

16th February 2015

NILGA response to the NI Assembly Social Development Committee Call for Evidence on the Regeneration Bill

The following response was drafted based on existing NILGA and local government policy, and previous consultation responses in relation to regeneration (and housing). This response was considered and agreed by the NILGA Executive on 13th February

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1.0 Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. The membership is currently comprised of the 26 local city, borough and district councils. NILGA represents and promotes the interests of local authorities and is supported by all the main political parties in Northern Ireland. The Association will be reconstituted to align with the new 11 councils for April 2015.

Regeneration is a key element of the suite of powers transferring from central to local government. It will be instrumental in local government's ability to shape their local communities, enabling a more joined up approach, incorporating linkages to other functions such as planning, local economic development and local tourism, within the framework of community planning. NILGA is pleased to be able to have an opportunity to comment on the proposed bill and we trust that our comments will be taken into account when developing the final proposals. Additional comments in relation to the original content of the 'draft Regeneration and Housing Bill' are included in this evidence, as we would welcome further discussion with the Committee on these issues, and for some indication as to the proposed way forward.

NILGA would be happy to discuss views on the Bill with the Committee, should an oral evidence session be planned in the future. For further information on this submission please contact Karen Smyth k.smyth@nilga.org, or Fiona Douglas f.douglas@nilga.org at the NILGA Offices (028) 90798972.

2.0 General

NILGA welcomes the opportunity to comment on the Regeneration Bill as currently drafted. The Bill will allow the conferral of powers to tackle deprivation and undertake regeneration and community development in local government and the transfer of functions relating to Laganside to the new Belfast City Council.

Vital to the success of the legislation is the need to ensure its adequate resourcing. NILGA has voiced strong concerns regarding the continued delay in obtaining final and fair budgets for transferring functions in general. Whilst appreciating the issues surrounding the finalisation of the NI Executive budget for 2015/16, nonetheless councils are being put in an unacceptable position by having to work in the dark. In terms of Executive budgeting for 2016/17 NILGA is opposed to any further cuts being applied to regeneration and fully expects that the figure agreed for 2015/16 is reflected in the 2016/17 budget calculations.

Further, it is concerning that no references are made in the proposed bill to resources or financial instruments to assist in the implementation of this legislation.

In general, NILGA welcomes that the proposed Bill does not overly prescribe where, when and how councils should use their new powers relating to urban regeneration and community development. It is NILGA's view that councils are best placed to determine appropriate priorities and actions for their areas.

3.0 Comments on Specific Clauses

Clause 1

NILGA, is supportive of the discretion that has been afforded to councils in Clause 1, which makes provision for councils to provide financial assistance to third parties which it considers will benefit (directly or indirectly) areas of social need in the district. It is the Association's view that the level of discretion contained within this clause is very much in the spirit of the general power of competence. However, as with the general power of competence NILGA urges clear and detailed guidance, developed in partnership with local government, that provides clarity and protection for councils and local people, is made available.

Clause 5

NILGA notes that the Department is proposing to retain significant regeneration powers under Clause 5, which enables the Department to direct a council to prepare a development scheme in certain circumstances, i.e. where it considers that the regeneration of an area is required and likely to be of regional significance and the council is best placed to take this forward. The terminology used (the Department may direct) could serve to undermine local government; additionally the use of the criteria of 'regional significance' is expressed in quite vague terms and could lead to inconsistency in how it is applied.

We are deeply concerned by the retention of this level of potential intervention by the Department. It is difficult to envisage a circumstance that would arise when a council would not identify a significant area of land or place where there needs to be regeneration or a development scheme, working in partnership with the Department on regionally significant schemes. NILGA members would emphasise that post-reform local government is best placed to ensure that opportunities for regeneration and development schemes are fully exploited. Guidance on what would be deemed 'regionally significant' would be helpful.

