

Committee for Infrastructure Legacy Report 2017 - 2022

Report: NIA 204/17-22

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List of abbreviations and acronyms used in the report

ABI: Association of British Insurers

AME: Annually Managed Expenditure

C&AG: Comptroller & Auditor General

CBI: Confederation of British Industry

DfT: Department for Transport (GB)

DVA: Driver & Vehicle Agency

EQIA: Equality Impact Assessment

ESB: Electricity Supply Board

EV: Electric Vehicle

EVANI: Electric Vehicle Association Northern Ireland

LCM: Legislative Consent Motion

LDP: Local Development Plan

MIB: Motor Insurers' Bureau

NIAO: Northern Ireland Audit Office

NIE: Northern Ireland Electricity

NIPSA: Northern Ireland Public Service Alliance

PAC: Public Accounts Committee

PDE: Pre-Development Enquiry

PSNI: Police Service of Northern Ireland

ORCS: On-Street Residential Charge Point

SR: Statutory Rule

UFU: Ulster Farmers Union

Remit, Powers and Membership of the Committee

The Committee for Infrastructure is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

Statutory Committees have been established to advise and assist the appropriate Minister on the formation of policy in relation to matters within his/her responsibilities. Specifically, the Committee has power to:

- consider and advise on departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant secondary legislation and take the committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister for Education.

The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of 5. The membership of the Committee is as follows:

- Mr Johnathan Buckley MLA (Chairperson)¹
- Mr David Hilditch MLA (Deputy Chairperson)
- Mr Roy Beggs MLA
- Mr Cathal Boylan MLA

¹ With effect from 14 June 2021 Mr Johnathan Buckley replaced Ms Michelle McIlveen as Chairperson

- Mr Padraig Delargy MLA²
- Ms Cara Hunter MLA³
- Ms Liz Kimmins MLA
- Mr Andrew Muir MLA
- Mr George Robinson MLA⁴

² With effect from 27 September 2021 Mr Padraig Delargy replaced Ms Martina Anderson

³ With effect from 18 October 2021 Ms Cara Hunter replaced Mrs Deloris Kelly

⁴ With effect from 21 June 2021 Mr George Robinson replaced Mr Keith Buchanan

Review of 2017 – 2022 Mandate

Scrutiny

The key points of the Committee's scrutiny during the 2017 - 2022 mandate are summarised below.

Inquiries

The Committee undertook the following formal inquiry.

Decarbonisation of Road Transport

The Committee for Infrastructure conducted an inquiry looking at the ambition to decarbonise road transport in Northern Ireland. Cars account for the majority of Greenhouse Gas (GHG) emissions and, as such, the Committee is interested in Northern Ireland's readiness to meet the Government's plans to prohibit the sale of new petrol and diesel cars from 2030 and plug-in hybrids from 2035.

To evidence the Inquiry, the Committee conducted an online survey to gather the views of the public. The Committee issued a targeted Call for Evidence on the decarbonisation of road transport to stakeholders involved in road transport such as public transport operators, road haulage operators and public sector fleet managers and the 11 Councils.

The Committee also engaged the Northern Ireland Assembly Research and Information Service to provide further evidence by way of a series of research papers and took oral evidence from the Department and representatives of Electric Vehicle owners.

The Committee Report on the Inquiry on Decarbonising Northern Ireland's Road Transport was published on 3 November 2021. The Report includes a

number of recommendations for the Department for Infrastructure and the Executive.

Reviews

The Committee undertook detailed reviews of a number of key policy areas.

The Review of the Implementation of the Planning Act

The Planning Act 2011 includes a clause which contains a requirement for a review of the act initially after 3 years and then every 5 years thereafter. Department officials came to the Committee on 30 September 2020 to advise that due to a number of delays a review of the act had not been carried out and to outline its intention to conduct such a review.

Given the lack of a review and the range of concerns members had about how the planning system was operating the committee agreed to engage with the Review and take evidence from stakeholders on the Review.

Over the subsequent months the Committee received briefings from the Northern Ireland Local Government Association, Society of Local Authority Chief Executives (SOLACE), the Construction Employers Federation and the Confederation of British Industry.

The evidence the Committee received was concerning to members and they highlighted to the Department their concerns about delays and expense in the planning system and its cost to economic development in Northern Ireland. The Committee, through the various stages of the Department's consultation of the Review, engaged with officials both during briefings and via correspondence to raise its concerns with the Minister and her officials.

The Planning Act (NI) 2011 provided the legislative basis for the reform of the planning system in Northern Ireland. The Review of the Implementation of the Planning Act was published on 27 January 2022 and contains 16 recommendations covering a number of aspects of the Planning Act.

The Executive Summary of the Report states:

"The key reforms set out to deliver the complete overhaul and redesign of the development plan and development management systems with the aim of improving efficiency and effectiveness."

It goes on to state that the aim of the Act is:

"to create a planning system which is quicker, clearer and more accessible, with resources better matched to priorities."

The Committee was very limited in its ability to scrutinise the Review of the Planning Act as, during this time the Public Accounts Committee was conducting an Inquiry into the NIAO report on <u>Planning in Northern Ireland</u>. The PAC has a statutory function to consider the reports of the Comptroller and Auditor General (C&AG) (Northern Ireland Act 1998, Section 60(3)). Under established convention, the PAC must be allowed to complete its role before other committees, or the House itself, debates a report, otherwise, there is the potential for confusion in the accountability process.

The Committee had concerns that, although the stated aim of the Planning Act is to have a quicker, clearer and more accessible system, this aim was not underpinned by the main objectives of the Act, and neither did the main objectives of the Act contribute directly to the aim. The objectives were presented as a list of activities to be undertaken which, once completed, allowed the Department to state that their objectives had been achieved without any discernible outcomes, improvements or identifiable benefit and no measurable contribution to achieving the overall aim of having a quicker, clearer, more accessible system.

Each council is required to prepare and adopt a Local Development Plan (LDP) for its district. The Department estimated that all councils would have LDPs in place by 2019. To date, no council has a LDP in place. Seven councils have published and consulted on their draft Plan Strategies. This is the first formal stage of the LDP preparation process. The Committee had significant concerns about the time being taken for LDPs to be developed.

