



Northern Ireland
Assembly

Research and Information Service Research Paper

31st May 2016

Des McKibbin & Suzie Cave

Potential areas of interest for the Committee for Infrastructure

NIAR 161-16

This paper provides members of the Committee for Infrastructure with an overview of the functions of the Department for Infrastructure, including an analysis of its budgetary allocations in 16/17 and beyond, a summary of some of the key issues from 2011-16 mandate relevant to the work of DfI, and an assessment of work streams the committee may wish to consider when preparing its forward work plan.

Key Points

This paper provides members of the Committee for Infrastructure with an overview of the functions of the Department for Infrastructure, including a summary of some of the ongoing issues which the committee may wish to consider when preparing its forward work plan. In each of the sections of the paper a number of potential key scrutiny points are highlighted. The following is a summary of those points:

- The DfI's 2016/17 budget allocation is significantly below the DRD's 2015/16 outturn, notwithstanding the DRD's previous success at in-year monitoring.
 - The Committee may wish to clarify if the funding allocations for the functions previously carried out by DoE, DARD, DCAL and OFMDFM have been carried over to DfI.
- Although only a one-year budget was agreed, in order to give incoming Ministers, the opportunity to determine their own priorities the Executive has identified a number of flagship projects where funding has been allocated over the period 2016-17 to 2020-21.
- These five year allocations raise a number of questions which the committee may wish to address with the DfI:
 - £229m is allocated to the A5 when only £170 is required to complete the (planned phase of the) scheme. What is the current plan for the A5 budgetary surplus – will this be used on further progressing the A5 scheme?
 - Is the additional funding in place after the launch of the Belfast Rapid Transit (BRT) an indication that the DfI will move straight to commencing phase 2 of the scheme?
- In previous mandates the strategic planning for roads infrastructure has been presented in three regional transport plans. These were introduced in 2005 but expired in 2015 with many schemes having not progressed beyond the planning stage due to a lack of funding.
 - The committee may wish to enquire if there are plans in place to publish new regional transport plans and whether any work will be undertaken to determine when or if these previously planned schemes are realistically expected to be delivered.
- The structural maintenance deficit grew by over £200m in the last mandate, bringing the total to almost £1 billion.
 - The committee may wish to seek assurances that this deficit, particularly the deficit on non-motorway and non-trunk roads, is not impacting on the safety of road users.
 - The committee may wish to enquire if the Minister will call on the Executive to agree a multi-year, ring fenced allocation with the DfI's baseline budget that

may facilitate a more strategic and consequently efficient approach to structural maintenance.

- Structural maintenance funding has historically been determined by in year monitoring allocations.
 - The committee may wish to enquire what the new Minister's assessment is on the use of in year monitoring and how this impacts his department.
 - Furthermore, the committee may wish to ascertain what measures, if any, will be put in place to deal with the burgeoning maintenance deficit.
- The new departmental structures mean that for the first time one Executive Department will be responsible for both roads infrastructure and road safety.
 - Although there are a number of issues to consider, the committee may wish to enquire whether the DfI will seek to eliminate gap junctions across NI's road network and whether any costs or timeframes are in place.
 - The committee may seek information from the PSNI road traffic branch on the frequency of road traffic collisions on dual carriageways, where the causation factor is 'turning right without care' or 'emerging from a minor road without care' with severity of the collision, number of vehicles and vehicle type.
- Despite significant investment in public transport, modal shift targets have not been achieved with passenger numbers showing only modest increases and the car remaining as the dominant mode of transport in NI.
- A number of key public transport schemes have not been delivered on time, for example BRT and phase 2 of the Derry/Londonderry – Coleraine rail line
 - While budgetary reductions will have had an effect on the delivery of these schemes, there may also have been project management difficulties. The committee may wish to enquire what lessons have been learned from these cases and whether management structures and practice are sufficiently fit for purpose to deliver major public transport improvements.
- The Northern Ireland Audit Office has commented that '*the DRD needs to do more to attract people onto public transport and make it their choice mode of travel*' and criticised it for being more geared towards roads than public transport.
 - The committee may wish to seek the new Minister's views on this assessment and enquire as to what, if any, measures have been put in place to address these criticisms.
- The call for evidence regarding a review of policy for sustainable development in the countryside is closed.
 - the Committee may be interested in finding out about the views of the respondents; they may also wish to get an indication of the direction of travel adopted by the Department regarding sustainable development in the countryside.
- A call for evidence in relation to strategic policy for renewable energy is closed.

- It may be of interest to ask the Department for an update on the call for evidence responses and the Department's position in relation to turbine noise limit guidelines ETSU-97.
- The Committee may wish to review the implementation of new suite of Taxi Act 2008 regulations; and ensure the Department undertakes a review.
- The Committee may also wish to ensure that an analysis is undertaken by the Department to ensure that the regulations do not have a negative impact on the number of disability accessibility taxis that are available.
- Implementation of the new arrangements for drink drive limits and graduated driver licensing will require further public consultation and an extensive programme of subordinate legislation in the new mandate.
 - Consideration may be needed on the practicality of applying these arrangements and whether there will be a need for increased police presence for their implementation.

