



Northern Ireland
Assembly

**COMMITTEE FOR THE
ENVIRONMENT**

**OFFICIAL REPORT
(Hansard)**

Local Government Finance Bill

21 October 2010

NORTHERN IRELAND ASSEMBLY

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ENVIRONMENT**

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Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr Trevor Clarke
Mr Willie Clarke
Mr Danny Kinahan
Mr Alastair Ross
Mr Brian Wilson

Witnesses:

Ms Julie Broadway)	
Mr Dickson Holliday)	Department of the Environment
Ms Lizanne Kennedy)	
Mr John Small)	

The Chairperson (Mr Boylan):

I invite the departmental officials to come forward. With us today are John Small, head of local government finance policy, and Julie Broadway, Dickson Holliday and Lizanne Kennedy, all from local government branch.

Mr Beggs:

I declare an interest as a member of Carrickfergus Borough Council.

The Chairperson:

Mr Clarke has also declared an interest. All the rest of us are clear.

Clauses 1 to 10 of the Local Government Finance Bill were discussed last week. We will recommence at clause 11, which relates to the power of a council to borrow money. Some Committee members held a view that the Department should issue guidance on borrowing. Would the officials like to respond to that? Obviously, it is key that we have guidance in place.

Mr John Small (Department of the Environment):

Indeed, Chairman. Guidance is obviously a very important aspect. We will request that councils have regard to the prudential code of the Chartered Institute of Public Finance and Accountancy (CIPFA). It is an extensive document that was revised in 2009 and takes account of the financial turbulence of 2007 and 2008. Additionally, there is CIPFA guidance on treasury management. That could be helpful, and all councils will be required to have regard to it. As the Committee will see, we have also developed departmental guidance on borrowing. We have consulted with the key stakeholders and will continue to develop that further best practice guidance before it is finalised.

The Chairperson:

Are members happy enough with the Department's response?

Members indicated assent.

The Chairperson:

Are members happy with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 12 relates to the control of borrowing and the breach of limits. Some respondents deemed that there should be a stated requirement for the chief financial officer to report to the council on the review of the affordable borrowing limit. That seems like a bit of common sense.

Mr Small:

Clause 13(1) requires councils to keep the affordable borrowing limit under review, so that is catered for already.

The Chairperson:

Are members happy enough with the Department's response and content with the clause?

Members indicated assent.

The Chairperson:

Clause 13 is the duty of a council to determine and review the affordable borrowing limit. One respondent stated that regulations need to allow councils to borrow to finance any unfunded capital balances that are extant at the commencement of the regulations. Would the Department like to comment?

Mr Small:

It is difficult to see how you could look at the borrowing limit and a council's overall commitment without taking existing borrowing into account. Perhaps there has been a loss of understanding, and we may follow that through with the particular council later. It is difficult to see how that would be a sensible suggestion.

The Chairperson:

You can clarify that for that council. Are members content with the Department's response? Are we content with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 14 relates to the imposition of borrowing limits. A couple of issues were raised in respect of this clause. Most respondents stated that the Department's power to set a limit on borrowing by a particular council should be restricted to circumstances in which the council has disregarded its duty or obligation under clause 13. Does the Department have any comments to make?

Mr Small:

The imposition of a borrowing limit would only happen in an extreme situation in which there are either serious economic difficulties generally or if, on the control front, broad issues have arisen in respect of the way in which a council operates its borrowing limit.

Mr Beggs:

I have a query. There is going to be general guidance for councils to set their own limits, and then there is the ability to impose limits if deemed necessary. Could the latter be akin to shutting the door after the horse has bolted?

Mr Small:

Well it could, but it depends on the particular circumstances. There could be a situation in which a project is still on-stream and has not had borrowing taken, in which case it would not be after the horse has bolted.

Mr Beggs:

I suppose the primary responsibility rests with the councils, and thereafter you would impose restrictions.

Mr Small:

Indeed, and the councils will be aware of local government audit, so these sanctions will act as a deterrent.

The Chairperson:

The second issue is that some respondents sought a definition of "national economic reasons". Could you clarify or give an example of that? It is good to have it in, but we would like some

outline of what it involves.

Mr Small:

It is not feasible to determine; it is in the eye of the beholder. However, we are clearly talking about various situations. It would probably not be something that the Department of the Environment would be involved in; it would probably be a central government decision that would be driven by the Department of Finance and Personnel (DFP) against a really serious national economic situation.

Mr Kinahan:

Would we, as a Committee, have a say in it? We would have to be consulted as well.

The Chairperson:

Yes, we would have to be consulted.

Ms Julie Broadway (Department of the Environment):

The Committee would be consulted on the regulations anyway, before they are made.

The Chairperson:

That is a very valid point; perhaps we should look into having a power to consult with the Committee in respect of that. I read it last night, but there are no practical examples.

Are members content with this clause?

Members indicated assent.

The Chairperson:

I advise members that there were no issues in respect of clause 15, which relates to temporary borrowing.

Ms Broadway:

Clause 15 provides for the effect on councils' borrowing limit of payments owed to a council but

not yet received by it, and it ensures that outstanding payments are taken into account when setting the borrowing limit and that the subsequent receipt of those payments will have no further effect on the borrowing limit.

The Chairperson:

Are members happy with the general content of this clause?

Members indicated assent.

The Chairperson:

I remind members that there were no issues raised under clause 16, which relates to the protection of lenders.

Ms Broadway:

That clause provides for the protection of lenders who are not required to enquire whether a council can afford to borrow, so that they will not lose out as a result.

The Chairperson:

Are members happy with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 17 relates to credit arrangements giving rise to liabilities. I remind members that some respondents recommended that trade creditors should be excluded from the definition of a credit arrangement, as they are part of the working capital requirement and not long-term debt. Could officials expand on that, just to make it clear for members?

Ms Lizanne Kennedy (Department of the Environment):

The intention of this clause is to ensure that any credit arrangements that are for capital assets are considered as borrowing, if councils are setting their borrowing limit.

The Chairperson:

Gentlemen, are you content with the Department's response?

Mr Beggs:

We need to make sure that, for example, provision is made for considerable sums of money for completing council-owned landfill sites and that that is not discounted in some way, so I am content with what is being proposed.

The Chairperson:

Are members happy enough with the Department's response to that second issue?

Members indicated assent.

The Chairperson:

I remind members that some respondents sought clarification on whether long-term liabilities associated with the closure and aftercare costs associated with landfill sites would be treated as credit arrangements for inclusion when determining the affordable borrowing limit. I remind members that the Department has stated that the treatment costs of landfill sites need to be further explored. Can officials comment on that, please?

Mr Dickson Holliday (Department of the Environment):

The Bill does not make specific provision for special treatment of the closure and aftercare costs of landfill sites, and we recognise that those are substantial long-term liabilities for the councils. Councils need to obtain realistic estimates of those costs as part of their total estimated income and expenditure, and they need to make provision for those in their annual budget. Those costs will be divided between capital costs, which are for putting in the infrastructure that is needed to treat the products of a landfill site after it has been closed, and the revenue costs for operating and maintaining that. As my colleague Lizanne Kennedy mentioned, a credit arrangement could be entered into for capital costs. That would be for installing the equipment that is required for that, and it would need to be taken into account by the council as part of its overall implementation expenditure.