Coronavirus Mitigations

The Covid-19 virus pandemic led to a range of problems across government and society in general. Within the scope of the Committee for Infrastructure, the closure and then safety measures put in place by the Driver & Vehicle Agency (DVA) created a major backlog in individuals and organisations waiting for MOT tests and driving tests, both practical and theory from which there is still a persisting impact. In addition, the lockdowns over the last two years have had a fundamental impact on the taxi and bus and coach sectors leaving companies and individual drivers with no income.

These two issues were considered at great length in the Committee to assist the Department in how best to mitigate against these impacts.

DVA Backlogs

Shortly after the initial lockdown in the spring of 2020, the Committee requested that the Minister provide oral evidence on the impact on DVA services. The Minister and her officials came to the Committee on 3 September 2020 to consider the issues.

The Minister outlined that as of 1 September 2020 around 200 key workers, including doctors, nurses and front-line workers, would be tested first, followed by the customers, approximately 3,800, most of whom are young people, who had their tests cancelled, to ensure that they were not inconvenienced further.

The Committee asked about the 3,800 backlog and about all those who would normally have been added to that list in the intervening months. The Minister advised that they had not extrapolated how many tests they expected to receive. There was an acknowledgment that there would be a backlog but no understanding of the impact of future applications.

The Committee urged the Department in subsequent briefings and correspondence to ramp up action to employ more staff, open more centres and increase opening hours for testing centres.

Every time, the Committee emphasised the concern the public had about the growing backlogs. Individuals and businesses were unable to take up work or to get staff into roles where driving was a requirement. Increasing numbers of cars were being left without an MOT and so were falling foul of insurance companies and the PSNI.

In response, the Minister and her Department implemented temporary MOT exemption schemes. They had discussions with the PSNI and the insurance companies regarding enforcement and extended the opening of test centres; and eventually recruited additional staff. The backlogs have eased slightly but remain unacceptable. The Committee on 7 February 2022, brought a motion to the House seeking support to encourage the Minister to think creatively to end the backlogs once and for all. The motion was supported by the House.

Sectoral Covid financial support schemes

The Department for Infrastructure has responsibility for the regulation of the Taxi Industry and the Bus and Coach Industry. During the pandemic, the Committee heard from these industries and asked for support from the Minister for Infrastructure and her colleagues in the Executive. The Committee has received briefings from the Minister and her officials and sought to find solutions to the problems faced by these sectors.

The pandemic has taken its toll on these sectors. During various briefings from the sectors representatives outlined the impact of the lockdowns. Due to the pandemic, taxi drivers stopped working as there was very little work available. Similarly, there was little business for Bus and Coach companies.

Now that lockdown is easing taxi drivers are once again needed. Taxis are required not only for the benefit of our hospitality sector and wider economic

recovery but also for the health and social care sector, to ferry individuals to and from their various appointments.

Both sectors outlined how they fell between the cracks when it came to financial schemes for the industries. The Minister at first was reluctant to lend support, arguing that her department did not have the vires for financial support schemes and that this is the role of the Department for the Economy. The Committee pursued the issue and brought Committee motions to the House for debate. The Executive agreed to make legislation to give the Department for Infrastructure the vires to implement funding schemes for the sectors and agreed that money would come from the Department for Finance to fund such schemes. These schemes were implemented and, again with pressure from the Committee, as the pandemic continued, additional rounds of funding were announced and implemented.

Road maintenance

A consistent and important aspect of the Committee's work has been the repair and maintenance of the Northern Ireland road network. The Committee was keen to ensure that roads, especially urban roads were maintained to ensure road safety and prevent damage to road vehicles. The Committee noted that the Department was paying out high levels of compensation for damage caused by pot holes etc., which could be used more expeditiously to keep the roads to a good standard.

In its consideration of these matters with the Department it was established that road resurfacing and maintenance contracts with the private sector had been subject to legal challenge and that this was causing delays. The Committee asked for a full explanation of this and what the impact was.

At a briefing from the Minister the Committee discussed the legal challenges. The Minister advised that the legal challenges had prevented the award of asphalt resurfacing in Western and Southern Divisions which was causing delays in road maintenance. The Department had developed an interim procurement strategy for asphalt resurfacing, and completed a premarket

engagement during July 2021. The Committee voiced concerns about the lead in time for getting new contracts in place so that much needed road repairs and resurfacing could recommence. The Minister advised that she would develop larger scale, one-off resurfacing contracts, in the areas currently without a resurfacing contractor resource.

The Minister announced a Roads Recovery Fund of £12 million, £10 million of which specifically for rural roads for 2020-21 and then enhanced this to £17 million for 2021-22.

Biennial MOT Testing

As a mitigation response to the MOT backlogs caused by the lockdown the Minister implemented temporary MOT exemptions. The Minister discussed with the Committee her intention to look at the possibility of a biennial MOT to avoid backlogs in future.

The Minister issued a Call for Evidence seeking views on the possibility of introducing biennial MOT testing. The Call for Evidence closed on 19 October 2021. In February 2022 the Minister advised the Committee that, on the basis of responses to the Call for Evidence, there is sufficient evidence to explore the possibility of moving to biennial testing. She has, therefore, asked officials to commence work for a public consultation on the matter.

Responses to the Call for Evidence were largely along the lines of vested interests with individuals and organisations from the motoring sector being supportive whilst organisations such as NIPSA and those from the automotive servicing and repairs' sector being against the proposals. A key area for scrutiny for the Committee included the need to prioritise the concerns of organisations without a vested interest and those with a particular interest in road safety.

Committee Scrutiny of the Budget 2021-22

The Committee closely scrutinised the spending of the Department for Infrastructure. The Committee recognises that it was a difficult time for the Department, as the Department has not always been able to secure the funding it needed, when it needed it.

When she provided oral evidence on 19 January 2022, the Minister informed the Committee that the lack of adequate resource funding has resulted in a constant struggle for the Department to deliver public services to a high standard.

Translink and Northern Ireland Water are two key policy areas under the remit of the Minister for Infrastructure. The COVID-19 pandemic has had a severe financial impact on Translink with loss of revenue from reduced passenger numbers which was exacerbated by the arrival of the Omicron variant.

Northern Ireland Water has suffered from a significant increase in energy costs in late 2021 and early 2022 which could, potentially, impact on the company's status.

