

<sup>21</sup> Equality Screening Report on the Review of Public Administration decision to set up a Single Library Authority for Northern Ireland. 2 October 2006

[http://www.dcalni.gov.uk/libraries\\_ni\\_order\\_2007\\_screening\\_report.pdf](http://www.dcalni.gov.uk/libraries_ni_order_2007_screening_report.pdf)

<sup>22</sup> Research and Library Services query 10 August 2007. Reply received from DCAL Libraries Branch-RPA 17<sup>th</sup> August 2007.

draft Libraries Bill. This was because, “*The policy decision to create a single library authority of itself has no impact on local business*”<sup>23</sup>.

#### 2.2.4 Schools library service

The RPA decided that the schools library service should separate from the mainstream library service and become the responsibility of the Department of Education. The Libraries Bill therefore makes no reference to the schools library service, a fact which was commented on by many respondents. In the Explanatory and Financial Memorandum<sup>24</sup> to the Bill DCAL explains that the separation from education is because:

*Public libraries have cultural, recreational and community roles, as well as educational*

One consultee’s response to this was that:

*Libraries currently perform all of these functions as part of an Education and Library Board and could continue to do so within any proposed reorganisation of the education service*<sup>25</sup>

Another respondent, expressing concern at the separation of two services, said it was a “*backward step*”, because “*they are intrinsically linked*”. Others, while in agreement with the principle of a single authority, called for systems to be built into the new arrangements to continue the close collaboration between libraries and schools. Several stressed that the current sharing between the library service and schools library service of premises, management, vehicles, IT system, stock contracts and some staff are cost effective arrangements.

Although DCAL states on its website, “*We fully expect strong links to be forged between the library authority and the new education authority*,”<sup>26</sup> many respondents wished to see such links established via legislation. During the Assembly’s Second Stage Debate the Minister said:

*The chief executive designate of the library authority and the Education and Skills Authority will consider the best way of ensuring that all parties work closely together for the mutual benefit of all services.*<sup>27</sup>

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<sup>23</sup> id

<sup>24</sup> [http://www.niassembly.gov.uk/legislation/primary/2007/niabill5\\_07efm.htm](http://www.niassembly.gov.uk/legislation/primary/2007/niabill5_07efm.htm)

See also [http://www.dcalni.gov.uk/index/libraries/northern\\_ireland\\_library\\_authority.htm](http://www.dcalni.gov.uk/index/libraries/northern_ireland_library_authority.htm)

DCAL also state on their website in relation to this issue:

*“Libraries have an important place in the life of a community outside the formal education system. Libraries provide a service:*

*-To all citizens, not school children alone*

*-For lifelong learning, not just for under eighteens*

*-For informal learning, not just formal educational structures”.*

<sup>25</sup> Consultation response from the North Eastern Education and Library Board. July 2007.

<sup>26</sup> [http://www.dcalni.gov.uk/index/libraries/northern\\_ireland\\_library\\_authority.htm](http://www.dcalni.gov.uk/index/libraries/northern_ireland_library_authority.htm)

<sup>27</sup> <http://www.niassembly.gov.uk/record/reports2007/070619.htm>

### 2.2.5 Expected efficiency savings

DCAL declared that savings of £0.6m in 2009-10, rising to £1.2m in 2010-11, will be made in the running of the public library service as a consequence of the creation of the new single Authority<sup>28</sup>. A number of respondents queried these estimates and wanted further details of the calculations and assumptions upon which they were based. It is noteworthy here that during the Assembly's Second Stage debate on the Bill, the Minister was asked to provide Members with: "*clear figures on the savings and economies that could be made*" as the Member felt there was "*...a definite need for clarity on that issue*"<sup>29</sup>

In its response to the consultation, a group of library professionals was concerned that the estimated efficiency savings might cause the new Authority to:

*...come into being in a negative climate of cost reduction, uncertainty and potential conflict rather than a positive climate of service development and partnership building.*<sup>30</sup>

This sentiment was echoed by other respondents. One group commented that the estimated savings were a:

*...cause for alarm given the fact that the vast majority of library service costs are directed to frontline services and that the government has repeatedly stated its commitment to maintaining and enhancing the standard of these across all public services.*<sup>31</sup>

Many of the consultees viewed the creation of the single authority as an opportunity for the library service to be developed and expanded. To this end, many expressed a desire to see the appointment of specialist and expert staff (for example, in areas such as marketing, external funding and digitisation). It was in this context that one group viewed the level of savings anticipated by DCAL as "*a matter of grave concern.*" This group felt that:<sup>32</sup>

*As the largest library authority in the UK, the new library authority should be in a position to employ specialist and expert staff which cannot currently be afforded...*

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<sup>28</sup> See the section on the financial effects of the Bill in the Explanatory and Financial Memorandum.