Contents

Key Points	3
Contents	6
1 Overview	7
2 Functions of the Department for Infrastructure.....	7
3 Department for Infrastructure Budget Allocations 2016-17.....	7
4 Is Northern Ireland's transport infrastructure sufficient to support growth and competitiveness?.....	12
4.1 Roads.....	13
4.1.1 Structural maintenance.....	13
4.1.2 Reliance on in year monitoring	14
4.1.3 Complementary portfolios: Road Safety	15
4.2 Public transport	15
4.2.1 The effectiveness of public transport in Northern Ireland	16
4.3 Funding infrastructure.....	16
5 Water policy.....	16
6 Planning	17
6.1 New planning policy.....	19
6.2 New role for councillors	19
6.3 Sustainable development in the countryside.....	19
6.4 Renewable Energy Guidance	20
7 Taxis	21
7.1 Maximum fares.....	22
8 New driving laws	22
8.1 Drink driving	22
8.2 Young and new drivers.....	23

1 Overview

This purpose of this paper is to provide members of the NI Assembly's Committee for Infrastructure with:

- an overview of the functions of the Department for Infrastructure;
- an analysis of the DfI's budgetary allocations in 16/17 and beyond;
- a summary of key issues from 2011-16 mandate relevant to the work of DfI; and
- an assessment of work streams the committee may wish to consider when preparing its forward work plan.

2 Functions of the Department for Infrastructure

The DfI has assumed the functions of the former Department for Regional Development (DRD) which, broadly speaking, were:

- Roads;
- Public Transport; and
- Water

The DfI has responsibility for a number of other functions previously fulfilled by the DoE, DARD and OFMDFM; these are:

- Vehicle regulation, road safety & Driver and Vehicle Agency (DVA) functions from DOE;
- Strategic planning from DOE;
- Rivers Agency from DARD;
- Inland waterways from DCAL;
- Crumlin Road Gaol Programme-Project management from OFMDFM;
- St Lucia (ex-Ministry of Defence site) from OFMDFM.

3 Department for Infrastructure Budget Allocations 2016-17

Budget 2016-17 has been prepared for a single year only, giving incoming Ministers the opportunity to determine their own priorities before agreeing a multi-year budget from 2017 onwards. To date, only the overall Resource Departmental Expenditure Limit (DEL) and Capital DEL allocations have been provided; for the DfI this is £372.8 million (resource) and £384.1 (capital). These allocations are not broken down in terms of the new DfI's primary functions as outlined above, restricting the level of analysis that can be carried out at this stage.

Table 1: 2015/16 departmental outturn vs. 2016/17 baseline

	2015/16 Outturn £million	2016/17 Allocation £million	Difference +/- (£m)	Difference +/- (%)
Resource	435.8	372.8	-63	-14%
Capital	397.8	384.1	-13.7	-3%
Total	833.6	756.9	-76.7	-9%

Table one shows the budget allocation for 2015-16 against the DRD's outturn for 2014-15. This represents an overall reduction of 9 per cent compared to last year's outturn. However, there is a 14 per cent reduction in resource DEL.¹ This could be significant when consideration is given to the functions that will be carried out by Dfl that were not previously undertaken by DRD.

The Committee may wish to clarify if the funding allocations for the functions previously carried out by DoE, DARD, DCAL and OFMDFM have been carried over to Dfl.

3.1 Budgetary Impact of new departmental functions

3.1.1 Vehicle regulation, road safety and DVA functions from DOE

The DVA is responsible for, among other things, vehicle and driver testing; driver licensing; driving instructor registration; road transport licensing (drivers and operators); enforcement of licensing; and roadworthiness testing and enforcement. DVA is funded primarily through income from fees, while the Northern Ireland Executive contributes towards driver, taxi and operator licensing and roadside enforcement activities.

- DVA received income of £57.8m during the year 2014-15;
- Operating expenditure during the year totalled £54.6m;
- DOE made a contribution of £2,056,000 towards enforcement in 2014-15.

Is it anticipated that the Dfl will make a similar financial contribution to the work of the DVA?

3.1.2 Road Safety

There is been a multi-agency approach to improving road safety in Northern Ireland. For example:

- The DoE Road Safety Branch is responsible for education;
- The PSNI is responsible for enforcement; and

¹ The baseline position is indicative and does not exactly reflect the final 2015-16 spending plans for Roads, Water and Transport.

- Transport NI is responsible for ensuring the road network is safe for all users through engineering.

Under the DfI the roles of Transport NI and the DOE will be combined. This will have resource implications for the new department. Tables two and three below show the level of expenditure by DOE on road safety advertising and educational materials over the last six years:²

Table 2: DOE Expenditure on Road Safety Campaign Advertising and Education Materials 2009-10 to 2014-15

Year	Advertising Campaigns	Road Safety Education Materials
2009/10	£1,476,587	£1,476,587
2010/11	£1,703,256	£694,144
2011/12	£2,504,043	£652,617
2012/13	£2,513,472	£600,758
2013/14	£2,528,361	£249,780
2014/15	£1,982,681	£259,369

Road traffic collisions (RTC) and casualties are largely caused by road user behaviour – therefore the importance of the DOE’s road safety campaigns and education on changing attitudes and ultimately driver behaviour must not be underestimated. Indeed, results from a series of seven NI surveys (between 2003-10), designed to capture information on what individuals find most influential to road death/serious injury reduction in NI, found that road safety TV advertisements to be the most influential factor in preventing RTCs (23.03%) followed by police enforcement (12.55%), penalties (12.16%) and road traffic laws (11.38%).³

Given the apparent reduction in resource funding, and in the context of increasing serious and fatal road traffic collisions, will the work of the Road Safety Division be sufficiently funded within the DfI during the 2016-17 period and beyond?