The Department's Resource DEL in the 2022 Spring Supplementary Estimates was £114 million more than that allocated in the Main Estimates at the start of the year. This represents 33% (one third) of the Department's total Resource DEL. Whilst almost half of these Monitoring Round allocations were COVID-related, there is still a sizeable amount of other Resource DEL allocated through Monitoring Rounds.

It creates significant difficulties for the Department in planning ahead when such uncertainty surrounds its resource allocation. Particular difficulties arise in relation to capital spend where the Department needs the certainty of a reliable Resource budget to plan and prepare capital projects.

Both Resource AME (Annually Managed Expenditure) and Capital AME uptake was significantly less that allocated in the Main Estimates. Whilst it is recognised that AME is, by its nature, difficult to estimate, the figures of 14.5% below estimate for Resource AME and, particularly, 68% below estimate for Capital AME represent a significant deviation from the Main Estimates.

NI Water is facing serious issues as a result of the impact on the organisation of the unprecedented increases in electricity costs. The Committee was told that the outcome of the October Monitoring Round created serious risks and uncertainty for the organisation regarding the supply of drinking water and the treatment of waste water with hospitals and schools being cited as being equally at risk, as the system is unable to differentiate between sectors.

The Committee wrote to the Minister of Finance on 3 December to inform him that, the Committee had noted that, in his statement on October Monitoring, he informed the House that the increased costs faced by NI Water as a result of increased energy prices could be revisited in January Monitoring. The Committee was concerned to learn from officials that the Department could not guarantee enough funding to see NI Water through to the January Monitoring Round without having to introduce supply restrictions, interruptions and a possible deterioration in drinking water quality.

NI Water informed the Committee that, at that point, it was running week-to-week looking for funding. NI Water subsequently received a pre-January Monitoring allocation of £1.8 million to tide it over until the actual January Monitoring Round outcome.

It remains unclear to the Committee what level of urgency there actually was, and what actual risk there was, at that time, to the supply of drinking water and to the treatment of waste water.

It is, however, clear to the Committee that something needs to be done as a priority to provide more financial certainty to NI Water as both a publicly funded organisation and a company limited by guarantee.

The Minister informed the Committee that, although significant financial assistance was provided to Translink in the 2020-21 financial year, that assistance was not sufficient to deal with the losses being incurred in the 2021-22 financial year. She told the Committee that Translink's Board had expressed its concern over the financial viability of the organisation in the face of, what the Minister referred to as "continued under-resourcing".

Translink informed the Committee that public transport in Northern Ireland receives substantially less public funding than in any other UK region. The Committee agreed if climate change targets are to be met and traffic congestion eased, there needs to be longer-term investment in public transport rather than providing last-minute funding through Monitoring Rounds and between Monitoring Rounds.

Committee Consideration of the Draft Budget 2022-25

The Minister for Infrastructure provided oral evidence to the Committee on a range of matters at its meeting on 19 January 2022 including the Draft Budget 2022-2025. The Committee received oral evidence from Translink on the Draft Budget at its meeting on 26 January 2022. Northern Ireland Water representatives attended the Committee on 2 February 2022 to provide oral evidence on the Draft Budget.

Translink and NI Water are two key policy areas under the remit of the Minister for Infrastructure. The COVID-19 pandemic has had a severe financial impact on Translink with loss of revenue from reduced passenger numbers. NI Water has suffered from a significant increase in energy costs in recent months which could, potentially impact on the company's status. The Committee heard from both organisations to assess their requirements for the Budget period.

Department for Infrastructure Draft Budget 2022-2025

Proposed Ring-Fenced Allocations

The table below provides information on the Department for Infrastructure (DfI) proposed ring-fenced allocations for each Budget year.

Ring-Fenced Allocations Proposed (£m)	2022-23	2023-24	2024-25
NI Water Price Control	13.0	11.9	12.1

Although the proposed ring-fenced allocation for NI Water reflects the PC21 assessment determined by the Utility Regulator, it does not address other inescapable pressures within NI Water including energy pressures. These amount to:

Year	NI Water Inescapable Pressure
2022-23	£23m
2023-24	£12m
2024-25	£11m

As Northern Ireland's largest electricity consumer, NI Water is highly susceptible to increases in energy prices. The Department informed the Committee that from September 2021 to the end of the financial year, the increase in inescapable energy costs for NI Water was estimated at £29.8m. This represents 22% of the organisation's entire resource budget for the full financial year.

The price of electricity is largely determined by the wholesale price of gas. Gas prices have more than doubled during the 2021-22 financial year. On 2 February 2022 the Utility Regulator stated that high energy costs were likely to continue for a further 36 months. This, coupled with higher than expected inflation, would have a very significant impact on NI Water's resource budget.

Proposed Resource Funding

The table below compares the baseline, the total resource requirement and the proposed resource budget for each budget year and also highlights inescapable pressures.

Resource Funding (£m)	2022-23	2023-24	2024-25
Roll Forward Baseline	420.7	420.7	420.7

Inescapable Pressures	117	92.5	103.2
Total Resource Requirement	537.7	513.2	523.9
Total Resource Proposed (Budget)	443.8	448.2	450.4
Difference Between Required and Proposed	-103.9	-65.0	-73.5

There is a significant difference between resource requirements and proposed allocations. The Department is clear that the proposed allocations in the Draft Budget would present very significant challenges to Northern Ireland's infrastructure and to the services delivered by Dfl. The Department considers it too early to comment on how resource allocations would be prioritised as it would depend on the extent to which allocations change in the final Budget.

One important issue which has been raised by the Department is that its needs a resource budget that is adequate to deliver capital projects. For example, for a major road infrastructure capital project, considerable additional resource funding is required to undertake work such as policy and legislation development and scoping studies. Without this resource funding such capital projects cannot proceed.

Proposed Capital Funding

The table below compares the Department's capital bid with the proposed budget capital allocation.

Capital (£m)	2022-23	2023-24	2024-25
Dept for Infrastructure Bid	787.3	1,017.7	1,403.6
Dept for Infrastructure Proposed Allocation	767.0	821.7	822.7

Difference Between Bid and	-20.3	-196.0	590.0
Proposed	-20.3	-190.0	-580.9

The Department's bid for Indicative Capital Requirements (excluding City Deals) is broken down in the following table.