The Chairperson:

To clarify, what element of the Bill will impact on landfill sites that have been used and, two years later or at some other time, are closed over and deemed to be contaminated? Who will recover the cost? Is it the landowner or the council, or where will the responsibility lie?

Mr Holliday:

Officials from the Northern Ireland Environment Agency and the Department's environmental policy division have been working with the councils concerned, and I am aware that some sites have fallen into that category. Colleagues from the Department are working with those councils on that matter.

The Chairperson:

Are members content with the Department's response and with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 18 deals with control of credit arrangements. No issues have been raised under this clause.

Ms Broadway:

This clause prevents a council from entering into or varying a credit arrangement if it breaches the borrowing limit determined under clauses 13 and 14, and it provides for the value of the credit arrangement.

The Chairperson:

Are members happy with the general content of that clause?

Members indicated assent.

The Chairperson:

Clause 19 is about capital expenditure. I remind members that no issues have been raised under

this clause.

Ms Broadway:

This clause defines capital expenditure as expenditure that falls to be capitalised in accordance with proper practices. Under the clause, the Department will have the power to vary the definition of capital expenditure to include or exclude types of expenditure to be treated as capital expenditure by individual councils by direction or, more generally, by regulation.

The Chairperson:

Are members content with the general content of the clause?

Mr Beggs:

Are you saying that you might exclude as a capital item the likes of a new long-term software system?

Ms L Kennedy:

That is already included in the regulations.

The Chairperson:

Are members content with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 20 deals with capital receipt in respect of the disposal of an interest in a capital asset. I remind members that no issues were raised under that clause.

Ms Broadway:

This clause defines capital receipt as the sum that is received by a council when disposing of an interest in a capital asset. An asset is a capital asset if, at the time of disposal, expenditure on the acquisition of the asset would be capital expenditure. Under clause 20, the Department has the power to specify in regulations that a receipt or part of a receipt shall be treated as being or not

being a capital receipt.

The Chairperson:

Are members content with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 21 is about non-money receipts. I remind members that no issues were raised under clause 21.

Ms Broadway:

This clause gives the Department the power to make regulations where a disposal has been made for a consideration that is not wholly in the form of money payable to the council.

The Chairperson:

Are members content with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 22 deals with the use of capital receipts. I remind members that the majority of respondents stated that there should not be a requirement for capital receipts to be applied in the first instance against any money borrowed by a council for the purposes of acquiring that asset. Some respondents also regard the Department's power to make regulations about the use of capital receipts as contrary to the concept of giving local authorities the freedom to manage their own financial affairs.

Mr Small:

The draft regulations, which you have seen, provide quite wide possibilities in the area of capital receipts. There are five: to meet capital expenditure; to repay the principal of any amount borrowed; to pay a premium charge in relation to any amount borrowed; to meet any liability in

respect of credit arrangements; and to make all parts of a payment to a person where the obligation to meet that payment arises on the disposal of an asset. That is the full gamut of possibilities, and I think that that meets the questions that were asked.

The Chairperson:

Are members happy with the content of clause 22?

Members indicated assent.

The Chairperson:

Clause 23 deals with the power to invest. Some respondents commented on the lack of departmental guidance on investments. One respondent sought clarification on any restriction on the types of assets to be invested in. We have received the guidance, and it will be forthcoming before this all goes about.

Mr Small:

Indeed.

The Chairperson:

Does anyone have any further comments?

Mr Small:

From what he said, I thought that the Chairperson gave the accepted line that we would take; perhaps I should expand. With the passing of responsibility, we will require the councils to have regard to the CIPFA regulations, the Prudential code, the Treasury management regulations and our own guidance. That would be the basis for ensuring that they have considered the best practice guidance.

The Chairperson:

That is why I was seeking clarification. It is important that the regulation and guidance are in place and that there is an understanding. As we have seen in previous Bills, guidance notes have not been provided and have not been seen.

Ms L Kennedy:

The guidance on the investments has been provided to you.

The Chairperson:

I was seeking clarification. Are members content with clause 23?

Members indicated assent.

The Chairperson:

Clause 24 deals with security for money borrowed, etc, and the appointment of a receiver. In relation to clause 24(8) and 24(9) concerning the appointment of a receiver in respect of unpaid council borrowings of no less than £10,000, the Assembly's Examiner of Statutory Rules suggested that the Committee may wish to press the Department to make the power of substituting a different amount subject to draft affirmative procedure, as an Order under that provision would bring about a direct amendment of the Bill in respect of the jurisdiction of the High Court. Although the Department has indicated that there are no immediate plans to exercise the power, the Examiner considers that as and when the powers are exercised, they should, perhaps, be subject to a high degree of Assembly scrutiny. It is appropriate that the Committee has an opportunity to scrutinise that.

Ms Broadway:

If the Committee is content that the level of scrutiny should be changed, we can bring the matter to the Minister to suggest that an amendment be taken forward at Consideration Stage to make the enabling power subject to draft affirmative procedure.

The Chairperson:

Could we see that amendment?

Ms Broadway:

Yes.

The Chairperson:

Do members agree to advise the Department that the Committee would like to have sight of the text prior to formal clause-by-clause consideration?

Members indicated assent.

The Chairperson:

Clause 25 concerns guidance. I advise members that no issues were raised about the clause.

Ms Broadway:

The regulation requires a council to have regard to guidance that is issued by the Department and to any other guidance that is specified in regulations when exercising its functions under Part 1 of the Bill.

The Chairperson:

Are members content?

Members indicated assent.

The Chairperson:

Clause 26 concerns the derating grant. I advise members that no issues were raised about the clause.

Ms Broadway:

This clause makes provision for the derating grant, which will replace the derating element of the general grant. The formula for calculating the amount of the derating grant will be the same as that for calculating the derating element of the general grant.

The Chairperson:

Do members have any comment to make about clause 26? Are members content?

Members indicated assent.

The Chairperson:

Clause 27 concerns the rates support grant. I refer members to correspondence from the Association of Local Government Finance Officers (ALGFO) that comments on the statutory formula and the need to ring-fence the rates support grant. Members should note that Moyle District Council supported the ALGFO paper.

Some respondents contended that the current statutory formula that is used for the allocation of resources grant needs to be reviewed immediately to confirm that it will continue to meet its objectives following the review of public administration (RPA). Obviously, this issue is very important to local councils. The grant was reduced in this financial year, and it is possible that that will happen again. Is that correct?

Mr Small:

The key point is that the clause does not change the approach, methodology or levels of either of the current elements of the general grant. That is a separate financial issue that is, perhaps, relevant to the spending review and its outworkings.

The Chairperson:

For clarity, is it correct that some resource grant funding was removed this financial year?