[http://www.niassembly.gov.uk/legislation/primary/2007/niabill5\\_07efm.htm](http://www.niassembly.gov.uk/legislation/primary/2007/niabill5_07efm.htm)

<sup>29</sup> Assembly debate 19 June 2007. Speech by Mr Nelson McCausland

<http://www.niassembly.gov.uk/record/reports2007/070619.htm>

<sup>30</sup> Consultation response from the Chartered Institute of Library and Information Professionals. July 2007.

<sup>31</sup> Consultation response from the Library and Information Services Council (LISC) July 2007.

<sup>32</sup> Consultation response from the Association of Chief Librarians. July 2007.

### 2.2.6 Startup costs

The Explanatory and Financial Memorandum<sup>33</sup> declared start up costs at £0.67m to cover part year salaries for the Chief Executive (designate) and other senior staff, support team, rental of temporary premises and consultancy costs. Many respondents believed this sum to be inadequate and thought that start up/transitional costs *beyond* 2007/08 should be identified and provided for as well. One commented that extra provision should be made for redundancy payments if any streamlining of the service is to take place.

### 2.2.7 Funding for corporate and support services

DCAL explain that for 'historical' reasons corporate and support services for libraries (finance, Human Resources, IT etc) have been financed by the Department of Education (DE), an arrangement which will end once the single Authority is set up. Several consultees considered that disengagement with the education boards will cost the new Authority considerably more for these services than at present. Many called for greater clarity round the issue of funding for corporate and support services, and some doubted that DCAL's bid would be adequate.

### 2.2.8 Transfer Schemes

DCAL is obliged by the Libraries Bill to set up Transfer Schemes for the transfer of assets, property, rights and liabilities and the contracts of employment of the Education and Library Board staff to the new Authority. Schedule 2 of the Bill deals with this topic.

A number of concerns, mainly from trade union organisations, were raised about this section of the proposed legislation during the consultations. It is also noteworthy that Members referred to the issue of staff transfer during the Assembly's Second Stage debate on the Bill. For instance, the Chairman of the Committee for Culture Arts and Leisure, in his remarks to the Minister stressed that:

*It is vital that the Department ensures that the experience and skills of the current staff are fully utilised in the new authority and that the transfer is made as smoothly as possible for them.*

*In particular, I am seeking a commitment from the Minister that jobs will be safeguarded and that staff will maintain their current terms and conditions in the new authority<sup>34</sup>*

The Northern Ireland Public Service Alliance (NIPSA) and another public service union, UNISON expressed concern that the current provisions in the Bill may not provide the necessary protection of staff's rights and called for

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<sup>33</sup> [http://www.niassembly.gov.uk/legislation/primary/2007/niabill5\\_07efm.htm](http://www.niassembly.gov.uk/legislation/primary/2007/niabill5_07efm.htm)

<sup>34</sup> Assembly debate 19 June. Speech by Mr Barry McElduff.  
<http://www.niassembly.gov.uk/record/reports2007/070619.htm>

further detailed scrutiny at Committee stage. NIPSA is also concerned that the formulation expressed in the Libraries Bill may become the template for other transfer legislation.

The main objections by NIPSA to Schedule 2 are:

- The Bill should have an additional section to paragraph 1 of Schedule 2 to establish rights and liabilities between the transferred employee and the transferor (ELBs) and the transferred employees and the transferee (the Authority).
- Paragraph 4 (2) of the Bill states that TUPE<sup>35</sup> applies to the transfer whether or not the transfer would be a relevant transfer for the purpose of those regulations. NIPSA believe however that the legislation is unclear about whether an employee affected by the transfer would be entitled to bring an application for unfair dismissal (TUPE- Regulation 7) before the Industrial Tribunal without having to prove that the transfer giving rise to the dismissal was a relevant transfer. NIPSA therefore propose an amendment to the Bill to confer jurisdiction upon the Industrial Tribunal.
- Similarly, NIPSA believe that the legislation is also unclear about whether employees could present a complaint before the Industrial Tribunal for Remedy for Failure to Notify Employee Liability (TUPE Regulation 12), without having to prove that the transfer giving rise to the complaint was a relevant transfer.
- NIPSA believe that Regulation 13 of TUPE (the obligation to consult and inform representatives of affected employees) is similarly compromised and again, recommend that jurisdiction be conferred upon the Industrial Tribunal.
- NIPSA request more explicit detail in the provisions relating to independent third party resolution processes dealing with disputes on implementation and compensation. It further emphasises that the dispute resolution procedures should be independent.
- NIPSA believe there needs to be clarity that the part of the legislation dealing with “rights to acquire pension benefits” in Paragraph 4(5)(b) will actually guarantee clear statutory protection of the pension benefits a person was entitled to receive prior to transfer.