Priority	2022-23	2023-24	2024-25
	(£m)	(£m)	(£m)
Flagship	70.6	140.4	264.1
Inescapable	475.6	512	616.3
Pre-committed	62.6	27.9	45.5
High Priority	178.5	337.4	477.7
Total Bid	787.3	1,017.7	1,403.6
Difference from Proposed	-20.3	-196.0	-580.9

The Department has made no decisions on how the proposals in the draft budget would be allocated. The Minister informed the Committee that Year 3 of the draft capital budget allocations, in particular, presents a significant funding gap based on the Department's indicative capital requirements submitted, where there would be insufficient funding to address flagship, inescapable and pre-committed schemes in total. This would require prioritisation of schemes over the budget period, which could result in the delay of some schemes into later years.

Translink Draft Budget

The Translink Chief Executive Officer provided oral evidence to the Committee for Infrastructure on the 2022-2025 Draft Budget at its meeting on 26 January 2022.

The Committee was informed that the Department for Infrastructure had informed the organisation that, in the 2022-2025 Draft Budget proposed outcome, the Department would not be able to continue to provide the same level of service as provided in the 2021-22 year.

Translink's view is that the scenarios considered in the Department's EQIA indicate that if the Department was unable to continue to provide the same level of service as provided in the 2021-22 year, this would lead to significant service reductions in public transport and the financial viability of Translink would become a serious issue. It is Translink's view that, if this was the outcome of the budget, then this would involve significant cuts to the bus and rail network, which would, in effect, lead to a managed decline of the public transport network in Northern Ireland, with a significant impact in rural areas.

Translink informed the Committee that the public transport network is currently managed with low levels of funding in the budget and a reliance on in-year bids to try and remain financially viable. This approach leads to an inability to plan for the future and undermines confidence with citizens. It also undermines confidence with their suppliers and pushes up risk premiums, thereby increasing costs.

According to Translink, this comes at a time when Governments across the world are investing in public transport to support a green recovery from Covid-19, address climate change and support social, economic, and environmental wellbeing. The health costs associated with air pollution in Northern Ireland are already on the rise with a projected 84,000 new cases of disease between now and 2035, with expected costs of up to £635m.

Translink has ambitious plans for public transport in Northern Ireland. These include:

- Continued investment in sustainable public transport;
- Decarbonising Translink's fleet;
- Rail infrastructure upgrades to maintain and enhance the rail network;
- Enhancing inter-city rail connections;

- Delivering enhanced bus infrastructure;
- Delivering flexible contactless ticketing; and
- Enhancing bus and rail facilities.

These plans cannot be implemented without a commitment to appropriate longterm funding.

Unadopted Roads

The Committee for Infrastructure find it a matter of some concern that unadopted roads remains such a big issue a decade on from the Regional Development Committee's inquiry into the matter. At that time a report highlighted that there were between 1,200 and 3,500 unadopted roads and some 1,200 sewerage schemes in backlog.

At its meeting on 12 May 2021, the Committee for Infrastructure found that this was still the case and that the recommendations made in the 2012 report are yet to be fully considered.

Roads that are yet to be adopted by the Department can become a serious problem for the property owners. Selling such properties can be difficult and lenders are reluctant to lend money for the purchase of these properties.

Members of the Committee had numerous examples of constituents affected by this issue.

The Department manages the adoption of new roads that are determined as part of the planning process. The term "determined", means that a road is suitable for adoption into the maintained road network, once it is completed in accordance with the approved drawings. In theory, once planning permission is received, the Department works with the developer, the lender and the bond company to progress the adoption of a development's roads in a timely fashion under the Private Streets (Northern Ireland) Order 1980. As part of the consideration of the planning application it must be determined whether the stated standards of completion to be achieved are appropriate. If that is the

case, the private street is considered 'determined' under article 32 of the Private Streets (NI) Order 1980. The developer then takes out a bond, and the road is constructed and adopted.

It is illegal for a developer to commence works on new developments without having an article 32 agreement and bond in place. These allow the Department to bring any development up to adoption standard should the developer fail to do so for any reason. However, despite it being illegal, sites still remain where no bond exists.

The Committee heard that some sites remain unadopted due to sewerage and road issues that the Department has no powers to remediate. There is a concern in these instances that without Inflation being applied', the bond's value lessens the longer it is in place. Members were aware of cases where the bond can no longer cover the cost of the works required, and the developer company has been wound up or cannot meet the obligations.

The Committee was advised that it has been some time since bond adequacy was last reviewed. Officials advised that they were working to update previous submissions in relation to bond rates and will shortly bring a paper to the Minister. However, the Committee believe this needs to be reviewed as a matter of urgency in order to avoid the need for enforcement and systemic failures which adversely impacts the lives of those in affected developments.

The Committee was alarmed to hear that the Department currently has only approximately 20 staff who cover 3,470 live bonds plus all the enforcement cases. Prior to 2015, the Department had double that number of staff. These cuts mean a significant number of experienced private streets inspectors have been lost reducing the Department's capacity to take enforcement action.

The result is an enforced reactive, rather than proactive, approach to enforcement, which is simply unacceptable. Officials report that to get back to a proactive mode and to be better placed to know the number of sites and levels of occupancy, we would need to go back to those pre-reduction levels. Here is

a stark example of just how reduced Resource Budget constraints impact on capacity and how this translates into failings in delivery to the public.

The Committee recommended that statutory providers and representatives of the construction and financial sectors agree a bond level that is acceptable to all parties and which includes an inflationary amount.

The Committee in its motion urged the Department to act on a range of recommendations to improve the system and alleviate the backlogs.

Legislation

The Motor Vehicle (Compulsory Insurance) Bill was considered by the Committee, however, owing to the urgency of the matter, the Committee agreed to the proposal that the Bill should proceed through Accelerated Passage. As a result, there was no Committee Stage of the Bill. The Committee did, however, undertake considerable pre-legislative scrutiny of the Bill.

The Motor Vehicle (Compulsory Insurance) Bill

The Committee for Infrastructure first considered the proposal for a Motor Vehicle (Compulsory Insurance) Bill at its meeting on 19 January 2022. At the meeting the Minister outlined in detail, the reasons why she was seeking Accelerated Passage for the Bill. The Department also informed the Committee that, in the absence of Accelerated Passage, the Bill could be delayed for up to a year. The Committee also noted that the request for Accelerated Passage was also supported by the Executive.