Mr Small:

Yes.

The Chairperson:

Given that that was done in the middle of a financial year, is it correct that local councils will only be able to address that imbalance in the next financial year?

Mr Small:

Yes, or they could reprioritise. However, what we are saying does not affect that at all.

The Chairperson:

Local councils are asking for that funding element to be ring-fenced, rather than losing that

amount every year. Are we saying that it will be ring-fenced?

Mr Small:

It is not really ring-fenced; it is separated. There is no question of those elements being treated differently to how they are now. If there is a general financial pressure, one or other of those may be affected, but that is not the intention, nor is it in any way relevant to the Bill.

Mr Beggs:

Presumably, if consideration were given to reviewing or changing that calculation, there would have to be a detailed consultation process, which would be outside the scope of the Bill. Is that correct?

Mr Small:

That is correct. It would be quite complex.

Ms Broadway:

Also, we would need a change to regulations, which would be draft affirmative. Therefore, that formula could not be changed unless the Assembly debated the matter.

The Chairperson:

So it will not be changed?

Ms Broadway:

The formula will not.

The Chairperson:

Obviously, post-RPA, there may be changes that councils need to undertake.

Ms Broadway:

The need to amend that will be kept under review. However, we could not amend the formula unless we brought forward draft affirmative legislation. Before an amendment could be made, it would be brought before the Committee and would require an Assembly debate.

The Chairperson:

OK. Thank you. Are members content?

Members indicated assent.

The Chairperson:

Some respondents expressed the view that the rates support grant should be ring-fenced as it enables councils to plan their estimates. Ring-fencing would also mean that councils would not have to contend with in-year cuts, which are difficult to manage as rates have already been set.

Mr Small:

As I already said, the Bill does not suggest ring-fencing that, nor would it be in any way relevant to do that. It is simply a matter of what finances are available to us in the normal, wider financial and budget situations.

The Chairperson:

Obviously you can see why the councils have asked for ring-fencing. Without it, there will be an impact on some of the smaller councils.

Mr Small:

Yes, but the budget process supersedes all of that. That is what money we have available to us and the Bill will not affect that in any way. Perhaps I should be saying that the level of the finance will not be affected by the Bill, nor will the formula and the methodology by which it is applied.

The Chairperson:

Ring-fencing will prevent in-year cuts. The resource grant was taken away from councils last year, and if that continues to happen, smaller councils will have to recover the funds in the next financial year to address that imbalance. Some of the respondents said that they want that amount ring-fenced, but you said that that cannot be done due to budget pressures. However, in support of the councils, I think that that money should be ring-fenced at all costs. Would you like to comment on that?

Mr Small:

That cannot be guaranteed because of greater budget pressures.

The Chairperson:

I understand that, but how will you protect the smaller councils?

Ms L Kennedy:

To clarify, there is a pot of money and the Bill and the regulations under the Bill use the formula to divide up that money, with each applicable council receiving a certain ratio. This year, some councils got nothing out of it, while the other 18 councils got a certain amount of money. If 5% comes out of the pot of money, each of the councils that get money would receive 5% less.

The Chairperson:

I totally agree and understand what you are saying. However, the councils are asking for that pot of money to be ring-fenced.

Ms L Kennedy:

That is outside of the Bill.

The Chairperson:

I understand that. However, the only way for the councils to recover that is to increase the rates in the next financial year, and that is a problem for them. It is the Minister's intention to put that back on the councils. The Committee and the respondents are calling for that pot to be ring-fenced, but you are saying that that cannot be done.

Mr T Clarke:

I declare an interest as a member of Antrim Borough Council.

The Chairperson:

OK; thank you. Would you like to respond to that?

Mr Small:

I did not quite catch that; I am not sure.

The Chairperson:

No, that is OK. He was just declaring an interest. He has three or four jobs. *[Laughter.]*

Mr T Clarke:

I am capable of doing them all.

The Chairperson:

So, what you are saying is that it is the budget process that affects everything. If the pot of money is reduced by 5%, the money that goes to councils will reduce by the same amount. Hopefully, the Department will retain the same amount of money for the local council resource fund, but you said that that you cannot guarantee that.

Mr Small:

That is correct.

The Chairperson:

On behalf of the councils, will you please do that? *[Laughter.]*

Moving on, some respondents expressed concern that clause 27(6) suggests that the amount payable as the rates support grant could be calculated as nil. Would you like to comment on that?

Mr Small:

That follows on from what my colleague Lizanne just said. That provision does not mean that the grant would be nil. Rather, it reflects that, under the current system, eight of the 26 councils do not receive any funding in that area, as their wealth base is considered by the formula to be sufficient for their needs. Again, that provision will not change anything.

The Chairperson:

OK. So, those 18 councils will continue to receive that funding. Will the formula be reviewed?

Ms Broadway:

The formula is kept under review. We would review it in the run-up to reorganisation. Some work has already been done on whether the formula needs to be reviewed before a move to 11 councils. It will be kept under review.

The Chairperson:

Before we move on, can I not get you to commit to ring-fencing the grant? *[Laughter.]* It is something for the Committee to consider. Some of the councils lost, perhaps, £120,000 of resource. Those of us who have served on local councils know that that is a lot of money for small councils to lose in a year. Members need to consider that. Perhaps we need more information.

Mr Beggs:

I appreciate what you are saying, Chairperson. It is important for good governance in local government that there is early clarity of the situation. In previous years, the information that came from Land and Property Services about the ability of councils to raise rates — the penny product, etc — varied dramatically in the weeks approaching the critical rating decision budgeting period. It is very important to have clarity at an early stage.

The Chairperson:

As is ring-fencing the budget. It is an important issue. Are members content with the clause, or do we need more information? Is the Committee happy with the response from the departmental officials?

Mr Beggs:

I am content that the issue is outside of the scope of the Bill.

Mr W Clarke:

We need to look in more detail at the formula and how it is rolled out. Obviously, deprivation levels in rural areas would be taken into consideration. If Newry and Mourne District Council joins with Down District Council, that would create a massive rural council. Those matters would have to be taken into account, but that is a separate job of work. It is not just small

councils that would be affected. There are a lot of other issues.

The Chairperson:

Will the Department carry out a consultation before cuts are made? As Mr Clarke suggested, we need to look at rural-proofing. The Committee has heard the views of respondents. We need to look at the impact of the grant falling, even by 5%, on the 18 councils or whoever is entitled to it currently. That is an important issue for the Committee.

Ms Broadway:

That is separate from the Bill. We could bring more information about that to the Committee.

The Chairperson:

Yes. Was an equality impact assessment (EQIA) carried out?

Ms Broadway:

Yes; an EQIA is undertaken every time the formula is reviewed.

The Chairperson:

OK. And rural-proofing, of course.

Ms Broadway:

Yes, all impact assessments.

Mr Beggs:

It would be helpful if the formula and the EQIA were brought to the Committee so that members are aware of them.

The Chairperson:

We are happy with the general content of the clause, but we need that information before we commence the formal clause-by-clause scrutiny.

