

Department for
**Social
Development**

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Your Ref:

Our Ref:

Dr Kevin Pelan
Clerk, Committee for Social Development
Room 412
Parliament Buildings
BELFAST
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22 April 2015

Dear Kevin

REGENERATION BILL

Following last week's meeting of the SDC at which officials briefed the Committee on the Regeneration Bill you wrote on behalf of the Committee seeking further information on a couple of issues.

Staff Transfer Scheme

The Committee queried what arrangements have been put in place for Departmental employees who will transfer to local councils. In June 2014, the then Minister for Social Development, Nelson McCausland, issued a document '*Future Delivery Arrangements for Urban Regeneration/Community Development*'. These arrangements were developed to support capacity building and business continuity within local government by providing new Councils with a means of access to DSD

staff with experience in urban regeneration and community development. I attach a copy of these arrangements (**Appendix 1**), along with a copy of a letter sent by Deputy Secretary, Tracy Meharg to the new Council Chief Executives on 1 April (**Appendix 2**).

Qualified Majority

The Committee has asked whether, given the absence of a code of conduct for local government, the Department should have considered introducing a qualified majority voting clause to the Bill to ensure that controversial decisions, which could adversely affect community relations are not made.

The Northern Ireland Local Government Code of Conduct for Councillors was approved by the NI Assembly on 27 May 2014 and is currently in operation.

Sections 39 – 41 of the Local Government Act (Northern Ireland) 2014 (the 2014 Act) covers decision making by councils. Section 39 provides that, subject to the Act and any other statutory provision, every decision must be taken by a simple majority. In other words, the legislation envisages that this will apply to most council decisions. Provision is made for specified decisions to be taken by a qualified majority i.e. 80 per cent of the votes of the members present and voting on the decision. These decisions must be specified in a council's standing orders for the regulation of its proceedings and business.

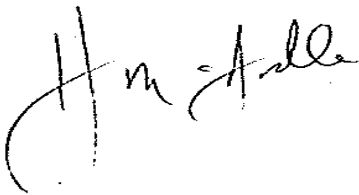
At this stage, the only decisions that are specified in the 2014 Act as being required to be taken by a qualified majority are decisions in connection with the political governance arrangements of a council.

The Minister has indicated that he would like to consider this issue further and will respond to the Committee in due course.

Framework under which Councils will operate

Discussion at the meeting also centred on the wide use of the social need powers proposed in the Regeneration Bill and whether there were sufficient checks and balances in place to ensure that councils would use these powers correctly. The attached **Appendix 3** sets out the Framework under which councils will operate when delivering regeneration and community development from April 2016. The Department considers that there are sufficient safeguards in place.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H McArdle', written in a cursive style.

Henry McArdle

REFORM OF LOCAL GOVERNMENT

**FUTURE DELIVERY ARRANGEMENTS
FOR URBAN REGENERATION/COMMUNITY
DEVELOPMENT**

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1. Introduction

- 1.1 As part of Local Government Reform, the Department for Social Development (DSD) will place a duty on Councils, in relation to urban regeneration and community development, to have regard to strategic guidance that the Department will issue in respect of regeneration and will confer on Councils the powers that give the authority to carry out functions similar to those conferred on DSD by Part VII of the Planning (Northern Ireland) Order 1991 and the Social Need (Northern Ireland) Order 1986. While placing this duty on councils DSD will not divest itself of these powers.
- 1.2 With effect from 1 April 2015, new Councils will have the scope to exercise powers in relation to urban regeneration and community development work in different ways. As urban regeneration and community development work will represent a conferral of new powers on Councils, rather than a transfer of functions, DSD staff currently exercising these powers will not transfer to new Councils.
- 1.3 DSD has developed a framework to guide future policy making for urban regeneration and community development and is currently working on the new operational design for those aspects of urban regeneration and community development that will remain in the Department.
- 1.4 Capacity building and business continuity will be critical aspects of Local Government Reform. These arrangements have therefore been developed to support capacity building and business continuity within local government and to provide new Councils with a means of access to DSD staff with experience in urban regeneration and community development. The arrangements are based on a number of key principles which are attached at Annex C.