In advance of the oral evidence session, the Committee contacted a number of stakeholders who provided written evidence on both the need for the legislation and the need to progress the legislation urgently. The Committee was,

therefore, able to undertake considerable pre-legislative scrutiny which highlighted both the need for this legislation and the need for this Bill to pass by Accelerated Passage.

The Minister outlined to the Committee that, were Accelerated Passage not to be granted, it would mean that, once the Westminster Bill completed its legislative passage, a discrepancy would exist between Northern Ireland domestic legislation and the case law until our legislation was amended. Ultimately, that would mean that the Motor Insurers' Bureau here would be vulnerable to claims brought by victims of incidents on private land and potentially to fraudulent claims.

The consequences of a significant delay were outlined to the Committee, not only by the Minister and the Department but also by the Motor Insurers' Bureau; the Association of British Insurers; Motorsport UK; and the Ulster Farmers Union.

The Motor Insurers' Bureau informed the Committee of the need to avoid what it referred to as, "potentially damaging legal and regulatory divergence."

The Association of British Insurers supported this view. In its evidence it highlighted how drivers in Northern Ireland would be disadvantaged compared to drivers in Great Britain and the Republic of Ireland by requiring them to pay higher motor insurance costs.

The UFU informed the Committee that, for farmers, not only does the current position increase motor insurance premiums, it also means, until the situation is rectified, farmers are required to have insurance for all of their vehicles used on private land.

The Association of British Insurers also highlighted potential impact on police resources and on the potential threat posed to motorsport in Northern Ireland whilst this divergence remained. This view was supported by Motorsport UK in its evidence to the Committee.

During the Committee's deliberations on the issue of Accelerated Passage all members of the Committee remained mindful of the need, under normal circumstances, for Committees to be given the opportunity to undertake detailed scrutiny of all primary legislation, however, the Committee recognised that the circumstances under which policy proposals contained in this Bill were being considered, were exceptional, and were not of the Minister's making.

The Committee supported Accelerated Passage on the basis that it was satisfied that the evidence it had considered was sufficient under the circumstances, and the urgency associated with passing the Bill outweighed the need for further detailed scrutiny by the Committee.

The Committee was able to take sufficient evidence during pre-legislative scrutiny to enable the Assembly's Research and Information Service to collate a comprehensive <u>Information Pack</u> outlining the evidence. The evidence to the Committee is summarised below.

In her correspondence to the Committee on the Bill, the Minister outlined the need for the legislation and the implications of the Vnuk judgement which means that, unless existing statutory provision is amended, GB and Northern Ireland would, potentially, be vulnerable to compensation claims. Her correspondence highlighted that a High Court decision in England and Wales in 2018 established that the Motor Insurers' Bureau would be directly liable for claims relating to uninsured motor collisions occurring on private land. In order to preserve the status quo in domestic motor insurance legislation it was therefore considered necessary to remove the provision from retained EU case law.

During oral evidence it was outlined that the EU has amended the relevant directive which was adopted in December 2021. Member States have two years in which to implement it.

A key area that the Committee explored was, why Accelerated Passage was being sought in this case. The Committee wanted to know what the likelihood was of a case being brought and what the likely impact would be were such a

case to be brought. Members explored the reasons why, if this is such a significant matter, greater priority was not given to ensuring that Northern Ireland was included in the Westminster Bill currently proceeding through Parliament, especially as there could, potentially, be additional costs to the UK Government by way of compensation claims to the Motor Insurers' Bureau.

The Minister assured the Committee that every effort had been made to work with Department for Transport officials and that it was her understanding that Northern Ireland provisions could, by way of a Legislative Consent Motion (LCM), be included in a Private Member's Bill which was proceeding through Westminster at the time. It was the Minister's understanding that the LCM route was not considered viable because Ministers in DfT took a cautious approach because they did not want to increase any risk that the Bill would not be brought forward. That then left the Department for Infrastructure with no other option but to seek Accelerated Passage. The Minister outlined her disappointment to the Committee in the approach adopted by DfT.

The Committee asked the Minister if the Bill would include any delegated powers leading to subordinate legislation and, if so, what aspects of the Bill would this relate to and what type of Assembly procedure would apply. Departmental officials assured the Committee that there would be no subordinate legislation arising from the Bill.

The Minister explained that domestic legislation restricts compulsory insurance to the use of motor vehicles on roads and other public places, whereas case law suggests a much wider interpretation. Ultimately, that would mean that the Motor Insurers' Bureau here would be vulnerable to claims brought by victims of incidents on private land and, potentially, to fraudulent claims.

The Consumer Council, which represents the interests of Northern Ireland consumers, responded in support of the legislation and the approach.

The Motor Insurers' Bureau, which represents the interests of the motor insurance industry provided a detailed response outlining why it believes the legislation was necessary and why it considered the matter to be urgent. In

acknowledging that the appropriate legislative process was a matter for the Assembly, the MIB stated in its response that effecting legislative change as expeditiously as is procedurally possible would:

"...both limit the significant accruing liabilities which the MIB, motor insurers and – ultimately – Northern Irish drivers will be obliged to bear. Moreover, given the current progress towards removing Vnuk from the statute books in Great Britain and the European Union's recent mitigation of the effects of Vnuk, swift action and will prevent the law in Northern Ireland lagging behind that of Great Britain and the EU, avoiding potentially damaging legal and regulatory divergence."

The Association of British Insurers responded fully supporting the Minister's position and fully supporting the views expressed by the Motor Insurers' Bureau. The ABI also supports the view that the matter needed to be dealt with as a matter of urgency. It stated:

"it is entirely possible that delay in removing the effect of Vnuk from the law of Northern Ireland could lead to a divergence between the position in Northern Ireland and that in Great Britain and in the Republic of Ireland (as a Member State of the EU). It is therefore paramount, to both the insurance industry and motoring public, that the effect of Vnuk is removed from the law of Northern Ireland as swiftly as possible. Failure to do so risks:

- Disadvantaging Northern Irish drivers, as compared to drivers in Great Britain and the Republic of Ireland, by requiring them to pay higher motor insurance costs (£50 per year, per policy according to the UK Government Actuary's Department).
- Consequently, offering a perverse incentive for Northern Irish drivers to insure vehicles that are ordinarily used in Northern Ireland at addresses in Great Britain in order to access lower premiums. This would be fraudulent and criminal activity.