Clause 28 concerns reductions in grants under section 26 or 27. Members expressed the view

that care must be taken when breaking down the general grant funding into the derating grant and the rates support grant that councils do not lose grant aid, as that would have an impact on rates.

Mr Small:

I have given the assurance that the Bill does not affect any level of grant. It is a clean split; it is exactly the same as it was.

The Chairperson:

OK. Are Members content?

Mr McGlone:

What effect, if any, have you assessed of the Budget? I was watching the TV last night and I saw that local government figured very prominently in the directions of the Chancellor.

Mr Small:

Just before you came in, Mr McGlone, we —

Mr McGlone:

Sorry, excuse me; I was late. I had another appointment.

Mr Small:

We were just saying that any cuts to levels would be subject to the outcome of our Budget process and of yesterday's announcement.

The Chairperson:

Are members content with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 29 concerns other grants to councils. No issues were raised in respect of the clause.

Ms Broadway:

Clause 29 extends to all Departments the general power to pay grants to councils. At present, another Department can only pay grants directly to councils when they have an express power in their own legislation to do so. However, grants are sometimes paid when legislation is not necessary. In those cases, payments are made through the Department of the Environment, which means that we are making payments in respect of policies that are not our responsibility. Internal audit raised concerns at that practice, and the power in clause 29 seeks to rectify that situation.

Mr W Clarke:

For clarity, is that about grants from different Departments for things such as childcare provision?

Ms Broadway:

Because issues were raised by internal audit, we now only pay one grant on behalf of another Department. That is a DFP policy on construction products, which we pay to councils on behalf of that Department. Internal audit queried that because we are paying out grants for something on which we have no policy lead. Clause 29 will rectify that.

The Chairperson:

Are members happy with the general content of clause 29?

Members indicated assent.

The Chairperson:

Clause 30 deals with payments due by councils to Departments, etc. No issues were raised about that clause, but the Department may wish to comment.

Ms Broadway:

Clause 30 provides for the deductions from grants. It will apply when councils owe money, under a statutory provision, to a Northern Ireland Department or public body; to the consolidated fund; or to a public fund under the control of a Northern Ireland Department or public body. The clause carries forward, without amendment, the current provisions in section 145 of the Local

Government Act (Northern Ireland) 1972. It has been included in the Bill because the Bill is trying to pull together and consolidate all issues of payments to and from councils. There will be no change in policy.

Mr Kinahan:

Should there be an early warning system for councils in this case? That would allow them a little bit of leeway of, perhaps, six months. From my brief time in council, I got the impression that things are thrown at councils very quickly; perhaps we should look at some way of ensuring that they know in advance what is happening.

Ms Broadway:

We can take that away and look at it.

The Chairperson:

The Committee appreciates that. We will look at that information during the formal clause-by-clause scrutiny of the Bill. Are members happy with the general content of clause 30?

Members indicated assent.

The Chairperson:

Clause 31 deals with allowances, etc for councillors. I remind members to declare interests as we talk through the clause. Committee members expressed the view that payments should be flexible to accommodate those who wish to make a career out of local government and for those who wish to take on the position on a part-time basis, while retaining their full-time job. Would the Department like to comment on clause 31?

Mr T Clarke:

I declare an interest as a member of Antrim Borough Council.

Mr W Clarke:

I declare an interest as a member of Down District Council.

Mr Beggs:

I declared an interest at the start of the session; I do not see why you want me to do it again.

The Chairperson:

I am just reminding members. I do not want to be giving you more money than you are already getting.

Ms Broadway:

Clause 31 re-enacts the current provision that enables the Department to make regulations about allowances that are payable to councillors and to determine the maximum amount payable for each allowance. The only new provision that the clause will make is that it will enable the Department, in the interests of transparency, to make regulations requiring councils to make and publish their scheme of allowances and to make that available to members of the public.

The issue of payments to councillors being flexible, to accommodate those who wish to make a career from local government and those who wish to do it on a part-time basis, was looked at by the councillors' remuneration working group when it was making its recommendations about allowances to councillors. It considered that there should be no expectation that the role should be full-time. It was important to ensure that no restrictions were placed on who could be a councillor, whether they be in full-time or part-time employment, unemployed, self-employed or retired, because having people from different backgrounds with various experience and skills means that the council truly represents the district. Therefore, there is no expectation that the role should be full-time.

The Department sets the maximum for each allowance. The flexibility is there for each council to decide how much to pay in each of the allowances and to decide which posts and responsibilities will attract the special responsibility allowance.

Mr Kinahan:

Does the Department recommend a way for the councils to publish those details? Everything was put in local papers in Antrim as if it was all expenses and, therefore, going into the pockets of councillors, rather than detailing the allowances for being chairpersons and so on.

Mr T Clarke:

Is that because your party colleague received two-and-a-half times more than anybody else?

Mr Kinahan:

It was a whole lot of people.

Mr T Clarke:

I realise that your party colleague received two-and-a-half times more than anybody else.

Mr Kinahan:

We need to make sure that we clarify what is expenses and what is paid for other things.

Ms Broadway:

That is fine. We can issue a circular.

Mr W Clarke:

The role of councillor is increasingly becoming a full-time position. I suppose it depends on how seriously councillors take their position. There are a lot more daytime meetings because of European directives on officers' working conditions, to ensure that they have quality of life with their families. With outside bodies, policing partnerships and community safety organisations, never mind the community groups that people are members of, the job is at least 40 hours' work a week. Attendance at the Assembly is on top of that. If we are going to provide quality representation for people, it will move towards a full-time position.

Ms Broadway:

When the remuneration panel is set up, it could be asked to look at whether we are moving towards a situation in which the role may be more full-time. We suggest in the regulations that the basic allowance should be the same for all councillors because they all fulfil the same role. However, that is something that the Minister may choose to ask a remuneration panel to look at.

Mr W Clarke:

That is what I am trying to get at. The basic amount of money is the same, but all councillors are

not fulfilling the same role. Some councillors do a lot more, so there should be some sort of sliding scale in that regard, perhaps according to how many hours councillors do. A minimum amount of hours and a sliding scale need to be looked at in regard to payments.

Mr McGlone:

How do you do that?

Mr W Clarke:

If someone is a member of so many outside bodies and they attend them —

The Chairperson:

It is a very valid point.

Mr T Clarke:

I agree wholeheartedly with what has just been said. The Department made a mistake in the past and made a rod to beat its own back. In the past, councillors were paid an attendance allowance for meetings. Now, every councillor gets the same amount of money whether or not they attend meetings. Some councillors get remuneration for doing nothing while others get the same amount as those who do nothing. The Department made a mistake by removing the attendance allowance. I disagree that it is a full-time job; it is still part-time. In your initial remarks you touched on the idea of people doing the job on a part-time basis, but you changed slightly when you talked about the review recommending that the jobs become full-time. I cannot see it. I have been on a council for five years and have attended most meetings, even though I am a Member of the Assembly. I agree with Willie Clarke: some investigation should be done in that regard. I put on record that the Department made a mistake by removing the attendance allowance.