3.1.3 Rivers Agency

The Rivers Agency is primarily responsible for arterial drainage and flood protection as well as implementation of the Water Environment (Floods Directive) Regulations (NI) 2009. This involves managing the adverse consequences that flooding has on human health, the environment, cultural heritage and economic activity.

² DOE Road Safety Branch

³ Oxford Economics (2012) Economic Payback of Road Safety Advertising in NI [online] available from: <http://nia1.me/2wl>

Table 3: DARD Budget allocation for Rivers Agency 2011-16

	2010-11 £m	2011-12 £m	2012-13 £m	2013-14 £m	2014-15 £m
Current Expenditure	16.4	16.6	17.2	17.3	17.3
Capital Allocation	6.6	5.1	4.0	5.3	3.7
Total Allocation	23	21.7	21.2	22.6	21

The proposed allocations for both resource and capital DEL will clearly pose major challenges for DfI as it seeks to balance the competing priorities of investment in roads, transport, water and now river and flood defence infrastructure.

DfI will assume responsibility for implementing the Floods Directive. During the last budget period this attracted a relatively small resource allocation over the last four years (£0.2m/£0.4m/£0.5m/£0.4m). However, in order to implement the Floods Directive, Rivers Agency assumed responsibilities for reservoir safety, coastal erosion and sustainable urban drainage systems.

To date, sustainable drainage systems (SuDS) have rarely been used in NI. However, the policy set out within the Long Term Water Strategy, indicates that the Executive will seek to encourage the use of SuDS in the future, whether this is through the introduction of legislation or amendments to planning policy.

The Committee for Regional Development did visit Wales in March 2016. Site visits included a trip to Llanelli in South Wales where a significant number of SuDS techniques have been employed in order to deal with flooding and water pollution issues in the region. Having spent around £15m on these schemes there is a commitment to roll-out and extend sustainable drainage programme which will see around £60m spent on SuDS across Wales in the 2015-20 period.⁴

The committee may wish to consult the outgoing committee's legacy report which includes evidence provided by experts on the future requirements for SuDS.

3.1.4 Waterways Ireland

Waterways Ireland is the largest of the six North South Implementation Bodies established under the Good Friday Agreement. The body is joint funded by the Northern Ireland Executive and the government of Ireland. At present, 15% of recurrent or maintenance funding is provided by the Executive in Northern Ireland and 85% by the Irish Government reflecting the current distribution of the navigable waterways. The organisation's current expenditure (on an accruals basis) during 2013 was €44 million (£37 million) and €2 million (£1.9 million) was the net value expended on capital projects.⁵

⁴ Water and Waste Water Treatment [online] Project Focus: RainScope - an integrated SuDS solution for Llanelli. Available from: <http://nia1.me/2wb>

⁵ Waterways Ireland (2014) Annual Report and Accounts [online] available from: <http://nia1.me/2wm>

This equates to a £5.55 million resource contribution by the Executive; will this level be viable with the current resource DEL allocation?

The 2013 Annual reports and accounts noted that:

The principal risks and uncertainties faced by the Body are the continued funding of its activities by the Northern Ireland Assembly and Dáil Éireann. While there is a reasonable expectation that the respective Governments will continue to fund the activities of the Body, the level of funding is under constant review. There are no formal long-term funding agreements in place.

Have there been discussions about the level of funding to be allocated to Waterways Ireland for 2016-17 and beyond?

If so, what impact will this have on other services?

3.2 What is known for sure?

Table four shows clearly that the resource and capital DEL allocations for the DfI are lower than the provisional outturn for 2014/15⁶

The budget statement notes that *“the nature of some capital projects means it is important to provide funding certainty beyond that [one year] time span. Therefore the Executive has agreed to identify a number of flagship projects where funding will be agreed now for future periods.”*⁷ These schemes, described as flagship projects along with their budget allocation for 2016-17 to 2020-21 are outlined in table four:

Table 4: Budget allocations for Department for Infrastructure Flagship projects 2016-17 to 2020-21

	2016-17 £m	2017-18	2018-19	2019-20	2020-21
A5 Road	13.2	40.0	53.0	55.0	68.0 ⁸
A6 Road	21.0	57.0	60.0	60.0	60.0
Belfast Rapid Transit	17.0	9.0	20.0	12.9	-
Belfast Transport Hub	5.8	16.0	40.0	60.0	-

3.2.1 A5 Road

The total money allocated for the A5 scheme is £229m. This figure includes £154 million of executive monies and the £75m commitment by the Irish Government in the *“Fresh Start”* agreement; this is to be paid in three instalments of £25 million. The

⁶ Pages 8-10, Written Ministerial Statement: Department of Finance and Personnel- Public Expenditure: 2014-15 Provisional Out-turn and 2015-16 June Monitoring Technical Issues [online] available from: <http://nia1.me/2wg>

⁷ Page 4 Written Ministerial Statement: BUDGET 2016-17, Published at 3.00 pm on Thursday 17 December 2015 [online] available from: <http://nia1.me/2wd>

⁸

former Minister for Regional Development indicated that this funding will be used for “the New Buildings to Strabane section of the A5 Western Transport Corridor”. This section has been estimated to cost £170 million.