- Expending police (and potentially other) resources investigating the use of vehicles on private land, including potentially fraudulent claims.
- The treatment of any motorsport collision taking place on private land as a regular road traffic accident, posing a threat to motorsport in Northern Ireland due to the financial implications of additional insurance costs."

Motorsport UK informed the Committee that it had collaborated extensively with the UK Government on the Westminster legislation. The organisation expressed its support for similar urgent legislation required in Northern Ireland given the sporting and commercial importance of motorsport in Northern Ireland and its contribution to the sport within the UK.

The Ulster Farmers Union wrote to the Committee to request legislative change as soon as possible. The reasons cited were:

- The existing legislation was considered unnecessary as, in many cases, there was insurance already in place to cover accidents – for example farm businesses have employer's liability and public liability insurance to cover accidents on private property.
- The Vnuk ruling was considered unenforceable and would require mass registration of millions of new vehicles. It would present the police with the impossible task of checking registrations and insurance of farm vehicles on private land. In addition, when accidents occur on private land, the police would find it extremely difficult to identify fault with limited witnesses and CCTV, unlike on public roads.
- It was considered an unnecessary cost to farm businesses and Northern Ireland motorists. The UFU was of the view that the ruling risked adding £50 to the average insurance premium. The UFU also informed the Committee that, for farmers, not only did Vnuk increase motor insurance premiums, it also meant farmers were required to have insurance for all of their vehicles used on private land.

Legislative Consent Motion – Business and Planning Bill

The Legislative Consent Motion provided for one-year licence renewals for Group 2 Drivers.

A medical report is an integral part of the qualifying application criteria for 'Group 2 driving licences' issued to lorry and bus drivers. Covid-19 restrictions resulted in drivers who required a medical assessment having difficulty in gaining access to a medical professional. In accordance with the EU Driving Licence Directive (Directive 2006/126/EC), for drivers up to age 65, Group 2 driving licences are issued for a 5-year period (unless the licence is medically restricted, in which case the validity period is reduced).

Drivers are required to submit a medical report with their licence application if:

- (i) it is a first time application;
- (ii) they are aged 45 and over; or;
- (iii) they are aged under 45 and have a medical condition that must be declared.

In Great Britain, in response to the crisis caused by Covid, the Department for Transport (DfT) took the decision to issue one-year licence renewals to some drivers, without prior medical assessment. These one-year licences were only issued to drivers aged 45 and over and were not issued to first time applicants. Moreover, applicants in that category who had health issues still needed to declare these, and those with health issues that prevent them from driving safely did not have their licence renewed.

Implementation of this approach required the amendment of primary legislation.

DfT decided to do this at a later date, and apply the provisions retrospectively.

Legal advice received by the Minister stated that she was not able to make similar provision in the form of an Act of the Assembly. The legal advice recommended that if one-year licensing was to be introduced, the safest approach would be to do so via Westminster legislation, since Westminster is not bound by a similar EU law compatibility restriction.

The Minister was alerted to the fact that the EU had brought forward an Emergency Transport Regulation. This Emergency Regulation included a provision which stated that all driving licences which expire or are due to expire between 1 February 2020 and 31 August 2020 would be deemed to be extended for a period of 7 months. This EU Regulation (Regulation (EU) 2020/698) became law across the UK with effect from 4 June. The Minister concluded that this approach represented a more effective alternative to one-year licences for Group 2 drivers.

So as not to completely rule out the possibility of issuing one-year Group 2 driving licences in future months, in the event that normal licensing arrangements cannot be restored from September 2020, the Department looked for possible GB plans to bring forward statutory provision for one-year licences for certain Group 2 drivers.

The licensing provisions were to be included in the Business and Planning Bill which was introduced to Westminster on 25 June 2020.

The Minister for Infrastructure informed the Committee for Infrastructure on 17 June 2020 that she intended to table a Legislative Consent Motion to temporarily enable one-year Driver Licence renewals for drivers of lorry and bus drivers (group 2 drivers). The Legislative Consent Memorandum asked the Assembly to endorse the principle of the inclusion in the Business and Planning Bill of provision for temporary reduction in the duration of certain Northern Ireland driving licences, as introduced to the House of Commons on 25 June 2020.

The Committee's report on the LCM Business and Planning Bill was published on 1 July 2020. The Committee wrote to the Minister on 24 June 2020 indicating that it was content for the LCM to proceed to the next stage of the process.

Affirmative Resolution - SR 2020-31 The Electrically Assisted Pedal Cycles (Construction and Use) Regulations (Northern Ireland) 2020

The Committee considered the proposal for this Statutory Rule at its meeting on 4th March 2020 and welcomed its introduction by the Department. The Committee endeavoured to give the Department all the assistance it needed in bringing forward this legislation as it promoted active travel.

The Committee considered and approved this Statutory Rule at its meeting on Wednesday 29 April 2020. During consideration it was the Committee's general consensus that this legislation be introduced at the earliest opportunity in light of its importance. As a result, the Committee wrote to the Business Committee requesting that it be scheduled for debate at the earliest opportunity.

Affirmative Resolution - SR 2020-88 The Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2020

The Committee initially considered the proposal for this Rule at its meeting on 29 April 2021 and it was approved by the Committee on 3 June 2021. While its consideration and approval was relatively quick and simple, this was the culmination of a far longer process, as this legislation has been a long time in the making.

The Rule itself amended the 1993 Motor Vehicles (Wearing of Seat Belts)
Regulations (Northern Ireland). It created an exemption for ambulance
personnel from the requirement to wear a seat belt when providing emergency
treatment to patients in ambulances.

The requirement for compulsory use of seatbelts in vehicles comes from Council Directive 91/671/EEC. This is reflected in the 1993 Northern Ireland Regulations, whereby all adults are required to wear a seat belt (where fitted).

The 1993 Regulations do provide for some exceptions, one of which does relate to the emergency services, but this did not extend to ambulance personnel. This effectively meant that ambulance personnel could be prosecuted for removing their seat belt to care for a patient whilst riding in the rear of an ambulance.