2 Scope

- 2.1 These arrangements are in place for use by DSD and the 11 new Councils (listed at Annex B).
- 2.2 While primarily designed to provide new Councils with a means of access to DSD staff with experience in urban regeneration and community development they will also be available to facilitate secondment of Council staff to DSD in line with NICS inwards secondment provisions. There may also be opportunities for job-shadowing, where Council staff would accompany and observe experienced staff, within DSD's Urban Regeneration and Community Development Group as part of preparatory activity ahead of April 2015.

3 Operation

- 3.1 These arrangements will operate in three phases:
- **Phase 1: from April 2014 to March 2015** when capacity building and sharing of knowledge and experience will be key for local government. The identification of staff requirements in the new Councils will be a core aspect of this phase.
 - **Phase 2: from April 2015 to March 2017** when business continuity will be vital for local government; and
 - **Phase 3: from March 2017 to March 2019** when local government has reached steady state.

3.2 Phase 1: April 2014 to March 2015

- 3.2.1 This is the preparatory phase which will involve officials from DSD Development Offices and local government officers working jointly to draw up draft forward work plans for regeneration and community development

activities. Draft work plans will feed into Corporate Plans which are to be prepared by the Statutory Transition Committees for new Councils.

- 3.2.2 DSD officers will be available to assist new Council clusters as they determine the staffing resources needed to deliver their forward work plans for regeneration and community development. The number and grade of both temporary and permanent posts that will be required and the skills and experience that the post holders should have will then feed into the work of Statutory Transition Committees on structures and staffing levels for new Councils. At this stage Councils may also identify where their requirements could be addressed through secondment of DSD staff (currently delivering regeneration and community development work).
- 3.2.3 By September 2014 it is anticipated that most Councils will have identified their staffing requirements for regeneration and community development, including the need for any secondments from DSD. Requirements for secondments need to be identified by the end of September 2014 as this is the point at which DSD will commence implementation work for the cessation of its regeneration and community development activities. If requirements are determined prior to the end of September 2014, early notification would be helpful and DSD officers will be available to work with Councils on secondment arrangements.
- 3.2.4 Secondment of DSD staff to Councils, or any extension of secondment periods, will be on a voluntary basis and arranged through existing secondment processes. Staff seconded to Councils will continue to be subject to all provisions of the NICS Handbook/NICS Pay and Conditions of Service Code. Key extracts from the NICS Secondment Policy are at Annex A.
- 3.2.5 During this phase Councils may wish to make arrangements with DSD for Council staff to job-shadow DSD staff in urban regeneration and community development posts. This will assist with development and transfer of regeneration/community development experience prior to April 2015. If the DSD staffing position allows there may also be opportunities for secondment

of Council officers to urban regeneration and community development posts in DSD. This will be in line with NICS inward secondment provisions and will be in the period up to March 2014 only.

3.2.6 It may be the case that not all Councils are in a position to identify staffing requirements for regeneration and community development activities by September 2014. If this is the case a further preparatory period may be agreed between the Council and DSD. Any extended preparatory period would be time bound during which DSD would undertake agreed regeneration and community development activities on behalf of the Council concerned. The Council would be fully accountable for regeneration and community development in their areas with DSD acting solely as agent for the Council on an interim basis. Arrangements would be supported by Service Level Agreements with Councils responsible for meeting associated costs for any extended preparatory period.

3.3 Phase 2: April 2015 to March 2017

3.3.1 The focus of this phase is on business continuity and the smooth transition from current arrangements to delivery by local government.

3.3.2 DSD officers will be available to assist those Councils who secured a further preparatory period in Phase 1 as they determine the staffing resources needed for regeneration and community development. This will include planning for handover from DSD delivery to Council delivery.

3.3.3 Councils that identified staffing requirements in Phase 1 may identify the need for further secondments from DSD or the need to extend existing secondments. Where extension beyond March 2017 is sought, this should be notified to DSD by December 2016 and be limited to a maximum of one year.

3.3.4 The process for staff returning from secondment will be initiated in sufficient time to facilitate the agreed date of return.

3.4 Phase 3: April 2017 to March 2019

3.4.1 While the focus of Phase 3 will be on the return of seconded staff to the NICS Councils may identify the need to extend secondments established in Phase 2. No secondments will extend beyond 3 years.