What is the current plan for the surplus – will this be used on further progressing the A5 scheme?

3.2.2 A6 Road

The DRD Minister has indicated that this funding allocation will allow work to get underway on “the A6 road scheme”. It is likely that this will be the A6 dualling Randalstown to Castledawson scheme which is ‘shovel ready’. This scheme is expected to cost £140m.

Will the DRD confirm if this allocation is for the Randallstown to Castledawson scheme?

If so, will the £118 million surplus be used to begin work on the A6 dualling from Derry to Dungiven? This scheme is estimated to cost £420m.

3.2.3 Belfast Rapid Transit

The implementation of Belfast Rapid Transit (BRT) started in 2014 and is being progressed as a series of schemes. The BRT system is due to begin operation in September 2018. However, funding is in place for 2018-19 and 2019-20.

Is the funding in place after the launch of the Belfast BRT an indication that the DfI will move straight to commencing phase 2 of the scheme?

4 Is Northern Ireland’s transport infrastructure sufficient to support growth and competitiveness?

High quality infrastructure is often suggested as a critical determinant of economic growth and competitiveness; for example, a 2015 Confederation of British Industry (CBI) survey indicating that 94% of businesses view the quality of infrastructure as a decisive factor when planning future investment.⁹

There are a number of major road and public transport projects planned that will greatly enhance NI’s transport infrastructure in the future and it will be the Department for Infrastructure (DfI) and its arm’s length bodies which will ultimately be responsible for delivering these. DfI will, however, face huge challenges as the capital investment required far exceeds the levels of funding that can be expected to be made available during this mandate.

⁹ CBI (2015) Turning Momentum into Delivery: CBI/AECOM Infrastructure Survey 2015. Online, available from: <http://nia1.me/32v>

4.1 Roads

A large number of road schemes identified in the three major regional transport plans published in 2005 have failed to progress beyond the planning stage due to a lack of funding. The lifespan of these plans expired in 2015, however, they are yet to be replaced with similarly detailed (time bound/costed) transport plans, the delivery of these schemes appears to be no less certain in the upcoming Programme for Government period.

The committee may wish to enquire if there are plans in place to publish new regional transport plans and whether any work will be undertaken to determine when or if these schemes are realistically expected to be delivered.

As previously discussed, the budget for 2016-17 indicates that the A5 and A6 schemes, scheduled for completion during the previous mandate, will be prioritised in this period. However, there are other strategically important schemes, such as the York Street Interchange and Sprucefield bypass that stakeholders have suggested should be prioritised in order to significantly enhance inter-urban connectivity and address specific bottlenecks on these key strategic routes.¹⁰ Once again however, delivery of these will be subject to funding.

4.1.1 Structural maintenance

Structural maintenance is the collective term for activities which maintain the integrity of the road and footway structure; the main activities include resurfacing and reconstruction, surface dressing, patching and structural drainage.

An independent consultant, contracted by the former NI Roads Service established that over £137m per annum (updated at 2014 prices), is needed to adequately maintain (in its current state) the structural integrity of Northern Ireland's road network.¹¹ However, despite the Executive's acceptance of this assessment, budget allocations for structural maintenance have consistently fallen below this level; the allocations for structural maintenance in the 2011-15 draft budget was as follows:

- 2011-12 £94m
- 2012-12 £52m
- 2013-14 £56m
- 2014-15 £82m

For this budget £20 million resource DEL and £46 million capital DEL has been allocated to the DfI for Roads Structural Maintenance.¹²

¹⁰ CBI (2013) Infrastructure – investing for our future: Northern Ireland Infrastructure Report 2013. Online, available from: <http://nia1.me/32w>

¹¹ Snaith, M.S. (2009) *A review of the structural maintenance funding requirements for the Roads Service*. DRD: Belfast (copy available in NI Assembly Library)

¹² Pages 3 & 4 Written Ministerial Statement: BUDGET 2016-17, Published at 3.00 pm on Thursday 17 December 2015 [online] available from: <http://nia1.me/2wd>

Every year expenditure on structural maintenance falls below the recommended minimum levels the significant backlog of maintenance work grows. In 2007 this backlog was estimated to be in the region of £700 million¹³. However, the Minister for Regional Development confirmed in December 2015 that the shortfall is currently estimated at some £982 million.¹⁴ This £982 million is broken down as follows:

- £124 million for the Motorway and Trunk Road Network;
- £839 million for the remainder of the network; and
- £19 million that cannot be attributed to any particular part of the network, for example, footways.

The committee may wish to seek assurances that this deficit, particularly the deficit on non-motorway and non-trunk roads, is not impacting on the safety of road users.