The Statutory Rule provided an exemption from this requirement and therefore gave much needed clarity to the ambulance service, as well as removing the potential threat of prosecution or fixed penalty under the 1993 Regulations.

The Rule also ensured parity between the position of ambulance professionals and other emergency services such as the police and fire professionals when performing the duties required of an emergency service.

Approach

The Committee was aware of the economic centrality of the Department for Infrastructure and the wide ranging role that it plays in Northern Ireland. It recognised the budgetary constraints for a Department with such a large capital remit and the challenges and pressure put upon its budgets by the pandemic and wider financial constraints in recent years. The Committee adopted a strategic approach; acting as a sounding board for sectoral stakeholders both on their ongoing concerns and to inform the Committee of their views on departmental policy. The Committee carried out targeted calls for evidence and requested briefings from representatives of sectors to help it critically assess how adequate departmental policy was. The Committee held strategic planning meetings to develop its priorities and asked stakeholders to provide what they felt where the main issues.

In addition to formal meetings – for which key statistics are appended – the Committee also undertook a number of other actions which are set out below.

Stakeholder events / informal meetings

Stakeholder event 9 February 2022

At its Strategic Planning meeting on 13 October 2021, the Committee for Infrastructure agreed its priorities until the end of the Mandate. Given the restricted time available, the Committee agreed to conduct a stakeholder event with those other groups who wished to provide evidence to the Committee. Due to Covid restrictions an online event was considered appropriate.

The event took place on 9 February 2022, facilitated by Assembly Engagement. The structure of the event was that one member of the Committee met in a virtual breakout room with one group to discuss their issues and to ascertain what role the Committee could play during the remainder of the mandate to deal with their concerns. Each of the Committee members provided feedback

to the online meeting summarising what the Committee could do to assist the group.

At the conclusion of the Members' discussions with the Groups there were a series of proposed actions to be considered by the Committee at the following meeting. These were fed into the next Committee meeting actions agreed.

Visits

The Committee made a visit to Wrightbus in Ballymena to assist with its inquiry into the decarbonisation of transport. The Committee also attended the launch by Translink of a new hydrogen bus.



Mr Cathal Boylan MLA, Ms Liz Kimmins MLA, Mr Roy Beggs MLA, Ms Michelle McIlveen MLA (Committee Chairperson), Ms Nicola Mallon MLA (Minister for Infrastructure), Mr David Hilditch MLA (Committee Deputy Chairperson), Mr Chris Conway (Chief Executive, Translink), Mr Keith Buchanan MLA.

The Committee also visited the Boucher Road Driver Vehicle Agency test centre to inspect for themselves test centre car lifts that had developed cracks and needed replaced. The Committee also engaged in a Sustrans event to familiarise members with Electric Bikes.



Mr Andrew Muir MLA, Mr Jonathan Buckley MLA (Committee Chairperson), Mr David Hilditch MLA (Committee Deputy Chairperson), Mr Roy Beggs MLA

External meetings

Due to the Covid pandemic the Committee was unable to engage with stakeholders outside of Parliament Buildings as it would have liked. However, it was able to hold two external meetings; one in the Tullyglass Hotel, Ballymena, while visiting the Wrightbus factory and one in the Armagh, Banbridge and Craigavon Council offices in Armagh.

Suggested Issues for the Successor Committee

The Committee considered a number of issues which have yet to be formally concluded. These are discussed briefly below.

Road Maintenance Contracts

The successor Committee may wish to consider the Department's road maintenance and resurfacing schemes and to assess the findings of the independent inquiry established by the Minister to look at the facts behind the legal challenge of the Department's rewarding of road resurfacing contracts. The Committee may wish to consider the inquiry findings and how the Department proposed to avoid such problems in the future.

Post-Legislative Scrutiny – The Motor Vehicle (Compulsory Insurance) Act 2022

The Committee for Infrastructure was unable to fully scrutinise the Motor Vehicles (Compulsory Insurance) Bill in January 2022 as the Bill was granted Accelerated Passage. The successor Committee may wish to consider detailed post-legislative scrutiny of the Act in the course of the new mandate to ensure that the provisions in the Act are meeting the requirement for which they were intended.

NIAO report on Planning in Northern Ireland

The Committee was precluded from considering the NIAO report on <u>Planning in Northern Ireland</u> because the report was published towards the end of the 2017-2022 mandate and, at the time, the Public Accounts Committee was conducting an Inquiry into the report. The successor Committee may wish to

consider the NIAO report in conjunction with the recommendations from the PAC Inquiry and the department's own review of the Planning Act 2011 (as referenced above) early in the new mandate.

Departmental Consultation on Biennial MOT Testing

The Department informed the Committee of its intention to consult on a proposal to introduce biennial MOT tests for cars over the age of four years. The Committee gave some consideration to the possibility of a link between vehicle mileage and frequency of testing, however, the Committee recognised that such a move would be difficult to monitor and police. The successor Committee may wish to consider detailed research into the experience of other jurisdictions with non-annual vehicle testing and to other possible approaches to vehicle testing and whether such approaches exist elsewhere.

Northern Ireland Water

Towards the end of the 2017-22 mandate the Committee was informed that there was considerable risk to the status of NI Water as a going concern. Given the uncertainty arising for NI Water as a result of the way in which it is funded, especially at a time of volatile energy prices, the successor Committee may wish to consider undertaking in-depth scrutiny of the funding model for the organisation.

Translink

At a time when governments throughout the world are being encouraged to invest in safe, sustainable, efficient, reliable and environmentally-friendly travel, the Committee expressed considerable concerns regarding investment in public transport in Northern Ireland in the long-term. The successor Committee may

wish to consider how best we can serve the long-term need for strategic development of our key public transport infrastructure and to the development of workable long-term, sustainable, solutions to meet our public transport needs and to realise our aspirations for a cleaner environment.

Electric Vehicle Infrastructure Taskforce

The EV Infrastructure Taskforce brought together representatives from across the public and private sector with a role to play in the area of electric vehicles to develop an EV Infrastructure Action Plan.

The inaugural meeting of the Taskforce, which is chaired by officials from the Department for Infrastructure, was held on the 16 December 2021 and was attended by representatives from the Department for the Economy, the Utility Regulator, NIE Networks, Confederation of British Industry (CBI), ESB, Derry City and Strabane District Council on behalf of Local Councils as the lead of the ORCS Consortium, the Consumer Council and EVANI.