Points raised by UNISON were:

- A commitment to consultation and creation of pre-transfer agreement with relevant parties should be stipulated in the Bill.
- Paragraph 4(3)(c) – resolution of grievances makes no provision for the use of agreed and independent third-party grievance resolution mechanisms.

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<sup>35</sup> *The Transfer of Undertakings (Protection of Employment) Regulations 2006* (S.I.2006/246)  
<http://www.opsi.gov.uk/si/si2006/20060246.htm>

### 2.2.9 Miscellaneous and general

Other concerns in relation to the Bill related to:

- A free library service.

At the first consultation stage, a large number of respondents said that the wording in regard to the provision of a free public library service should be made more explicit. DCAL complied with this wish and the Bill was revised.

However, at the second consultation stage, many respondents mentioned the issue again, and requested that DCAL make its commitment to the continuation of a free service even clearer in the Bill. One written reply stated:<sup>36</sup>

*We have to say that the Bill does not make the commitment clear to a lay person..., and, ....we remain puzzled that the Explanatory Memorandum did not set out clearly in plain English how the Government was proposing to ensure its commitment to the continuation of the free service. We appreciate that the drafting of legislation is an extremely technical matter but an Explanatory Memorandum should surely explain things to lay people so that concerns can be allayed.*

One respondent was satisfied that Clause 6 safeguards the principle of a library service free at the point of use, but felt that the Clause would be strengthened if the Bill explicitly stated that the “schemes of charges” referred to at Clause 6.1(b) cannot be applied to core elements such as library membership and off-the-shelf book borrowing<sup>37</sup>.

- Clarification was sought from DCAL as to whether the Authority will be eligible to enter into PPP / PFI contracts; and if so, this should be made explicit in the legislation. Potential equality and human rights duties may arise for private sector concerns involved in PPPs. Consideration of the equality and human rights implications may therefore be required prior to the formulation of any Public Private Partnership deals.
- Respondents believed that the legislation should allow for the provision of strategic independent advice to the Authority.
- Many comments were made in relation to the size and composition of the Board of the new Authority. Many respondents said that the legislation must make explicit that the membership of the Board will reflect the geographical spread of communities across NI, including

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<sup>36</sup> Consultation response from Share The Vision. July 2007.

<sup>37</sup> Consultation response from CILIP - The Chartered Institute of Library and Information Professionals. July 2007.

rural areas. Some said that elected representatives should also be appointed to the Board, and this should be stipulated in the legislation.

- A number of written submissions to the consultation, in particular, those from disabled rights groups, said that the legislation should be made much more prescriptive in relation to the Authority's responsibility to meet the special requirements of persons with disabilities.
- Some respondents identified the provision of research facilities and resources at public libraries as a major core service and that this role should be enshrined in the legislation. The maintenance and development of public libraries research facilities was felt to be "*an essential funding priority*"<sup>38</sup>.

### **2.3 KEY PROVISIONS OF THE BILL<sup>39</sup>:**

The Libraries Bill is intended to give effect to the RPA decision and create a new non-departmental public body (NDPB) to administer and deliver the public library service. The new Library Authority will operate under the direction of, and be funded by, the Department of Culture, Arts and Leisure.

The Bill:

#### Establishes the new library Authority:

- It will be called The Northern Ireland Library Authority [Clause 1 and Schedule 1], and
- Education and Library Boards shall cease to be the library authority for their areas [Clause 1 and Schedule 1].

#### Establishes the structure of the Authority:

- The Board of the new Authority will have a Chair and between 7 and 14 other members.
- Members of the Authority will be appointed by DCAL.
- The Authority will have a Chief Executive, the first of whom will be appointed by DCAL, and thereafter by the Authority.

[all above Schedule 1].

#### Details the statutory duties and functions of the new Authority:

- To provide a public library service for persons living, working or studying in Northern Ireland. The Authority is also enabled to provide a library service to visitors to Northern Ireland [Clause 2].

