Northern Ireland Assembly

COMMITTEE FOR THE ENVIRONMENT

OFFICIAL REPORT
(Hansard)

Draft Local Government (Finance) Bill

3 December 2009

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Ms Dolores Kelly (Chairperson)
Mr Cathal Boylan (Deputy Chairperson)
Mr Roy Beggs
Mr John Dallat
Mr David Ford
Mr Danny Kinahan
Mr Adrian McQuillan
Mr Alastair Ross

Witnesses:

Ms Julie Broadway	)	
Ms Marie Cochrane	)	Department of the Environment
Ms Janet Cooper	)	
Ms Brenda Mooney	)	

The Chairperson (Mrs D Kelly):
I welcome the officials who are from local government policy division in the Department of the Environment. We have Julie Broadway, grade 7; Brenda Mooney, acting grade 7; Janet Cooper, deputy principal, and Marie Cochrane, deputy principal. I invite you to make your presentation, which should take five to 10 minutes, and then take questions from members. I remind members that the Minister is due to attend the Committee at 11.00 am and will have to leave at 11.45 am. Therefore, it is important that we keep to time in this session.

Ms Julie Broadway (Department of the Environment): Thank you for the opportunity to brief the Committee on the draft local government (finance) Bill. I will introduce my colleagues and outline their interest in the Bill. Brenda Mooney and Janet Cooper work on finance policy in the Department's local government policy division, and Marie Cochrane and I are members of local government division's policy and legislation branch.

The main aim of the Bill is to modernise the current legislative framework relating to local government finance and councillors' remuneration in Northern Ireland. District councils in Northern Ireland are currently subject to departmental controls. For example, they need to get departmental approval before borrowing, and before applying capital receipts and sums to capital or to renewal and repairs funds. The Bill will make provisions that relax some of those departmental controls, enabling district councils to manage their own financial affairs to best effect on behalf of ratepayers. It will align the framework for local government finance in Northern Ireland with the most appropriate modern finance practices elsewhere in the UK.

The Bill will introduce a prudential regime for capital finance that will enable councils to decide prudent and affordable levels of debt in line with guidance produced by the Chartered Institute of Public Finance and Accounting. It will introduce the power to invest; it will extend to all Departments the power to pay grants in relation to their areas of responsibility rather than that power being just for the Department of the Environment, and it will provide clarification around the general grant that is paid to councils. That grant consists of two separate elements, a derating element and a resources element, but that has caused some confusion in the past. Therefore, the general grant is to be replaced by two separate grants, a derating grant and a rates support grant.

The Bill will enable the Department to implement the recommendation of the councillors remuneration working group that an independent remuneration committee should be set up to consider the system of allowances payable to councillors and also the level of allowances payable. In addition, the Bill consolidates, into one enactment, all the provisions dealing with payments to councillors.

We last briefed the Committee on the draft Bill in April 2009 after the Executive had agreed to the policy proposals and the drafting of the Bill. On 24 July 2009, a consultation document, which included a copy of the draft Bill, was issued, and the closing date for replies was 31

October. We received 28 replies, including a number of replies that were received after the closing date. Those replies included 10 from councils, one from a change manager representing three councils, four from joint committees of councils, two from political parties, two from local government organisations, two from professional bodies, one from a trade union, one from a government Department, and five others. A synopsis of the replies has been provided to the Committee, but that synopsis does not include a reply from one council. However, the response of that council largely mirrored the comments of the Association of Local Government Finance Officers, the Northern Ireland Local Government Association (NILGA) and the other councils. We will update the synopsis to include that council.

The majority of respondents welcomed the Bill and the Department's proposals to modernise the current legislation on finance and councillors' remuneration. In particular, councils and local government organisations welcomed the greater freedom for councils to manage their own financial affairs without having to obtain consent from the Department. However, there was some concern that that freedom would be restrained by regulations. A number of respondents asked for more information about the proposed regulations, for example, in relation to the accounting practices to be followed, controlled reserves, use of capital receipts, and allowing borrowing limits to be set for national economic reasons.

The Department will, as required by clause 43 of the Bill, hold consultations on the proposed regulations and guidance, and it will advise the Committee in advance of those consultations. Before the Bill reaches Committee Stage, we will prepare a memorandum of delegated powers to set out in more detail what will be included in the regulations.

Respondents sought further clarification in a number of areas, for example, whether certain costs would be included in determining an affordable borrowing limit. Clause 1 of the Bill will require each council to designate a chief financial officer. The majority of respondents to that provision asked for clarification of the qualifications that would be required for a chief financial officer and stated that the roles of chief executive and chief financial officer should be separate.

With regard to the Department's proposal to replace the general grant with two grants, the derating grant and the rates support grant, 12 respondents asked whether consideration would be given to carrying out a review of the statutory formula. The main concern was whether that formula would still be appropriate for councils following re-organisation. Some respondents also expressed concerns that the rates support grant could be calculated as nil. I stress that there is no change in policy here. This is simply a name change. It is a matter of replacing the two elements of the current general grant with two separate grants. The formula is exactly the same. At the moment, the resources element of the general grant can currently be calculated as nil.

The introduction of a power to enable any Department to pay other grants to councils rather than the current system, in which only DOE can make such grants, was also generally welcomed, and the proposals with regard to payments to councillors was received well by the majority of respondents. The proposed establishment of an independent remuneration panel to advise the Department on a scheme of allowances and levels of allowances was another area with which respondents agreed. We are looking at the responses and will be seeking the Minister's views on whether the Bill requires amendment as a result of the consultation. We will then prepare the Department's response to the points raised in the consultation, and that will be sent to the Committee in due course. The aim is to have the Bill introduced to the Assembly in January.