There are a number of objectives highlighted in the Terms of Reference for the Taskforce, however, this was at an early stage when it was considered by the Committee and an Action Plan had yet to be developed. The successor Committee may wish to receive an update from the Department on progress on the development of an Action Plan.

Impact on the Construction Sector of Water Infrastructure Under-Capacity

Drains for Development is an organisation representing a number of large residential developers. Representatives informed the Committee that, due to the lack of capacity in water and wastewater infrastructure, the construction sector has become increasingly concerned. The extent of these concerns raise

very serious strategic decisions for the sector, including whether or not to continue to build and invest in Northern Ireland. The organisation informed the Committee that problems persistently present themselves when they begin the process of the Pre-Development Enquiry (PDE) with NI Water. The PDE is required to ensure sufficient capacity to support a proposed development.

The lack of wastewater infrastructure in particular has, according to Drains for Development, resulted in house builders only being able to complete around one third of houses they would have otherwise been able to build.

Issues were raised in relation to the accuracy of NI Water's assessment of capacity; the need for improved communication and transparency and a more supportive approach from NI Water; and the appropriateness of the NI Water funding model to support long-term development.

The Committee has encouraged both the Department and NI Water to engage with Drains for Development to find workable solutions to the issues raised.

Unadopted Roads

The issue of unadopted roads remains a serious concern 10 years after an Inquiry Report by the Committee for Regional Development made a series of recommendations for how the Department should resolve the problems they face. The Committee urges the incoming Committee to engage with the Department to establish what actions it can take to provide solutions to the outstanding problems. The Committee may wish to revisit the recommendations made in the Regional Development Inquiry Report and establish which of them have been acted upon and to hear from the sector on what new solutions are available which would alleviate the challenges faced by residents living in areas where their roads are not maintained.

Subordinate Legislation to Implement the Reservoirs Act Northern Ireland 2015

The angling community has contacted the Committee regarding, what it considers, unfair impacts of the proposals which will, if included in the final legislation, will lead to increased fees for angling association members.

The is currently considering consultation responses to help inform the need for changes to the draft legislation and the development of any grant scheme. The Minister informed the Committee that she had asked officials to include consideration of the angling association concerns in this work. The successor Committee may wish to follow up on this work.

Taxi Legislation

Wedding and funeral car operators have been campaigning against their inclusion in PSV regulations under the Taxi Licensing Regulations 2015.

The Minister has proposed a full review of the Taxis Act, however, until this has been completed, the Committee has supported the inclusion of wedding and funeral car operators in a Certificate of Exemption under the Regulations until such times as appropriate legislation can be put in place to remove unnecessary bureaucracy. The successor Committee may wish to follow up on this work.

HGV Driver Shortage

The Committee has received evidence on a range of potential solutions to address the current shortage of HGV drivers. This included, prioritisation by DVA of HGV driving tests; incentives for HGV drivers who have left to return to the sector; promotion of the sector as a career; apprenticeships; SME focussed

HGV Driver Training Scheme; and HGV Driver Independent Training Loan Scheme. The successor Committee may wish to follow up on this matter.

Some potential solutions may require primary legislation to be passed. The successor Committee may wish to consider whether a Committee Bill may be appropriate in such circumstances.

The Committee noted with concern, that the shortage of HGV drivers is exacerbated by the gender imbalance in the sector. The Committee was informed that the gender imbalance will be difficult to resolve whilst appropriate infrastructure and facilities are not in place, especially throughout GB, to meet the needs of female drivers. The successor Committee may wish to explore what more could be done to encourage both more women and more younger people to consider HGV driving as a career.

Appendix 1 – Mandate facts and figures

Committee meetings & visits

Session	Number of meetings held	Percentage minutes public / closed	Number of meetings held outside Parliament Buildings	Number of committee visits
2019/2020	17	Public – 96.67%	1	0
		Closed – 3.33%		
2020/2021	39	Public – 97.86% Closed – 1.43%	0	0
2021/2022	23	Public – 95.1% Closed – 2.94%	2	0

Committee Inquiries / Reviews / Micro inquiries

Session	Name of report	Committee Report (ordered to print)	Date debated in Plenary (if applicable)
2021/2022	Report on Decarbonising NI's Road Transport	03/11/2021	27/11/2021

Committee Motions Debated in Plenary (excluding Inquiries / Reviews / Membership changes)

Session	Motion	Date debated in Plenary
2019/2020	 Covid 19 Support for the Taxi Haulage Industry 	23/06/2020
2020/2021	 Failures in current process for adopting roads Support for Taxi Industry 	19/05/2021 25/06/2021
2021/2022	 Decarbonisation of Road Transport in Northern Ireland Support for innovative measures to eliminate DVA Backlogs 	10/11/2021 16/12/2021

Statutory Rules

Session	Negative Resolution	Affirmative Resolution	Draft Affirmative	Confirmatory	Not laid	Total
2019/2020	67	1	1	1	153	221
2020/2021	45	1	-	-	61	107
2021/2022	23	2	-	-	36	61

Committee Reports (excluding Bill and Inquiry reports)

Session	Name of report	Date (date approved by Committee)	Date debated in Plenary (if appropriate)
2019/2020	Report on Legislative Consent Motion – Business and Planning Bill	01/07/2020	
2021/2022	Committee for Infrastructure Legacy Report 2017/2022	16/03/2022	

Witnesses

Session	Number of Organisations who gave evidence to the committee
2019/2020	10 (146 Witnesses)
2020/2021	22 (216 Witnesses)
2021/2022	14 (109 Witnesses)

Appendix 2 - Expenditure for the period 1 September 2017 - 25 March 2022

Budget area	Details	Expenditure
Committee Travel - committee members and staff travel and subsistence in relation to visits and meetings outside Parliament Buildings	Meeting in NI Water 11/03/2020 Meeting in Tullyglass Hotel 17/11/2021 Meeting in Armagh City 08/12/2021	£570.20
Advertising	Includes the cost of advertising relating to:	£340.36
General expenses	Cost of refreshments for committee meetings, committee events, working lunches, seminars, room hire, witness expenses, and conference fees for members etc.	£2345.27
All budget areas	All details	£3255.83

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