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<sup>38</sup> Consultation response from The Belfast Education and Library Board. July 2007.

<sup>39</sup> Note: a summary is presented here; see the Explanatory and Financial Memorandum (Department of Culture, Arts and Leisure 2007) that accompanies the Bill for a detailed clause by clause description of the proposals).

[http://www.niassembly.gov.uk/legislation/primary/2007/niabill5\\_07efm.htm](http://www.niassembly.gov.uk/legislation/primary/2007/niabill5_07efm.htm)

- To provide a free library service (although libraries can continue to charge for certain aspects of the service or the use of its premises<sup>40</sup>) [Clause 6].
- The Authority is enabled to work with other bodies in carrying out its duty [Clause 2(3)].
- The Authority must comply with any directions made by DCAL as to the exercise of its functions [Clause 9].

Establishes the relationship between DCAL and the Authority:

- The Authority will be funded by DCAL [Schedule 1, (16)].
- The Authority will operate under the direction of DCAL [Clause 9].

Provides for the transfer of employees to the new Authority:

- DCAL must produce Transfer Schemes for the transfer of the property, rights and liabilities of the Education and Library Boards to the new Authority - this includes the contracts of employment of staff of the Education and Library Boards [Clause 1 and Schedule 2].
- The Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006<sup>41</sup> (S.I. 2006/246) will apply to the transferring employees [Schedule 2, para 4.2].
- The Transfer Schemes must include provision securing pension protection for these employees [Schedule 2, para 4.3(b)].
- The Transfer Schemes must also include provision for procedures designed to resolve any grievances of employees arising in relation to Transfer schemes [Schedule 2, para 4.3(c)].
- The Transfer Schemes must also include provision for the payment of compensation by DCAL to any employee who suffers loss or detriment in consequence of the Schemes [Schedule 2, para 4.3(d)].

### 3.0 CONCLUSIONS

This briefing paper is intended to facilitate Members consideration of the Bill. To this purpose, it has presented some basic facts about how the library service operates currently and some background information about the context of the new legislation and the policy developments that have taken place recently in the library service. A brief analysis of the main issues that arose from the public consultations was provided. These issues centred on the overall principle of the creation of a single authority, equality, the schools

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<sup>40</sup> For example, at present libraries may charge users a fine for overdue books and for photocopying services.

<sup>41</sup> <http://www.opsi.gov.uk/si/si2006/20060246.htm>

library service, financial issues and Transfer Schemes. Following this, a summary of the main proposals in the Bill was provided. To conclude, some potential issues for consideration are set out below.

### **3.1 POTENTIAL ISSUES FOR CONSIDERATION**

#### **3.1.1 Principal of a single centralised authority**

Although the majority of submissions from the consultations supported the principle of the single centralised authority, some objections were raised, see section 2.2.1.

#### **3.1.2 Equality issues**

The decision that a full EQIA on the Bill was unnecessary was commented on by many respondents, particularly trade union organisations, see section 2.2.2. Indications from DCAL are that equality impacts assessments will be carried out at a later stage, but further clarity on the issue may be required from DCAL. This may also apply in relation to Regulatory Impact Assessment (RIA), see section 2.2.3.

#### **3.1.3 Schools library service**

This issue also received a large number of comments in the consultation responses, see section 2.2.4. Many respondents regretted the separation of the education and library services. Others wished to see links between the two new Authorities established in the legislation.

#### **3.1.4 Financial issues**

A significant number of consultation responses expressed concern about DCAL's estimates of the savings that will be made by the creation of the new single Authority, see section 2.2.5. Further detail from DCAL on how the estimates were calculated may be required.

In addition, many respondents queried DCAL's figures for start up costs for the new Authority, believing it to be inadequate, see section 2.2.6.

Funding for corporate and support services was a matter which received a significant number of comments, see section 2.2.7. Many were unclear on how these services would be adequately funded in the future and called for greater clarity from DCAL.

#### **3.1.5 Transfer Schemes**

Schedule 2 of the Bill deals with the issue of Transfer Schemes. Concern was expressed that the current provisions of the Bill may not provide the necessary protection of staff's rights, see section 2.2.8. The Trade Union

Organisation NIPSA called for further detailed scrutiny of this matter at Committee stage.

### 3.1.6 PPP / PFI contracts

Clarification was sought from DCAL in relation to PPP / PFI contracts, see section 2.2.9.