3.4.2 All secondments from DSD will end by March 2019. By April 2019 all staff seconded through these arrangements will have returned to the NICS.

HR ARRANGEMENTS FOR STAFF ON SECONDMENT TO LOCAL COUNCILS

Applying for Posts/Promotion:-

Staff on secondment already listed on Departmental/Service-wide promotion /trawl/interest circular/lists will remain eligible to be promoted and placed back in the Northern Ireland Civil Service (NICS).

Staff on secondment will remain eligible to apply for NICS promotion boards/trawls/interest circulars/competitions. DSD will arrange for details of competitions/circulars and other relevant information to be forwarded to staff throughout the period of secondment.

Leave:-

Annual leave entitlement will continue to be in accordance with NICS terms and conditions, however any annual leave taken during the period of secondment must be agreed by the local council. The council will notify DSD of any leave taken by staff during the period of secondment in line with NICS policy.

The council will consider any request for special leave during the period of secondment. The granting of special leave will be in accordance with NICS procedures.

Sickness Absence:-

Staff on secondment to councils who are unable to attend work due to sickness must contact their line manager within the council. The council must forward self-certification forms signed by the council line manager and any medical certificates to DSD in accordance with NICS procedures.

The council will notify DSD at the commencement and the end of any period of sickness absence during the secondment. However, more regular liaison will be necessary in the case of long term sick absence.

Staff will remain subject to NICS sickness absence procedures and sick pay scheme and will attend any medical examinations required by DSD.

DSD will retain responsibility for any statutory sick pay, statutory maternity pay (if relevant) or any statutory sums payable to the officer while on secondment. Costs will be recouped from the Council.

Conduct:-

Staff will remain subject to the NICS rules governing conduct and behaviour.

Staff will be required to abide by the council's governance arrangements, working practices and financial regulations but will remain subject to the NICS rules governing conduct and behaviour.

DSD will be responsible for any formal/informal action against an officer in relation to misconduct or inefficiency. The council will inform DSD of any instances of alleged misconduct which will be dealt with in line with NICS policy.

Staff will continue to have the right to invoke the NICS grievance procedures and NICS uniform appeal policy during the period of secondment.

Performance:-

Staff will be required to carry out diligently all reasonable instructions given by the council in connection with their work. The council line manager will manage staff on secondment and submit a report on each individual officer's performance to DSD in accordance with NICS appraisal procedures. In line with NICS requirements council line managers will be required to undertake training in NICS appraisal procedures.

Staff Development:-

In addition to business-specific or other training provided by the council, staff will continue to have access to the range of core training provided by DSD and NICS during the period of secondment.

Pay and Allowances:-

The Employer (DSD on behalf of the Northern Ireland Civil Service) will continue to pay the secondee's salary through the NICS payroll system, in accordance with their terms and conditions of service while on secondment. The Employer is responsible for PAYE deductions for income tax, National Insurance contributions etc. Where staff volunteer to work overtime, overtime claims will also be paid by the Employer on receipt of appropriately authorised documents. All payments relating to salary and overtime will be recouped from the relevant Council.

Although excess fares are not payable to staff on temporary secondment (as secondments are voluntary), any travel expenses and other allowances arising from secondment to a Councils will be paid directly by the relevant Council.

Managing Return to NICS:-

When returning from secondment, all possible steps will be taken to place staff in posts where their skills and experience will be best used. This process will be initiated in sufficient time to suit the agreed date of return. While all efforts will be taken to utilise the experience gained from a secondment, there may be occasions where this will not be possible from the date of return – in such cases DSD will seek to place staff into a post where skills can be used as soon as possible. Postings to DSD will be considered in the first instance before consideration of posts in the wider NICS is considered.