Mr McGlone:

To be fair to the Department, that is an imponderable task. To be honest with ourselves, we need to ask whether attendance at Committees is a benchmark for a good community activist.

Mr Kinahan:

Not necessarily.

Mr McGlone:

No, not necessarily. If all of us around the room are being honest, it is not. Somebody who attends committee meetings regularly could well be a vigorous and active councillor. However, it would be difficult to quantify the activity of a councillor who is out day and daily with community groups on the ground, filling in DLA forms and so on; that person usually winds up topping the poll. To be fair to the Department, it would be difficult to even try to assess that. The general answer is that that decision is, ultimately, left to democracy. I know that it is an issue, but it would be very difficult for anybody in the Department to assess or quantify that.

The Chairperson:

Clause 35 deals with a panel to advise on payments to councillors. Perhaps, when we get to that clause, we can discuss the issue. However, are members content with the general content of clause 31?

Members indicated assent.

The Chairperson:

Clause 32 relates to allowances for chairpersons and vice-chairpersons. Members expressed the view that consideration is required of the position of officers within councils and their remit around financial transparency.

Ms Broadway:

With regard to the query about transparency, the strategic leadership board endorsed the recommendation from the policy development panel on governance and relationships that the remuneration of senior council officers should be reported in a council's annual statement of accounts. Under article 24 of the Local Government (Northern Ireland) Order 2005, we have the power to do that through regulations. We could make regulations to stipulate that accounts should include details of senior officers' allowances and payments. Incidentally, last month, guidance was issued in England on local government transparency, which includes the recommendation that the salaries and expenses of senior officers should be published. It is an area in which there is movement.

The Chairperson:

I am sure that the Committee agrees with that. We are not saying that people are not entitled to this but entitled to that; it is about transparency.

Are members content with clause 32?

Members indicated assent.

The Chairperson:

Clause 33 deals with expenses of official and courtesy visits, etc. Unsurprisingly, no issues have been raised.

Ms Broadway:

Clause 33 brings forward, without amendment, the current provision around expenses for official and courtesy visits.

The Chairperson:

So there will be no Learjets or helicopters landing in the forecourts of council buildings.

Are members content with the general content of clause 33?

Members indicated assent.

The Chairperson:

Clause 34 deals with expenses incurred in attending conferences and meetings. No issues were raised on the clause.

Ms Broadway:

Clause 34 amends the current provision for expenses incurred in attending conferences and meetings by lifting the requirement that expenses have to have been incurred in attending conferences for the purpose of discussing matters connected to the discharge of the functions of the council, the development of trade, industry or commerce in the district, or issues otherwise

affecting the district or its inhabitants. Under the amended provision, it will be largely for a council to determine whether, in its opinion, a particular conference would cover matters that relate to the interests of the district or its inhabitants, and to make payments towards expenditure incurred in attending that conference.

The National Association of Councillors (NAC) asked that that amendment be made, because there were some concerns that attendance at meetings of its organisation would not be covered.

The Chairperson:

So long as we ensure value for money and good practice.

Are members content with the general content of clause 34?

Mr T Clarke:

If the amendment is made, is there not a danger that councillors would be rewarding themselves?

Ms Broadway:

It is up to the council to decide.

Mr T Clarke:

The council consists of councillors. Therefore, it is, essentially, a case of turkeys voting for Christmas.

Ms Broadway:

We are suggesting that because that is the situation in other jurisdictions, such as England, Scotland and Wales. We are updating our provision so that it is similar to provisions elsewhere.

Mr T Clarke:

I do not agree with that reasoning. We are in a position now where councillors can reward themselves further and decide whether they get paid for something. You have given them more control to give themselves more money.

Ms Broadway:

That recommendation comes from a recommendation from the councillors' remuneration working group.

The Chairperson:

We should look at that again. I will not make a decision on it today. We need more information.

Mr McGlone:

I am aware that that issue had cropped up among members of the National Association of Councillors. That was a bit of a glitchy situation in some councils. Can we seek a wee bit of clarification on that, including some from the NAC?

The Chairperson:

Mr Clarke and Mr McGlone have raised issues with this clause. We will certainly look into those before we decide whether to support the clause.

Clause 35 relates to the panel that will advise on payment to councillors. I remind members that one respondent questioned whether the costs associated with the establishment of the panel will outweigh its benefits over the process that is in use. This issue came up during our discussion on clause 31, and there are two separate elements. It will cost £20,000 to set up the panel; how many meetings do we expect to take place? Could you expand on whether that provides value for money, Julie?

Ms Broadway:

Again, that proposal derives from recommendations from the councillors' remuneration working group, which sees the key benefit as independence. There had been criticism in the past that no independent advice was being provided to the Minister of the Environment about allowances for councillors. Civil servants made those recommendations to the Minister. The panel will be independent of the Department and local government and will provide assurance of impartiality. That is the main reason for setting it up.

The cost of the panel has been estimated at about £20,000. However, that will not apply every

year. It depends on how many meetings the panel has during the year and on what area of remuneration the Minister has asked the panel to look at. For example, if, in the run-up to reorganisation, the Minister decides to do a full review of councillors' remuneration, it may cost £20,000 in that year. We have worked that out on the basis of having a three-member panel with a chairperson and two members and 30 meetings during the year, and based on the cost of the similar panel in Wales. However, the Minister might target a particular area of remuneration or allowances. For instance, he might decide to look at the issue of allowances for chairpersons and vice-chairpersons, because the 26 councils deal with that issue differently. It might only take a few meetings to decide on that. The panel will not meet every year, so there will not be a cost of £20,000 every year. It will depend on what the Minister has tasked the panel to look at.

The Chairperson:

So, in essence, it could be £20,000 for one meeting.

Ms Broadway:

Yes.

The Chairperson:

I looked at that last night. I know that the panel has to be independent and has to be set up correctly. However, £20,000 could constitute 30 meetings or one meeting. You said that you looked at another model, and you have used that example. It could be argued that you should use that model, do it in-house and look at the proposal under that model. However, you then need to question the independence and whether or not there is proper consultation. I want to thrash that out so that the Committee understands fully the proposals in respect of the panel.

Ms Broadway:

I will just confirm that the members of the panel would only be paid for the days that the panel met. Therefore, if the panel meets on 30 days during the year, it could cost £20,000. However, if it only met to deal with a targeted area of remuneration, members would only be paid for those days on which the panel meets.

Mr W Clarke:

I am not sure if this fits here or not, but I have had some experiences in Down District Council to do with the provision of training; perhaps a panel could look at that. We wanted to undergo some training that was available, but, perhaps because we came from a certain political party, the request was rejected by the corporate council, and that opportunity for training was denied to us, but was given in other councils. Could the provision of training for councillors be looked at? Funding for that should be ring-fenced. Money should be made available for councillors to get training for the new responsibilities, such as community planning. For councillors to be denied that training while officers get it is totally wrong. Is there scope within clause 35 to deal with that?