## Appendix A

### **History of the Public Library Service<sup>42</sup>**

Prior to the creation of a public library service in Ireland, libraries were formed by public subscriptions. Members paid an entry fee to join and an annual subscription which was used to buy books and cover administrative costs. The oldest subscription library in Ireland is the Linenhall Library<sup>43</sup> in Belfast, founded in 1788. Still in existence today at its premises at Donegall Square North, it is the last subscribing library in Ireland, North and South.

Further subscription libraries were set up by organisations such as the Belfast People's Literary Institute, Working Men's Clubs and the YMCA. The Belfast People's Reading Rooms were opened in 1865 and Mechanic's Institute Libraries were formed during the early part of the 19<sup>th</sup> century. These libraries encouraged self-improvement through education and learning.

The origin of the modern public library service was the passing of the Public Libraries Act of 1850 in England and Wales and *The Public Libraries Act (Ireland)* 1855. The legislation empowered local councils to levy a rate of one halfpenny in the pound to establish libraries in their area. In Ireland the Act initially applied to municipal authorities with a population of 5,000 and over and for the first time, gave the public free access to a range of library material, both popular and scholarly.

The Act was slow to take effect in Ireland but in 1858 the first public library opened in Dundalk County Louth, followed in 1860 by Ennis, County Clare. The first public library in Belfast opened in 1888, established by the public rate. Branches opened in Ballymacarrett in 1903, Oldpark in 1907, Falls in 1908 and the Donegall Road in 1909. The provisions of the Act were eventually widened to apply to all urban districts, any rural district and allowed for new means of funding for libraries. Urban districts which adopted the Libraries Act were Lurgan in 1895, Newtownards in 1896, Newry in 1897, Banbridge in 1902, Portadown in 1904, Downpatrick in 1905, Larne in 1905 and Bangor in 1910.

During the early part of the 20<sup>th</sup> century Carnegie<sup>44</sup> grants were extended to Ireland which had a far reaching influence on the public library movement. Altogether, over 600 Carnegie libraries were built in Britain and Ireland. Following an experiment into the feasibility of a county library system in 1922 the *Public Libraries Act (Northern Ireland) 1924* was passed. This established County Councils as library authorities. County libraries began to supply books to elementary schools. Over subsequent decades the library service in NI

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<sup>42</sup> See "A History of Literacy and Libraries in Ireland". Mary Casteleyn.1984. Gower.

<sup>43</sup> See the Linenhall Library's website at [www.linenhall.com](http://www.linenhall.com) The Library was founded by the Belfast Reading Society which later became the Belfast Society for Promoting Knowledge.

<sup>44</sup> Andrew Carnegie 1835-1919. Born in Scotland, immigrated to USA in 1848. He donated the money for the building of thousands of Carnegie libraries in English-speaking countries in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries.

continued to develop and expand. The service was reviewed in the early 1960s<sup>45</sup> and again in 1970 when the Macrory Report<sup>46</sup> recommended a new system of up to five area boards to be established having regional functions covering education and libraries. This led to *The Education and Libraries (Northern Ireland) Order 1972* which created the Belfast, North Eastern, Southern, South Eastern and Western Education and Library Boards.

The Boards took over the stock and buildings, and in many cases, the staff of the former Belfast and Londonderry Borough libraries, the six county libraries of Antrim, Armagh and Down, Fermanagh, Londonderry, and Tyrone, plus the surviving independent local libraries within the county boundaries. The 1972 Order created a formal link between the library service and the school system and required the boards to establish Library Committees. The five Boards were funded by a block grant from the Department of Education Northern Ireland (DENI) and each Board then allocated money according to its priorities to each of its divisions: education, youth and library services. By 1973 there were 16 Library Authorities in Northern Ireland with a total 68 libraries. The Order required that approval at departmental level must be sought regarding new developments to the library service. The 1972 Order was consolidated in *The Education and Libraries (Northern Ireland) Order 1986*.

*The Departments (Northern Ireland) Order 1999* gave the responsibility for libraries to the Department of Culture, Arts and Leisure (DCAL), one of the newly created 11 Northern Ireland Departments. Since then, DCAL has supported the libraries aspect of the Education and Library boards.

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<sup>45</sup> The Hawnt Report was published in April 1966. "*The Public Library Service in Northern Ireland – Report of the Committee Appointed by the Minister of Education*" Cmnd 494 HMSO.

<sup>46</sup> This was the report of a review body on local Government in Northern Ireland.