Clause 6

Clause 6, which makes provision for the requirement for the Department's approval in the adoption of a development scheme, is also of concern. Clause 6 specifies that any relevant objections to a draft scheme which cannot be resolved must be considered by the planning appeals commission at public local inquiry. It further specifies that the Department will have the final decision on a development scheme as it cannot be formally adopted by a council without the approval of the Department. Again, NILGA questions the level of decision making being devolved to local government in relation to regeneration and community development given the Department's ability to veto.

NILGA considers this level of potential intervention contrary to the Executive's vision for local government and in particular the objective of bringing decision-making closer to communities and citizens, creating a stronger more effective local democracy and improving service delivery by influencing place-shaping and facilitating greater integration.

Further, NILGA considers this approach inconsistent with the approach taken by e.g. the Department for Regional Development to the transfer of off street car parking. DRD have transferred all powers and assets relating to off street car parking to local government.

Clause 7

Clause 7 provides for the acquisition of land by councils for planning purposes. The Clause specifies that a council will be able to acquire land, by agreement or compulsorily, for certain planning purposes and lists four criteria, which includes:

"7(1)(b) That it is expedient in the public interest that the land should be held together with land so required;"

The term public interest is used extensively across various local government reform statutory and policy instruments, including the DOENI Single Strategic Planning Policy Statement (SPPS) and the Northern Ireland Local Government Code of Conduct for Councillors. In relation to these documents, NILGA suggested the inclusion of criteria for determining what is in the public interest (e.g. a rule of thumb based on the number of people likely to benefit) and we would suggest to the Committee that they give consideration as to how best to define public interest in this case; either within the Bill or by requiring accompanying guidance on this issue.

Concerns have also been raised whereby land was purchased some time ago and therefore would be vested and taken into public ownership at a loss to the individual. Also, situations have also been cited where developers could "hold to ransom" people who would like to develop an area in the public interest. NILGA considers that the proposed Bill will have little impact on this situation as it contains no provisions that could assist in addressing these barriers.

Clause 8

Clause 8 makes provision for disposal of land held by councils for planning purposes to secure best use of land or buildings to secure the erection or construction of buildings or carrying out works which the council considers are needed for the proper planning of the area in which the land is situated.

NILGA considers that this clause presents an opportunity to further enhance support for the process of community asset transfer. In our response to Department for Social Development's proposed community asset transfer policy framework we raised concerns that it would not go far enough to address the barriers that exist to enable the practice to be used more extensively and creatively. NILGA pointed to the widespread view that Northern Ireland lags behind the rest of the UK in terms of policy, legislation and dedicated finance. It is our view that the Regeneration Bill is an opportunity to bridge the gap that exists.

Clause 9

Clause 9 specifies the development of land held by councils for planning purposes. It further specifies that the Department will have the power to make regulations which would require councils to provide the Department with specific information about their plans to develop land in particular circumstances, and enable the Department to delay the council from using its development powers in those circumstances for a specified period of time. The detail of such regulations, it is specified, will be developed and consulted upon separately.

NILGA has already expressed concern regarding the level of control that the Department will retain. NILGA considers this level of interference contrary to the Executive's vision for local government and in particular the objective of bringing decision-making closer to communities and citizens, creating a stronger more effective local democracy and improving service delivery by influencing place shaping and facilitating greater integration. The development of regulations relating to the proposed Regeneration Bill must be done in partnership with local government, particularly because these regulations would be used to inform the Department's decision about whether to direct a council to prepare a development scheme under Clause 5.

NILGA has no comments on **Clause 10**.

Clause 11

Clause 11 allows for a council to extinguish by order, public right of way over land which it holds for planning purposes if it considers that this is necessary for the proper development of the land.

NILGA is concerned that disability and physical accessibility issues have not been dealt with and considers that due regard must be given to the impact that this Clause may have on these particular groups.

Clause 12

Clause 12 enables councils to issue notice requiring the occupier of any premises, or a person receiving rent for any premises, to provide certain information to enable the council to make an order or issue or serve notice. Failure to comply with such a notice or providing false information in response to such a notice will be an offence.