Ms Broadway:

The panel is only dealing with the allowances paid to councillors, but we could look at that. Part of the task force for the reorganisation of local government included a subgroup that dealt with capacity and training issues.

Mr W Clarke:

We raised it with them as well, and we did not get anywhere there either. What I am saying is that there is a void until the next RPA. What are we going to do? Are we not going to train councillors? This is an opportune time to build something in. Will you look at that?

Ms Broadway:

Yes, that is fine. We will go away and look at whether we can include something about that.

Mr T Clarke:

I would like some more detail about the estimated costs of between £20,000 and £25,000. Although that is your estimate, and you say that it will be spent on a pro rata basis, what is the baseline? How much will members of the panel be paid for the length of time that they work?

Ms Broadway:

We looked at panels in other jurisdictions to try to compare what payments are made there. The Welsh panel on remuneration, which has recently been set up, pays a daily allowance of around

£250 to the chairperson and £200 for each member, so those are the figures that we used for that estimate.

The Chairperson:

That is why I raised the issue; it is something that the Committee needs to look at. We understand the need for an independent panel to address the issue, but talking about costs like that, especially in the current economic climate, and I cannot say that picking another model or inviting councillors is how you would go about that, but —

Mr T Clarke:

Your pro rata costs there would be £52,000 a year.

Ms Broadway:

I accept that. We are saying that we do not think that the panel will be asked to meet for more than 30 days.

Mr T Clarke:

The point is that your pro rata costs are £52,000 a year. You are not describing what qualities that person has to have, other than immediately disqualifying councillors, which I can understand. However, if you pro rata that out, considering the climate that we are in today —

The Chairperson:

We need to look at that. We need to go back and discuss what has been decided under RPA proposals and bring it back.

Mr Beggs:

The departmental written response indicates that the panel's costs have been estimated at approximately £20,000 to £25,000. Just to clarify, you are saying today that the costs could be between zero and £25,000. There is not a £25,000 fixed cost.

Ms Broadway:

No, there is not.

Mr T Clarke:

But you are also saying that it could cost £35,000, because it is only an estimate.

Ms Broadway:

It is an estimate, but it is an estimate of costs calculated on a daily basis. We do not think that it would cost any more than £20,000 or £25,000.

Mr T Clarke:

But it could.

Ms Broadway:

Equally, there could be two or three years in which no payment is made to a panel, because it has not been asked to carry out any reviews. It would be only for days on which the panel meets.

Mr T Clarke:

Would the person getting that £200 a day already be in another job?

Ms Broadway:

I am not sure.

Mr T Clarke:

I assume that they would be. That would be enhancing their salary by £200 a day. It is a very topical subject for today.

The Chairperson:

There is no doubt about that. It is an issue that we need to come back to.

The second issue raised was that respondents recommended that all expenses should be supported by appropriate evidence of expenditure in accordance with Treasury requirements. Do you have any comment on that?

Ms Broadway:

It will be the case that all expenses will have to be supported by evidence of expenditure.

The Chairperson:

Thank you for clarifying that.

Let us get back to the issue related to clause 31. Mr McGlone and Mr Clarke asked how we get to the point, on this very difficult issue, at which councillors are properly representing people. There is no doubt that the job of a councillor has changed, as has the number of meetings that they have to go to. Councillors are either in the community dealing with issues on the ground, or in committee. The role of a councillor needs to be clearly defined. As well as the payment issue, the work of councillors and the definition of that role needs to be looked at.

Mr McGlone:

That is going to be extremely difficult unless it is done by the Department. The role of a councillor could go from talking some young fella or girl out of taking their own life to trying to get a roof on somebody's house. Councillors are elected community servants for their areas, and people turn to them. To tie down a definition, other than within fairly broad generalisations, would be extremely difficult. We have all been there and we all know that.

Ms Broadway:

When the councillors' remuneration working group considered the issue, one thing that it tried to do was benchmark the role of councillors against other professions. It came to the conclusion that that was impossible.

The Chairperson:

I totally agree. That is the clear message that we should be getting out to the public. A councillor wins or loses their seat depending on what they do. I agree with Mr McGlone that a definition should be looked at from a broad perspective, because what a councillor is asked to do covers a wide expanse. However, councillors represent their constituents by attending committee meetings on their behalf, or by dealing with specific issues out on the ground. We need to look at the role of councillors. Perhaps the word "define" is wrong. However, we need to look it

broadly, and that needs to be taken on board.

Ms Broadway:

If a panel were looking at the basic allowance payable to councillors, it would need to look at all the various aspects of the work that councillors are involved in.

The Chairperson:

Mr Clarke raised the issue of somebody with full attendance getting paid £9,500 or £10,000, but somebody with 50% attendance getting the same amount. Although that councillor may be working in the community —

Mr Kinahan:

He may be working harder outside the committees.

The Chairperson:

That is what I am saying. However, if a pay limit for certain jobs is going to be set within councils, that needs to be looked at in the round.

Mr Kinahan:

Can I throw the matter of pensions into the pot? It may not be popular, but it is an important issue for people who have served on councils for 20 or 30 years. If there is an independent panel, it should look at that end of things too.

Ms Broadway:

The councillors' remuneration working group recommended that councillors should be able to become part of, for instance, the local government pension scheme. We are looking at producing regulations that would allow that.

The Chairperson:

I tried to get remuneration for my two-and-a-half years, but Arlene Foster did not buy it. I tried my best.

We need to look at the matter in the round and take on board all of the members' comments before we make a decision.

Clause 36 concerns interpretation. No issues were raised —

Mr W Clarke:

Chairperson, I am sorry for bringing you back to clause 35, but, obviously, there will be people who will not be allowed to sit on the panel. How will that panel be appointed?

Ms Broadway:

The regulations specify that councillors and current elected representatives will not be able to be members of that panel.

Mr W Clarke:

What about their families?

Ms Broadway:

It does not say anything about that.

Mr W Clarke:

That could create vested interests.

The Chairperson:

We need to see the proposals in the round before we consider that further.

Mr Beggs:

Am I right in presuming that clause 36 allows someone who is not a councillor to be considered to be a councillor in relation to payment?

Ms Broadway:

It is only for the purposes of the payment of expenses.

Mr Beggs:

It seems quite unusual that someone who has not been elected a councillor can be considered a councillor for payment. Will you elaborate and give us an example of why that is needed?

Ms Broadway:

I will come back to you about that.

The Chairperson:

Do members have any other comments? Are members content with the general content of clause 36, taking on board the view that Mr Beggs expressed?

Members indicated assent.

The Chairperson:

Clause 37 concerns payments for special purposes. Several respondents requested a review of the current limits on expenditure for special purposes as they consider them to be too low.