New Council Districts

- Antrim and Newtownabbey District
- Armagh, Banbridge and Craigavon District
- Belfast District
- Causeway Coast and Glens District
- Derry and Strabane District
- Fermanagh and Omagh District
- Lisburn and Castlereagh District
- Mid and East Antrim District
- Mid Ulster District
- Newry, Mourne and Down District
- North Down and Ards District

REFORM OF LOCAL GOVERNMENT (RLG)

Capacity Building Principles for Regeneration & Community Development

1. Arrangements will operate in partnership between local government and DSD.
2. Arrangements will ensure that DSD is able to effectively deliver regeneration and community development in the period up to RLG transfer date.
3. Arrangements will assist local government to develop the capacity it requires to effectively deliver regeneration and community development from the RLG transfer date onwards.
4. Arrangements will ensure that there is a smooth transition between delivery arrangements.
5. Sufficient time will be built in to adequately develop arrangements.
6. Arrangements will be taken forward through a phased approach, with 3 specific phases envisaged:
 - A preparatory period prior to April 2015
 - An embedding period between April 2015 and March 2017
 - An established/mature phase post April 2017.
7. Participation of staff in these arrangements will be voluntary and based on an application and selection process.
8. Arrangements will be open to members of Urban Regeneration and Community Development Group within DSD.

Appendix 2



From the Deputy Secretary
Tracy Meharg

01 April 2015

Our Minister began a series of meetings with Council Chief Executives earlier this year. The issues discussed included arrangements to give Councils access to DSD staff with regeneration and community development experience to support capacity building within new Councils. Now that the new Councils are in place and budgets for 2016/17 have been clarified, I wanted to update you further on this.

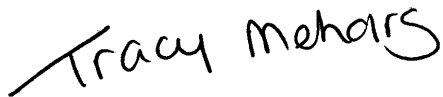
In June 2014, the Minister for Social Development issued a document '*Future Delivery Arrangements for Urban Regeneration/Community Development*'. These arrangements were developed to support capacity building and business continuity within local government by providing new Councils with a means of access to DSD staff with experience in urban regeneration and community development. Although the transfer of DSD powers to Councils was subsequently delayed until 1 April 2016, the key principle within these arrangements remains in that Councils can access DSD staff for a period of time on secondment, should they wish to do so.

As Councils will have been established for a year prior to the transfer of powers from DSD, the option for an agent agreement included in the arrangements, to provide an additional preparatory period for Councils from April 2015 is no longer considered necessary.

The attached pro forma has been provided to help capture any Council requirements for secondment of DSD staff. It is expected that the majority of secondments will be for a 2-year period. I would be grateful if completed proformas could be sent to hrdivision@dsdni.gov.uk by **30 June 2015** at the latest. This will allow us to progress secondment requests which would formally begin in April 2016. Should a Council ask for staff to be seconded prior to April 2016, this may be facilitated, subject to Departmental business need in 2015/16. Should you have any difficulty in identifying the NICS grade required, please contact your Transitional Management Team representative.

You may be aware that DSD, along with other departments in the Northern Ireland Civil Service (NICS), has to reduce staff numbers in 2015/16. This will be achieved in part through an NICS-wide Voluntary Exit Scheme which is expected to generate significant staff movement throughout the NICS. The June 2015 deadline for you to identify your secondment requirements has been set with this in mind.

Yours Sincerely

A handwritten signature in black ink that reads "Tracy Meharg". The signature is written in a cursive style with a long horizontal stroke at the beginning.

TRACY MEHARG

Insert Name of Council: Secondment Requirements

| Post ID | NICS Grade | Post Suitable for Part-Time Staff? | Length of Secondment | Location |
|----------------|-------------------|---|-----------------------------|-----------------|
|----------------|-------------------|---|-----------------------------|-----------------|

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For each of the posts included above, please include role and key duties below

| Post ID | Role and Key Duties |
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Framework under which councils will operate in relation to regeneration and community development

Guidance

Clause 17 of the Regeneration Bill requires councils, in exercising any function under this Act, to have regard to any guidance issued by the Department. Current guidance includes the Urban Regeneration and Community Development Policy Framework. This strategic document sets out the 4 key policy objectives which have been developed to focus on the underlying structural problems in urban areas and help strengthen community development throughout Northern Ireland. These are:

- To tackle area-based deprivation.
- To strengthen the competitiveness of our towns and cities.
- To improve linkages between areas of need and areas of opportunity.
- To develop more cohesive and engaged communities.