NILGA welcomes the scope that this will provide to address barriers that exist to accessing information and the subsequent penalties for non-compliance. However, NILGA is acutely aware of the prevalence across Northern Ireland of premises where there is no way of identifying anybody with an estate in land. As a result they are left in a state of disrepair which causes serious blight to the communities in which they are located. NILGA urges that more is done to address this serious issue.

Clause 13

Clause 13 relates to development schemes made by the Department and details the criteria under which this is applicable. Again, NILGA is of the view that this level of interference only serves to undermine local government and is not in the spirit of the Executive's vision for local government. Further, it is concerning that in stepping in to direct a council; on the basis that the council is not best placed to carry this out, that there is no reflection of where the financial burden will lay.

4.0 Additional Comments in relation to the original 'draft Regeneration and Housing Bill'

NILGA is grateful to the Minister for progressing the parts of the original draft Bill that the NI Executive were happy to agree, as this will enable local government to move forward with the bulk of the powers it needs to make a real difference to their citizens.

We would like to take this opportunity to ask the Committee to note a number of proposed items that were removed from the Bill and to seek the Committee's assistance in liaising with the NI Executive to ascertain if and when these functions might transfer to councils. This will assist councils in forward planning, and could influence decisions that e.g. community planning partnerships might make.

The concerns around perceived partial transfer of housing provision are well understood by local government and NILGA has stood against previous moves of this kind, e.g. proposals to move the responsibility of provision of traveller sites into local government.

It is noted however, that some of the provisions of the original Bill related to housing, weren't particularly contentious and were an extension of what councils were already doing.

Unfitness

In relation to housing unfitness, although the NI Housing Executive currently has the statutory obligation to identify and address unfitness in both social and private housing, it has traditionally relied on district council staff to provide the evidence for unfitness. In addition, powers under the Private Tenancies (NI) Order 2006 allow district councils to deal with unfitness specifically in the private rented sector. NILGA remains of the view that the intention of the original draft Bill to extend powers for councils to intervene generally in respect of unfit dwellings was merely a formalisation of current working practice.

We would also be grateful for an opportunity to discuss the potential inclusion of a more general provision in relation to the ability to secure the improvement of a property that would be considered detrimental to the environmental amenity of regeneration areas by virtue of its condition. NILGA is of the view that this could supplement the current powers or responsibility to take action where properties are in a dangerous or unfit condition.

Houses in Multiple Occupation (HMOs)

As an extension to the existing council activity in improving the standard of and addressing unfitness in the private rented sector, it had been proposed that the responsibility for regulation of HMOs would transfer to councils. NILGA remains of the view that the intention of the original draft Bill to extend powers for councils to regulate HMO accommodation would be complementary to existing council responsibilities and skills. We would therefore welcome some clarity as to if/when this area of work may transfer.

Energy Efficiency

Councils currently have a civic leadership role in energy efficiency, and are involved in bulk fuel buying schemes and the sales of fuel stamps. While recognising and supporting the Housing Executive's role in improving the energy efficiency of the entire housing stock, NILGA would be keen to explore with the Committee, how the original proposals, providing councils with powers to promote domestic energy efficiency as part of the drive to address fuel poverty, might be taken forward.

Housing Council

NILGA notes that there is no mention in the Regeneration Bill of the necessary changes to the Housing Council, although this was included in the original draft Bill. It would be helpful if the Committee could establish some clarity on this issue as NILGA is given to understand that a change in Statute is required to change the composition of the Housing Council to reflect membership from 11 councils rather than 26. It would be undesirable for the Housing Council to operate for an uncertain period of time without the necessary legislative framework.

5.0 Conclusion

NILGA would again thank the Committee for the opportunity to comment on the Bill and would be happy to discuss the clauses identified above, should the Committee wish to hold an oral evidence session.

While we would be keen for the Committee to consider the additional issues identified at 4.0 above, it is imperative that progress of the Bill as it presently stands is not impeded further, and would therefore request that the proposed discussion of these issues takes place once the current Bill passes Committee stage.

Overall, NILGA would encourage the Committee to ensure that the transfer of regeneration to local government is meaningful, well-resourced and that the Regeneration Bill supports councils in delivering on the Executive Vision for strong local government.

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