Under funding of structural maintenance leads to a focus on repairing safety defects and only the highest priority remedial sites would receive resurfacing treatment. This 'reactive patching' is less efficient and draws funding from good value maintenance activities such as resurfacing and surface dressing. Indeed, evidence provided to the House of Commons Transport Select Committee suggested,

“Reactive work costs as much as 10 times more than a planned maintenance programme, rarely tackles the underlying cause of damage and will likely need to be repeated regularly and fails to prolong the life to the road. Planned preventative programming provides a far better value for money and is much more efficient.”¹⁵

The committee may wish to enquire if the Minister will call on the Executive to agree a multi-year, ring fenced allocation with the DfI's baseline budget that may facilitate a more strategic and consequently efficient approach to structural maintenance.

4.1.2 Reliance on in year monitoring

Over the previous budget period the DRD was extremely reliant on in year monitoring rounds. For example, between June 2012 to January 2014 the DRD made 13 bids of which nine were successful; the value of these successful bids totalled some £105 million.

The committee may wish to enquire what the Minister's assessment is on the use of in year monitoring and how this impacts his department. Furthermore, the committee may wish to ascertain what measures, if any, will be put in place to deal with the burgeoning maintenance deficit.

¹³ Ibid.

¹⁴ AQW 51756/11-16

¹⁵ House of Commons Transport Select Committee (2010) The Major Road Network: Eighth Report of Session 2009-10 [online] available from: <http://nia1.me/2wc>

4.1.3 Complementary portfolios: Road Safety

For the first time in the NI Executive one department will be responsible for both road safety and road infrastructure. This may bring increasing pressure on the Department to address some of the inconsistencies in the network, not least those that lead to increases in tragic road traffic collisions (RTC)

Many of the dual carriageways constructed by Roads Service during the 1970s and 1980s did not have flyover junctions with slip roads (grade-separated junctions), but rather they had conventional T-junctions. At each junction, a gap was created in the central reservation to allow vehicles to turn right. These are known as 'gap junctions'.

This approach is particularly evident on the A1 from Lisburn to Loughbrickland and the A26 from Antrim to Ballymena. Despite only being upgraded in 2006 the dual carriageway between the A1 between Loughbrickland was also constructed to this standard.

TransportNI (formerly Roads Service) has built four grade-separated junctions on the stretch from Lisburn to Loughbrickland and have a plan to build five more, closing up all the remaining gaps between Loughbrickland and Beech Hill at an estimated cost of £43m. Despite a number of recent deaths on the stretch between Loughbrickland and Newry there appear to be no plans in place to address the gap junctions.

The committee may wish to enquire whether the DfI will seek to eliminate gap junctions across NI's road network and whether any costs or timeframes are in place.

The committee may seek information from the PSNI road traffic branch on the frequency of road traffic collisions on dual carriageways, where the causation factor is 'turning right without care' or 'emerging from a minor road without care' with severity of the collision, number of vehicles and vehicle type.

4.2 Public transport

Northern Ireland's public transport infrastructure has attracted significant investment, some £1.1 billion, since the publication of the Regional Transport Strategy (2002)¹⁶ and this has brought improvements with new fleets of trains, buses as well as upgrades to bus and rail rolling stock and terminals.

Despite this investment, modal shift targets have not been achieved with passenger numbers showing only modest increases and the car remaining as the dominant mode of transport in NI. A number of key public transport infrastructure projects have not been delivered, most notably the Belfast Rapid Transit System, originally planned to be operational in March 2012 – has been delayed until September 2018 whilst Phase 2 of

¹⁶ NI Audit Office (2015) The effectiveness of public transport in Northern Ireland

the Coleraine to Derry/Londonderry Railway is expected to be completed by the end of 2016

While budgetary reductions will have had an effect on the delivery of these schemes, there may also have been project management difficulties. The committee may wish to enquire what lessons have been learned from these cases and whether management structures and practice are sufficiently fit for purpose to deliver major public transport improvements.

4.2.1 The effectiveness of public transport in Northern Ireland

The Northern Ireland Audit Office has commented that '*the DRD needs to do more to attract people onto public transport and make it their choice mode of travel*'. The comptroller and auditor general was particularly critical of two elements:

- the split between funding for roads vs. public transport; and
- the staffing and resources allocated to roads vs. public transport within the DRD.

The committee may wish to seek the new Minister's views on this assessment and enquire as to what, if any, measures have been put in place to address these criticisms.

4.3 Funding infrastructure

The Organisation for Economic Co-operation and Development (OECD) has noted that despite the recent financial crisis and recession, countries with good planning processes and strategic infrastructure plans linked to assured funding are continuing to successfully build the strategic infrastructure they need. Many countries and regions have been able to do this by adopting alternative funding sources. As NI faces continued budgetary constraints the range of possible funding sources must be considered in order to deliver the infrastructure required to support economic competitiveness and growth.

The committee may wish to enquire what work, if any, has been undertaken to identify potential funding sources.