The Policy Framework is a “live” document and as such will be reconsidered against any revision of the Programme for Government (next revision due 2016). Any changes to the Policy Framework will be made after consultation with the 11 councils among others.

Community Planning

All Departments have a statutory duty to promote and encourage community planning and to have regard to community plans which emerge from the new Councils. The department will be required to:

- develop an overall strategic framework for the Department;
- establish key deliverables for the next planning period;
- share these with the new Councils; and
- co-ordinate the Department’s involvement in the community planning process.

The Council’s role will be to initiate, maintain, facilitate and participate in community planning for its district. The council is the lead partner and is required to put in place a process where it works with bodies to develop and implement a shared vision for promoting the well-being of its area, community cohesion and improving the quality of life of its citizens. As lead partner the council is responsible for making arrangements for community planning in its area.

Powers to Intervene

Part 14 of the Local Government Act (NI) 2014 provides Departments with a range of control over councils. In summary, the provisions extend the same powers of supervision to transferring Departments that DOE currently holds. Departments will be able to **request reports from Councils; carry out investigations and inquiries** concerning the administration of any transferred provision; and if the Department is satisfied that a Council has failed to discharge any of its functions, the Department may **make an order** declaring the Council to be in default and **directing it to take remedial action**. Should the Council fail to respond the Department can intervene directly or procure alternative services. In relation to any financial assistance provided, the new Councils will also be subject to audit by the Local Government Auditor.

Equality

Councils are required, in carrying out their functions, to adhere to Section 75 of the Northern Ireland Act 1998 which covers the promotion of equality of opportunity and good relations.

Code of Conduct

The Northern Ireland Local Government Code of Conduct for Councillors, which was approved by the Assembly on 27 May 2014, sets out at paragraph 8 (reproduced below) the rules related to decision making which all councillors will have to follow. The Code also sets out the sanctions that can be applied by the Commissioner if they decide that a person has failed to comply with the Code.

8. RULES RELATING TO DECISION-MAKING

8.1 When participating in meetings or reaching decisions regarding the business of your council, you must:

- a) do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- b) have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;
- c) take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- d) give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;
- e) act in accordance with any relevant statutory criteria;
- f) act fairly and be seen to act fairly;
- g) ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- h) not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;
- i) not organize support for, or opposition against, a particular recommendation on the matter being considered;
- j) not lobby other councilors on the matter being considered;
- k) not comply with political group decisions on the matter being considered, where these differ from your own views; and
- l) not act as an advocate to promote a particular recommendation in relation to the matter being considered.

SANCTIONS APPLIED BY THE COMMISSIONER

Under section 62(3) of the Local Government Act (Northern Ireland) 2014, where the Commissioner decides that a person has failed to comply with the Code, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should-

- a. censure the person in such terms as the Commissioner thinks appropriate;
- b. suspend or partially suspend the person from being a councilor for such a period, and in the way, as the Commissioner thinks appropriate. However, that period shall not exceed one year or, if shorter, the remainder of the person's term of office; or
- c. disqualify the person for being, or becoming (whether by election or otherwise) a councilor, for such a period as the Commissioner thinks appropriate but not exceeding five years.



**Northern Ireland
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17 April 2015

Our Ref:CSD/003/2015/SK

Mr Billy Crawford
Department for Social Development
Lighthouse Building
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Belfast BT7 2JB

Dear Billy

Regeneration Bill

At its meeting on 16 April 2015 the Committee for Social Development received a briefing from the Department on issues raised during the Committee's scrutiny of the Regeneration Bill.

During discussions, the Committee queried what arrangements have been put in place for Departmental employees who will transfer to local councils. The Department agreed to provide the Committee with the scheme relating to the transfer of Departmental employees.

Given the absence of a code of conduct for local government, the Committee also queried whether the Department should have considered introducing a qualified majority voting clause to the Bill to ensure that controversial decisions, which could adversely affect community relations, are not made. The Department agreed to consult with the Office of Legislative Council on this issue.

I would be grateful if you could provide this information as soon as possible to help assist the Committee in its scrutiny of the Bill.

Yours sincerely

Kevin Pelan

Dr Kevin Pelan

Clerk, Committee for Social Development