The Chairperson:
Thank you very much. I remind members who, like me, are members of local councils that interests must be declared.

Mr Beggs:
I am a member of Carrickfergus Borough Council.

Mr Dallat:
I am a member of Coleraine Borough Council.

Mr McQuillan:
I am a member of Coleraine Borough Council.

Mr Ford:
I am a member of Antrim Borough Council.

Mr Kinahan:
I am a member of Antrim Borough Council.

The Chairperson:
I am a member of Craigavon Borough Council. So, there are not many of us who do not serve on local councils.

The Bill was to have been before the Committee in December, so there is already slippage on the time frame.

Ms Broadway:
There is only a couple of weeks' slippage; we still aim to have the Bill introduced to the Assembly in January, in accordance with our timescale.

Mr McQuillan:
May I ask about the independent assessors panel? The cost of setting that up may outweigh the benefits it brings. Who decides how this is set up? How do you decide who sits on it?

Ms Broadway:
Are you asking about the independent remuneration panel?

Mr McQuillan:
Yes.

Ms Broadway:
A few years ago, a councillors' remunerations group was formed to make recommendations. One of its recommendations was that there should be an independent remuneration panel for the following reason: the Department sets councillors' remuneration, and there was some concern from local government umbrella groups that independence was lacking, and that an independent panel was needed to consider not only the types of allowances that should be paid, but the level of those allowances. We plan to use the public appointments system to appoint people to the committee.

Ms Marie Cochrane (Department of the Environment):
The estimate was that it would cost under £50,000 per annum.

Mr McQuillan:

Is that sum smaller than the cost of the present system?

Ms Broadway:

At present, the Department sets the levels, but the issue of independence remains.

Mr McQuillan:

Therefore, we could end up with another quango costing the taxpayer £150,000.

Ms Broadway:

It would be an ad hoc committee, and it would only be brought into being when we wanted the review to happen.

The Chairperson:

Would that be yearly?

Ms Broadway:

No. I imagine that it would be every few years, and the committee would only exist for the duration of the review.

Mr Boylan:

Does the draft Bill contain anything in respect of co-options? I keep asking that question, but nobody listens to me. There may be concerns about having time to dilute the contents of the PricewaterhouseCoopers report. Do you foresee any issues arising in relation to the Bill? The main issue is the transfer of reserves and control of reserves to local councils. There may be some concern about that. Would there be crossover problems, if you consider the proposal for municipal banks to allow borrowing on the strength of assets to complete a council project or to organise a function?

Ms Broadway:

I do not think so. The Bill would apply no matter how many councils there are, because it is really to do with updating the current financial arrangements for councils, and, at the minute, the financial arrangements go back to the early 1970s.

Mr Boylan:

Will it impact on the reserves or how councils use their reserves?

Ms Brenda Mooney (Department of the Environment):

My understanding is that it will give councils more control over their finances. It is good practice. A framework will be put in place, and if councils act within that framework, it will give them more control over their finances. I could get you a firmer response on that.

The Chairperson:

I would be grateful for that.

Mr Dallat:

As this is about giving greater control to councils, is there not a concern about controlled reserves? I am not terribly sincere in asking that question, because I am conscious that in the past, councils put money in funny banks and lost it all. Why is clause 7 there?

Ms Broadway:

Some concerns were raised about the fact that regulations could be seen to be diluting the greater control that was given. We will carry out a full consultation on the regulations when those are developed, and there will be more detail when we come to that stage. I know that that does not answer your question.

The Chairperson:

Your paper states that some councils that responded to clause 7 asked for further guidance from the Department.

Ms Broadway:

That is correct. In considering the responses, we will determine whether we need to amend that provision, or, when we are determining the regulations and guidance, we will decide what we need to produce.

The Chairperson:

It would be useful to have a heads-up on the Department's thinking on the matter.

Mr Beggs:

What effect will the designation of the chief financial officer have on the current situation? At present, the chief executive carries out the function of accounting officer. Do you see that function being split, or will we be paying for two people in the future to have those levels of responsibility?

Ms Broadway:

The majority of people who responded to the consultation suggested that that role should be split. One of the policy development panels is currently considering, from the governance perspective, whether the roles should be split. The panel still has work to do, but when we bring more detail on the responses to the Committee we will be able to explain the panel's view, its reasons for that view, and why it thinks that the roles should be split.

The Chairperson:

Will it be akin to an internal audit?

Ms Broadway:

Yes; it is really internal financial control.

The Chairperson:

So, it is whether or not the role should be with the chief executive.

Ms Broadway:

Yes. It is whether one person should have both roles.

The Chairperson:

Is it a question of whether they can audit themselves?

Ms Broadway:

Yes.

Mr Beggs:

My question goes back to the issue of councils' ability to borrow money. They must have approval from the Department for borrowing in excess of £1 million. If I understand the legislation correctly, flexibility would be given to councils so that they would not have to seek permission provided that they are working within the regulations. If there is no regulation, is there a danger of councils going bust? Has that been the experience elsewhere?

Ms Broadway:

There is a provision whereby the Department can step in if it appears that a council has been borrowing more than it is able to service, and there is another provision that allows the Department to set in regulations what the specified level of borrowing should be for a particular council for the following year.

The Chairperson:

There are no further comments. Thank you for your presentation. We will hear more from you early in the new year.