5 Water policy

Northern Ireland Water was set up in order to deal with a number of issues caused by historical under investment in water and sewerage assets:

- Standards of service were below the required standard;
- Standards of drinking water quality and waste water treatment were below European Union Standards, bringing the risk of infraction proceedings, while posing risks to public health;

- Investment of some £3bn was required to upgrade water and sewerage infrastructure; and
- A more efficient delivery model was required.^{17 18}

The plan was that reform, in whatever form it may take, would make W&SS 'self-financing'. However, to date NI Water continues to rely on government for around 76% of its revenue.¹⁹

As a result of the current funding model NI Water operates as both a Non-Departmental Public Body (NDPB) for Public Expenditure purposes and as public corporation. This hybrid status is described by the Utility Regulator as sub optimal, adding complexity to financial management by requiring NIW to comply with, and be audited against, government accounting standards, as well as regulatory and statutory accounting standards. The utility regulator considered a number of problems with the current governance framework for NIW when considering its Price Control Determination²⁰ including:

- No 'end of year flexibility'
- Uncertainty of the public expenditure budget; and
- An inconsistent profile of public expenditure

In 2012 new governance arrangements were put in place to ease the burden caused by the hybrid status of NIW. These were presented in the form of a Management Statement and Financial Memorandum which was drawn up and agreed by DRD and NIW. This came into effect on the 1st April 2012 and will remain valid for as long as NIW continues to rely on public subsidy.²¹

The company's status as a Non Departmental Public Body (NDPB) means that full resource consumption and capital expenditure of NI Water score in the Department's Resource and Capital DEL in the same way as the Department's own spending. Therefore, NIW must compete for funding with other Northern Ireland Executive priorities. In contrast, as a Public Corporation, NIW would have greater access to borrowing on the open market, allowing the cost to be spread over a long period of time.

6 Planning

On 1st April 2015 a new planning system came into force under the Planning Act 2011²². This introduced a new two tier system, sharing planning responsibilities between councils and the Department of the Environment (now the new Department for

¹⁷ Water Reform Unit (2003) The Reform of Water and Sewerage Services in Northern Ireland: Public Consultation Document

¹⁸ NIAO (2010) Measuring the Performance of NI Water [online] available from: <http://nia1.me/1sh>

¹⁹ UREGNI (2012) PC13 Final Determination Main Report [online] available from: <http://nia1.me/1sm>

²⁰ Ibid.

²¹ Management Statement and Financial Memorandum between the DRD and NIW [online] available from: <http://nia1.me/1sc>

²² Planning Act 2011 <http://www.legislation.gov.uk/nia/2011/25/contents>

Infrastructure). This replaced the old system under the Planning Order 1991²³, where the Department of the Environment held all responsibilities for planning in Northern Ireland.

Under the new system, local councils now have these responsibilities:

- Local development planning – councils create their own local development plans (LDPs) which sets out how the council area should look in the future by deciding the type and scale of development to be encouraged and where it should be located;
- Development management – determining local planning applications;
- Planning enforcement – investigating alleged breaches of planning control and determining what action should be taken.

However, a certain number of responsibilities have been retained by central government and will be the responsibility of the new Department for Infrastructure (DfI). These include:

- Determination of regionally significant applications and 'called-in' applications;
- Regional planning policy;
- Planning legislation;
- Oversight and guidance for Councils; and
- Performance management.

All major and local developments are to be dealt with by councils and major developments will be subject to pre-application consultation with the community. Regionally significant development proposals will also be subject to pre-application community consultation and will be determined by the DfI.²⁴

The amalgamation of departments has been considered an opportunity for more joined-up and co-ordinated working across central government. However, while many functions have been combined, it is also the case that some that work in tandem to one another have now been separated, for example:

- Planning and environmental protection have been separated under different departments. NIEA, which is a statutory consultee on planning applications, now sits under the Department for Agriculture, Environment and Rural Affairs (DAERA).
- Local councils will be responsible for the generation of both local development plans (as part of their planning functions) and community plans (as part of their community planning responsibilities). Both plans must complement one another; however, the operation of local government (including its relationship with community planning) and planning have been allocated separately to the Department for Communities (DfC) and DfI.

²³ Planning Order 1991 <http://www.legislation.gov.uk/nisi/1991/1220/contents/made>

²⁴ Planning NI (2015) *Practice Note 10: Pre-Application Community Consultation* http://www.planningni.gov.uk/index/advice/practice-notes/dm_practice_note_10_pacc-2.pdf

6.1 New planning policy

In addition to these new responsibilities for local councils, the new planning system involves a move away from the existing suite of Planning Policy Statements (PPS) to a single Strategic Planning Policy Statement (SPPS), for which DFI has subsumed responsibility for²⁵. The SPPS was published in September 2015 and consolidates the suite of PPSs into one document. It provides the overarching planning principles from which councils should develop their own planning policies within their new LDPs. It will also be material to individual planning decisions and appeals.

However, a transitional period is currently in operation until councils develop their own planning policies under their LDPs. This means that currently the new councils will apply the policy of the old PPSs together with the new SPPS. However, where there is a difference between the two, the SPPS takes precedence. Once councils have developed and published their own policies, within a timeframe agreed by the Department, the old PPSs will cease to have effect.

6.2 New role for councillors

Under the new system councillors make the final decisions on planning applications, albeit with professional advice from planning officials. This being said, small and local applications may be delegated to officials, with major and contentious applications retained by councillors on a council's planning committee.

As these new powers become established, it may be interesting to observe any differences in direction and approach adopted by each council, as well as the establishment of a brand new relationship between the DfI and local government in Northern Ireland.