Ms Broadway:

Clause 37 brings forward without amendment the existing provisions that permit councils to make payments for special purposes. Some groups indicated that a review is needed of the limits on expenditure for special purposes. As background, there are links between the section 115 power and well-being. The intention was to remove the section 115 power on the introduction of well-being. The aim was to have the Local Government Finance Bill in place from 1 April 2011 and to have the Local Government Reorganisation Bill, which would bring in well-being, six weeks later. We did not feel that it was necessary to uplift that amount for that six-week period. However, given that decisions have yet to be made about the time for reorganisation, there may be merit in looking at whether the level needs to be uplifted in the interim. That is something that we could consult on and do by subordinate legislation. There is a power in section 37 that allows us to change that amount by subordinate legislation. If the Committee feels that we should do that, we could take that back to the Minister.

The Chairperson:

I think so. We also need some research on examples. The principle seems OK, but we need to take a look at it. Perhaps Research and Library Services could do a bit of work on that and provide us with some other examples before we make a decision. Are members happy enough that we do that before we make a decision on the clause?

Members indicated assent.

The Chairperson:

Clause 38 concerns restrictions on power to make payments under section 37. Two respondents suggested an amendment to clause 38(1), so that it would read:

“A council shall not make any payment under section 37 unless, in its opinion, the direct benefit accruing to its district or any part of its district or to the inhabitants of its district or any part of its district will be commensurate with the payments to be made.”

Ms Broadway:

The provision is linked to clause 37. The Department does not consider that amendment to be necessary given that clause 37 already gives councils discretion as to whether a payment is for a purpose that would bring a direct benefit to the council, to its district or any part thereof, or to inhabitants of the district. Therefore, we are not sure that adding “in its opinion” is necessary.

The Chairperson:

Are you saying that that is clearly covered in clause 37?

Ms Broadway:

Yes.

The Chairperson:

OK. Are members content with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 39 deals with public appeals. I remind members that two respondents suggested that the clause should be amended to replace “particular event” with “circumstances”.

Ms Broadway:

The Department does not consider the proposed amendment to be necessary. The purpose of that provision is to allow councils to make one-off payments associated with particular events; changing it to “circumstances” may extend that.

The Chairperson:

It is wide-ranging. It could be a complicated process. Are members happy enough with the general content of that clause?

Members indicated assent.

The Chairperson:

Clause 40 is entitled “Limit on expenditure under sections 37 and 39”. There are no issues with clause 40.

Ms Broadway:

The clause re-enacts the current provision that limits expenditure for special purposes and public appeals.

The Chairperson:

Are members happy enough with the general content of the clause?

Members indicated assent.

The Chairperson:

Clause 41 deals with subscriptions to certain local government associations and other bodies. I advise members that issues have been raised under clause 41.

Ms Broadway:

Clause 41 re-enacts section 111 of the Local Government Act (Northern Ireland) 1972, which deals with subscriptions to certain local government associations and other bodies. One amendment has been made to section 111 to respond to comments made during the consultation on the Bill. We decided that provision should be made to clarify that a council may pay for an officer's membership of a professional body where membership of that body is considered necessary or beneficial to their carrying out their duties. However, it is limited to one membership payment per officer.

Mr T Clarke:

Is that still an annual payment?

Ms Broadway:

It is an annual payment. For instance, it might be considered necessary for a person to be a member of an accountancy body or another body that is related to the function that they carry out in the council.

Mr T Clarke:

A few weeks ago, the Northern Ireland Local Government Association (NILGA) recommended that each council should have a chief finance officer, who, it suggests, should be a member of some bodies. It directs people to such memberships before they can hold certain posts. If we agree to this clause, a wee empire will be created for a person employed by the council, by ensuring that their membership is paid by the council. Given the salaries of some of those senior officials, I do not see any reason why they should not pay for their own membership of whatever bodies they want to be on. If they need to be on that body to be employed in that post, so be it; why should the ratepayer pay for it?

The Chairperson:

I agree with that in principle. Councils should have a properly qualified person to do the job. If the membership is for training or something similar, that is a different matter than paying them to sit on a body.

Ms Broadway:

It is really about membership of a professional body, such as, for instance, an accountancy body. If part of a council officer's job requires them to have qualifications as an architect or membership of certain bodies —

Mr T Clarke:

That is an enhancement. Before people got those jobs, they had to be a member of that body. Therefore, they paid for it before they got on the local council. Then, because they got the job on the local council, the council picks up the tab. That is an enhancement to the salary.

The Chairperson:

Is that the substance of the amendment?

Ms Broadway:

That amendment was made as a result of responses that we received during consultation on the Bill. That provision was not originally in place.

The Chairperson:

The Committee will have to review that.

Mr McGlone:

The amendment is that a council “may pay”; there is no obligation on a council to do that. Therefore, it will kick it back to individual councils.

Ms Broadway:

It will.

The Chairperson:

I agree, but, to be honest, “may pay” will mean that they will pay. Once a request comes through, corporate council will agree to it. That might well happen through a letter at the end of a meeting when everybody is looking to get out the door.

Mr McGlone:

It might be useful to find out whether any councils already do that and for what range of posts. It could be happening ad infinitum or it could involve only two or three people. We do not know.

Mr T Clarke:

Chairman, the difficulty is not with stopping that one payment but with continuing the practice. At the minute, the status quo is for some payments to be made. However, to continue that, and to open it up to everybody else — one membership a year per officer — would mean that the council would pick up the tab.

Mr McGlone:

We may find that one council is paying for two officers to sit on bodies and another is paying for 10 officers. Straight off, there will be councils asking why others councils are doing something that they are not. If we had a greater level of detail, it would inform our consideration.

The Chairperson:

To be honest, I think that that is why the amendment was sought in the first place. However, we will look at the issue. The Committee definitely need to come back to that before making a decision.

Mr Kinahan:

What happens in the world of private business? Do people pay for membership themselves? If membership is paid for people by their companies, councils should pay too.

Mr T Clarke:

The two cannot be compared. We would have to look at the rest of the package.

Mr Kinahan:

I would like some guidance.

Mr T Clarke:

That cannot be taken in isolation. The roles would have to be compared. Civil servants are

particularly well looked after when it comes to sickness and so on, whereas people in the private sector may not be. You cannot directly lift that example from private business and take on its own.

The Chairperson:

We need to look at that. A person should be qualified to do the job. If they are acting on behalf of a council, they are bringing in money and providing value for money. However, it sounds as though councils would be picking up the tab for people to just to sit on some group. We need to look at whether a person is a professional hired by the council to do a job, and whether they may or may not need to sit on such bodies.

Ms Broadway:

It is more about someone being a member of a professional body that relates to the job that they do.

The Chairperson:

I understand. We will look at the matter again.

Mr Kinahan:

I was purely making the point that, if we want to keep people in their jobs in councils, sometimes we have to match what is happening in the outside world. That is why we need to explore that.

The Chairperson:

The Committee does not have a problem with training if there is a need for it. If it helps someone to retain their council position to the betterment of the council, that is fine. However, people should not be sitting on bodies for the sake of it.

Mr W Clarke:

Following on from what Danny said, could we have a list of the associations that officers currently sit on? For example, are those veterinary associations, waste management associations, tourism associations and so on? That would give us a flavour and a better idea of what is going on. We want to make sure that it is not golf clubs.