6.3 Sustainable development in the countryside

Policy relating to sustainable development in the countryside was an area highlighted by the Environment Committee in its Legacy Report.²⁶

During the consultation of the SPPS 53% of respondents highlighted their discontent with the approach used by the SPPS to consolidate Planning Policy PPS 21: Sustainable Development in the Countryside. Some of the issues expressed included the following:

- There was a lack of detail for councils to prepare their own policies, giving rise to inconsistencies.

²⁵ Planning NI (2015) Strategic Planning Policy Statement. Available at <http://www.planningni.gov.uk/spps>

²⁶ Committee for the Environment (2016) Committee for the Environment Legacy Report. Available at <http://www.niassembly.gov.uk/globalassets/documents/reports/environment/legacy-report/committee-for-the-environment-legacy-report.pdf>

- There was a dilution of existing policy and a need for additional protection of landscape character and residential amenity of rural dwellers.
- That existing policy, from which the SPPS was developed, prevents rural development and has contributed to rural depopulation.
- Rural policy needs to be more flexible and offer more development opportunities for the non-farmer based on 'local rural affiliation'.²⁷

Following publication of the SPPS, Minister Durkan indicated his intention to conduct a full review of the policy on development in the countryside²⁸. A call for evidence was launched in March 2016 and closed in May 2016. Depending on the outcome of the review, information gathered will be used to help inform the development of policy and any subsequent public consultation.²⁹

Now the call for evidence is closed, the Committee may be interested in finding out about the views of the respondents; they may also wish to get an indication of the direction of travel adopted by the Department regarding sustainable development in the countryside.

6.4 Renewable Energy Guidance

In the last mandate the Environment Committee held an inquiry into Wind Energy, primarily to assess the effectiveness of planning policy PPS 18: Renewable Energy and any supplementary guidance. The Committee made a number of recommendations, some of which included:

- The need to review PPS 18;
- The need to review wind turbine noise limit guidelines ETSU-97 which were considered out of date; and
- The need to define and put in place saturation points for areas with concentration of wind farms.³⁰

According to the Environment Committee report, the issue of wind turbine noise was the most contentious aspect of the inquiry. The wind industry expressed the view that was of the opinion that the current guidelines (ETSU-97) are adequate for regulating noise limits. However other stakeholders communicated this as their most pressing area of concern. The Committee sought evidence from a specialist advisor and agreed

²⁷Planning NI (2015) *Strategic Planning Policy Statement*. Available at <http://www.planningni.gov.uk/spps>

²⁸Planning NI (2016) *Durkan Invites Fresh Thinking to Guide Reviews of Strategic Planning Policy*. Available at http://www.planningni.gov.uk/index/news/dfi_planning_news/news_releases_2015_onwards/calls_for_evidence_feb_2016.htm

²⁹Planning NI (2016) *Call for Evidence for Strategic Planning Policy 'Development in the Countryside'*. Available at <http://www.planningni.gov.uk/index/policy/spps/callforevidence.htm>

³⁰Committee for the Environment (2015) Report on the Committee's Inquiry into Wind Energy. Available at <http://www.niassembly.gov.uk/assembly-business/committees/archive/environment2/reports/report-on-the-committees-inquiry-into-wind-energy/>

that the use of guidelines ETSU-97 should be reviewed on an urgent basis by the Department with appropriate guidance put in place.³¹

Following the Environment Committee's recommendations and comments made by respondents during the SPPS consultation³², Minister Durkan committed to hold a review of regional strategic planning policy for renewable energy following publication of the SPPS. The call for evidence was opened in March 2016 and closed in May 2016 and will inform the review of renewable energy policy.³³ Following the outcome of the review, any development of policy will be subject to public consultation.

It may be of interest to ask the Department for an update on the call for evidence responses and the Department's position in relation to ETSU-97.

7 Taxis

The Taxi Act (NI) 2008 became law in April 2008. It gave the Department of the Environment (DOE) the powers to modernise and improve regulations for the taxi industry. The new regulations include requirements for:

- Four new classes of taxis;
- Testing and licensing requirements and a new roof sign;
- Reduction of the 'dual tier' area from a five mile to a two mile radius from Belfast City centre (to be known as the Belfast Zone).
- Only Class B taxis (wheelchair accessible) are allowed to stand or ply for hire in the Belfast Zone. However, the new requirements allow for Class A and Class B taxis to pick up customers within this zone on weekend nights and public holidays.
- All private and public hire taxis to fit and use a taximeter and printer, to be inspected, tested and approved by the Department;
- A maximum fare structure to be set by the Department.
- New enhanced specifications for wheelchair accessibility including provisions for ramps, handrails, door heights and widths etc.³⁴

The Environment Committee considered and agreed a number of statutory rules to implement the provisions of the Taxi Act (NI) 2008. It sought assurance from the Department of the Environment that a review would be carried out immediately after the implementation of the new arrangements to ensure they are fit for purpose. The Environment Committee suggested in its Legacy Report that a new Committee,

³¹ *ibid*

³² Planning NI (2015) *Strategic Planning Policy Statement*. Available at <http://www.planningni.gov.uk/spps>

³³ Planning NI (2016) *Call for Evidence for Strategic Planning Policy 'Renewable Energy'*. Available at <http://www.planningni.gov.uk/index/policy/spps/callforevidence.htm>