The Chairperson:

No problem. We can certainly look at that.

Obviously, we will have to revisit this. Julie, we have given you the view of the Committee. We will have to look at that issue again before the formal clause-by-clause scrutiny of the Bill.

We will move on to clause 42, entitled “General interpretation”. I remind members that no issues were raised under this clause. Are members content with the general content of clause 42?

Members indicated assent.

The Chairperson:

Clause 43 deals with regulations. I advise members that no issues were raised under clause 43. However, any amendment to the level of Assembly scrutiny at clause 24(9), as recommended by the Examiner of Statutory Rules, must be accompanied by an amendment to clause 43. Could we have sight of that amendment prior to the formal clause-by-clause scrutiny?

Ms Broadway:

On reflection, we do not need to amend clause 43. The legislation for which the Examiner of Statutory rules suggested a higher level of scrutiny is in an Order, not regulations. Therefore, provision for scrutiny is covered under that being an Order, so we do not need an amendment.

The Chairperson:

It is already covered. Are members happy with that response?

Members indicated assent.

The Chairperson:

I advise members that no issues were raised around clause 44, entitled “Consultation on regulations, orders and guidance”.

Mr Broadway:

Clause 44 will ensure that the Department consults on regulations, Orders and guidance before those are made.

The Chairperson:

Are members content with the general content of clause 44?

Members indicated assent.

The Chairperson:

Clause 45 is entitled “Minor and consequential amendments”. No issues were raised about clause 45. Are members content with the general content of clause 45?

Members indicated assent.

The Chairperson:

No issues were raised about clause 46, “Repeals”. Are members content with clause 46?

Members indicated assent.

The Chairperson:

Clause 47 is entitled “Commencement”. No issues were raised; are members content with the general content of clause 47?

Members indicated assent.

The Chairperson:

Are members content with clause 48, the short title of the Bill?

Members indicated assent.

The Chairperson:

There are no issues with schedule 1, “Minor and consequential amendments”. Are members content with schedule 1?

Members indicated assent.

The Chairperson:

No issues were raised about schedule 2, “Repeals”. Are members content with schedule 2?

Members indicated assent.

The Chairperson:

Other relevant issues were raised in written and oral evidence received by the Committee that do not sit within specific clauses. Those issues included regulations on constraints and consultation.

Ms Broadway:

Copies of the draft regulations and guidance have been supplied to the Committee. I hope that they show that we are not trying to restrain through regulation the relaxation that the Bill provides and that there is a requirement to consult on the regulations. Clause 44 requires the Department to consult on any regulations, Orders or guidance before making them.

The Chairperson:

What will happen in respect of public private partnerships and public finance initiatives?

Ms Broadway:

That issue is dealt with in the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010.

The Chairperson:

OK. There is the important wee issue of social clauses.

Ms Broadway:

Yes. There has been progress on that issue since the Committee received written evidence from people about it.

The Chairperson:

OK.

Ms Broadway:

To give you some background, the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 imposes restrictions on councils that prevent them from including social clauses in contracts. Under the Local Government (Best Value) Act (Northern Ireland) 2002, we could bring forward subordinate legislation to lift that restriction.

Over the past nine to twelve months, there has been a number of correspondence cases to the Minister, asking that the Department lifts the restriction on social clauses. The Minister responded by saying that he would ask officials to look at that. However, at that time, given the Department's heavy legislative workload and the resources that that required, he could not give any timescale for such a change. We have since looked at it and drafted the necessary subordinate legislation and guidance. We have sent the guidance to our colleagues in DFP, so that they can make sure that it does not cut across the general procurement legislation or EU procurement legislation.

The Minister was recently asked for an update on the issue, and he replied that we hope to be in a position to consult on the necessary subordinate legislation and guidance in the new year, which would mean that before the end of this year we would be able to give the Committee details of what we propose to bring forward.

The Chairperson:

That is new year 2011?

Ms Broadway:

Yes.

The Chairperson:

OK. So, the Committee will have something in writing by the end of the year.

Ms Broadway:

Absolutely, yes. In fact, if you wish, we can send the Committee the SL1 now.

The Chairperson:

I would certainly like to see that. We will rubber-stamp that next week. Thank you very much.

The issue of land and property disposals and valuations was also raised.

Ms Broadway:

Further policy development is needed on the wider issues of land disposal and vesting. Those issues are quite complex and have not yet been consulted on. Therefore, we need to do further work on that.

The Chairperson:

I will read out the other issues: emergency provisions; repeals; benchmarking; transparency; gender-neutral language; and the potential for the misuse of corporate credit cards.

Ms Broadway:

It is expected that councils would make allowances for emergency situations when considering the estimates of income and expenditure under clause 3, to determine a prudent level of reserves to deal with such circumstances. However, I am not sure whether the Committee's query was about that or whether it was to do with more general emergency provision around, for example, flooding.

The Chairperson:

It was just a general query.

Ms Broadway:

We asked the draftsman about the gender-neutral issue. We have no problem changing the language. However, the reason that it was drafted with “chairman” and “vice-chairman” is that the provision links back to the 1972 Act. Therefore, it was done for consistency.

The Chairperson:

But we can read it as “chairperson”?

Ms Broadway:

Yes.

Mr McGlone:

Should you not have said draftsman? *[Laughter.]*

The Chairperson:

We still have to deal with benchmarking and repeals. Are there any other comments, perhaps on the credit card issue?

Mr Small:

The response that we gave in our submission, which you may not have had time to read yet, is comprehensive and explains that that is handled through the existing internal audit and, in this case, the local government audit mechanism. It is true to say that that may be a case of shutting the stable door after the horse has bolted. However, it may, at least, advise other councils of the potential for their horses to bolt and they can, therefore, do something about that. That is part of the reason for the local government auditor’s report.

The Chairperson:

We still have to deal with benchmarking, transparency and repeals.

Ms Broadway:

Regulation 13 of the draft local government payments to councillor regulations 2011 will require councils to publish a scheme of allowances as soon as is practicable after the end of the year and

to publish the total sum of allowances that councillors got in that year. The Local Government (Northern Ireland) Order 2005 provides for the inspection of documents at the time of audit.

Could I get some clarification on the benchmarking query? No proposal has been made to change the statutory formula that is currently used.

The Chairperson:

It was just a general query, so that is fine.

Thank you very much; that covers everything. Hopefully, the time that we spent today will be saved at the formal clause-by-clause scrutiny stage. However, there are a few things that we need to go back to.

Ms Broadway:

Thank you.

The Chairperson:

That concludes the informal analysis of the Local Government Finance Bill. Formal clause-by-clause scrutiny will be timetabled pending the receipt of the text of amendments from the Department and the NILGA research on the roles of chief executives and chief financial officers in local councils. A final Committee position on each clause will be sought at the formal clause-by-clause scrutiny stage. I thank members for their patience. I thank Shauna Mageean for her assistance.