³⁴ Department for Infrastructure [online] *Taxi Reform*. Available at <https://www.infrastructure-ni.gov.uk/articles/taxi-reform> (Accessed 24/05/2016)

...may wish to review the implementation of these regulations; and ensure the Department undertakes a review. The Committee may also wish to ensure that an analysis is undertaken by the Department to ensure that the regulations do not have a negative impact on the number of disability accessibility taxis that are available.³⁵

7.1 Maximum fares

The Environment Committee considered statutory rule S.R. 2016/148 The Taxis (Taximeters, Devices and Maximum Fares) (Amendment) Regulations (Northern Ireland) 2016. Its purpose is to address the issue of 'dead miles'³⁶, include a new Christmas and New Year period rate and amend the waiting time elements of the tariff.

The Environment Committee identified that the proposed maximum fare system might disadvantage customers in rural areas where the 'dead miles' apply. Taxis may refuse to service these areas where costs are unrecoverable. Minister Durkan agreed that a legislative amendment would be made within the Assembly mandate to ensure that no negative impact is experienced by taxi operators or customers in rural areas.³⁷

A formal Committee decision on the SR was not reached as it was laid after the Committee's last meeting.³⁸

8 New driving laws

8.1 Drink driving

The Road Traffic (Amendment) Bill was passed by the Assembly in January 2016 and received Royal Assent in March 2016. Provisions in the Bill include:

- Two new lower drink drive limits where the lowest will apply to novice and professional drivers;
- A new graduated penalty regime;
- New police powers to stop and test;
- Removal of the right to opt for blood or urine sample instead of a breath sample; and

³⁵ Committee for the Environment (2016) Committee for the Environment Legacy Report. Available at <http://www.niassembly.gov.uk/globalassets/documents/reports/environment/legacy-report/committee-for-the-environment-legacy-report.pdf>

³⁶ Dead miles may be described as a certain distance or percentage of the journey beyond which a taxi may not recover the cost of. See Committee for the Environment (2016) Committee for the Environment Legacy Report. Available at <http://www.niassembly.gov.uk/globalassets/documents/reports/environment/legacy-report/committee-for-the-environment-legacy-report.pdf>

³⁷ Oral answer made by Environment Minister 15 February 2016 at 2:45pm.

³⁸ Committee for the Environment (2016) Committee for the Environment Legacy Report. Available at <http://www.niassembly.gov.uk/globalassets/documents/reports/environment/legacy-report/committee-for-the-environment-legacy-report.pdf>

- Greater completion of the drink drive rehabilitation course by offenders.

A suite of subordinate regulations is required to introduce these provisions. The Department opened a consultation from March to May 2016 containing proposals to introduce a set of five Statutory Rules to bring these new drink drive arrangements into place. The five SRs are to be laid in front of the new Committee in the new mandate.³⁹

8.2 Young and new drivers

The Road Traffic Amendment Bill is also focused on trying to address the high number of young people killed on the roads, or responsible for accidents in Northern Ireland.

The Northern Ireland Road Safety Strategy 2020 sets a target of trying to reduce the number of young people killed or seriously injured by at least 55%.⁴⁰ It is felt that the current driver training and testing scheme is insufficient, due to the lack of compulsory practical or theoretical driver training. The graduated driver learning system (GDL) is described as a mechanism towards improving how new and young drivers are trained and tested, to ensure they are appropriately prepared for when they start driving unaccompanied on the road.

The new legislation provides for:

- A six-month mandatory minimum learning period;
- The provisional licensing age will remain at 17yrs but combined with the six-month minimum period, the full licensing age will effectively rise to 17½yrs;
- The completion of a programme of training with an Approved Driving Instructor (ADI)/ supervising driver evidenced by a student logbook;
- Removal of the 45mph restriction on learner and restricted drivers – this will allow learner drivers to take lessons on motorways when accompanied by an ADI in a dual-controlled car;
- Restrictions (between the hours of 11pm and 6am) on carrying more than one young passenger (aged 14 to 20yrs) for drivers under the age of 24yrs during the first six-months post-test;
- The passenger restriction does not apply to immediate family members (of any age) or to passengers the driver receives carer's allowance for;
- The passenger restriction will also not apply if accompanied by a full licence holder (for more than 3 years) who is 21 yrs or over; or if the vehicle is being "used for emergency purposes" such as fire and rescue, ambulance and police.

³⁹ Department for Infrastructure [online] *Regulations to tackle drink driving in Northern Ireland*. Available at <https://www.infrastructure-ni.gov.uk/consultations/regulations-tackle-drink-driving-northern-ireland>. (Accessed 24/05/2016)

⁴⁰ Department for Environment (2010) Northern Ireland's Road Safety Strategy to 2020. p.12 and 71. Available at <https://www.infrastructure-ni.gov.uk/sites/default/files/publications/doe/motoring-plan-northern-ireland-road-safety-strategy-to-2020-2011.pdf> (Accessed 24/05/2016)

Implementation of the new arrangements will require further public consultation and an extensive programme of subordinate legislation in the next mandate. Consideration may be needed on the practicality of applying these arrangements and whether there will be a need for increased police presence for their implementation.