

SURVEY QUESTIONS FOR DILAPIDATION BILL CONSULTATION

DRAFT

Introduction

1. What is your name? Ian Harper
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3. If you are providing a submission on behalf of an organisation or business, please state its name. Belfast City Council
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Clauses 1 to 3 - Detriment to local amenity

- Clause 1 - Maintenance notice
- Clause 2 - Appeal against maintenance notice
- Clause 3 - Breach of maintenance notice

Information:

Clauses 1 to 3 allow district councils to serve a **maintenance notice** to require owners, occupiers and others with a relevant interest to take appropriate remedial action to deal with low level dilapidation and neglect. The clauses also deal with the appeals procedure and offences and penalties for breaches of a notice.

6. Do you agree that Clauses 1 to 3 will empower councils to tackle the issue of 'detriment to local amenity' (regarding buildings or other land in its district) that because of its condition is/are detrimental to the amenity of a part of the council's district or of an adjoining district - If not, why not?

No

If no, please explain.

Please provide comment on your understanding of 'detriment to local amenity' in the context of this Bill.

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- Council recognises that it is the Department's aim that such provisions should be used proactively by Councils thereby ensuring that local areas are consistently maintained - such efforts will require regulatory resources to successfully deliver on this aim. Whilst the legislation is written that Council 'may' take action and use discretion – in practice and with the interest of communities and Elected Members, Councils are more likely to find that there is an expectation that action will be taken, Council would request that any new guidance reflects the discretionary nature of the legislation, and confirm that action will only be taken where the Council deems it expedient to do so.
- The Council considers the threshold of 'detrimental to the local amenity' to be subjective. In the case of Liverpool City Council – v- Derwent Holdings Ltd (2008), the appeal judge stated that 'pleasantness' is a reasonable simile for 'amenity' in the case of the terminology of the (GB) 1984 Building Act. In practice, that is very subjective – i.e., that a detriment to local amenity is a detriment to the pleasantness of the location in which the relevant site is situated, from the perspective of residents and also of visitors to the location. It is imperative that Councils are provided with appropriate guidance documents from the Department. Guidance will be essential on this issue to ensure consistency of approach and the avoidance of potential legal challenges which could undermine the intent of the legislation. This guidance should reflect the learning from other jurisdictions where similar legislation has been implemented.
- There needs to be a provision to allow the council to take action where an owner of a detrimental site cannot be found. This scenario is commonplace. There also needs to be a robust mechanism for the council to recover costs incurred – where there is no identifiable owner, prompt cost recovery can only be achieved by having the power to vest and dispose of the land. The inability to do anything other than to build up an expensive raft of charges against a multitude of pieces of land over many years, would be an ineffective remedy to the underlying issue and gives rises to concerns about managing public money responsibly.
- Section 1(1) states "building or other land". The inclusion of both land and building should be repeated in Sections 1 & 2 where the word 'land' is used. E.g. Section 2 (1) should read 'person with an interest in land or buildings'.

Please comment on the maintenance notice, the appeal and action for breaches as appropriate.

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- The notice, the appeal and action for breaches are generally agreeable to the council, except that there is no provision for the District Judge to order the owner to carry out the works stipulated in the notice, if works not completed then that should be treated as either a breach of court order or contempt of court.
- The £500 fixed penalty notice may be significantly less than the cost of remedial works and therefore may not act as sufficient deterrent.
- Where the interested party does not carry out works to remedy the issue and it continues, how then will a building be remedied/ fixed?
Remedial costs may be many multiples of the cost of the fine imposed, and remedial works may fall to the council. There should be a provision to allow the District Judge to order the owner to carry out the works to the satisfaction of the Council. This provision is also absent from Article 66 of the Pollution Control Order, to its detriment as an effective enforcement tool.

Clauses 4 to 6 – Serious detriment to local amenity

Clause 4 - Dilapidation notice

Clause 5 - Appeal against dilapidation notice

Clause 6 - Breach of dilapidation notice

Information:

Clauses 4 to 6 allow district councils to serve a **dilapidation notice** to require owners, occupiers and others with a relevant interest to take appropriate remedial action to deal with more serious dilapidation and neglect. The clauses also deal with the appeals procedure and offences and penalties for breaches of a notice or condition.

7. Do you agree that Clauses 4 to 6 will empower councils to tackle the issue of 'serious detriment to local amenity' (regarding buildings or other land in its district) that because of its condition is/are seriously detrimental to the amenity of a part of the council's district or of an adjoining district - If not, why not? **No**

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Clauses 4 - 6 will only work where ownership can be proven.

- In many cases, ownership cannot be proven, and if the detriment is to be remedied, the council must be provided with the powers to carry out work in default of an unknown owner - and be able to recover costs incurred. This should also include the power to vest and dispose of the land.
- Much land is unregistered, or the owner's address cannot be established. Power to sell land in these circumstances is essential, especially if it anticipated that enforcement levels will be increased following the introduction of new legislation.
- A 'rolling fund' is essential – the council cannot incur significant costs repeatedly with no prospect of recovery.

Please provide comment on the dilapidation notice, the appeal and action for breaches as appropriate.

Clauses 7 to 10 - Dangerous structures

Clause 7 - Dangerous structure notice

Clause 8 - Appeal against dangerous structure notice

Clause 9 - Breach of dangerous structure notice

Clause 10 - Emergency action

Information:

Clauses 7 to 9 allow district councils to serve a **dangerous structure notice** to require owners, occupiers and others with a relevant interest to take appropriate remedial action to deal with dangerous buildings and structures. The clauses also deal with the appeals procedure, fee provisions and offences and penalties for breaches of a notice or condition.

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8. Do you agree that Clauses 7 to 9 will empower councils to tackle the issue of 'dangerous structures' (apart from if Clause 10 Emergency Action is to be used) regarding a building in its district that is in such a condition as to be dangerous, or is used to carry such loads as to be dangerous - If not, why not?

No

If no, please explain further.

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- Section 7 refers only to dangerous buildings, whereas many other types of structure commonly become dangerous, such as free-standing walls, retaining walls, fences, footbridges, a structure within a building such as a realised storage floor, and commercial 'for-sale' signs. The section should read 'building or structure and anything attached to them', not just buildings.
- The Victorian and Edwardian cohort of buildings in Belfast contributes a disproportionately high percentage of the dangerous structure complaints Belfast City Council receives each year. The majority of these present as vacant buildings – and often the owner 'cannot be found'.
- There is a need for legislation that allows Council to take action (not necessarily emergency action as Section 10) in the case of an unknown owner (or more strictly, where the owner's address cannot be proven) and to have a very robust mechanism for recouping costs where we act in default.
- Section 76 of the Belfast Corporation Act 1911 permits the council to take action where the name of the owner/occupier is unknown or where their name is known but their address is not. This action is under the 1878 Act, from which the 'owner unknown' provision is missing – so it is a combination of the 1878 Act and the 1911 Act which permits this course of action.
- As compulsory first registration of properties was only introduced in Northern Ireland in 2003, and most of the dangerous properties we encounter have been vacant for some years, one of the following often applies. In all of these scenarios, notices/summons cannot be served.
 - There is no record of ownership on Landweb or Register of Deeds
 - There is no record on Landweb and information on the Register of Deeds is many decades old. Much of the information is no longer valid.
 - There is a record on Landweb, but the owner's address given is the vacant (possibly 'bricked up') property itself.
 - There is a recent record on the Register of Deeds or Landweb but the owner's address on the documentation is no longer correct.
 - There is a record on the Register of Deeds or Landweb, but the owner is now deceased.
 - In instances where the owner's name is known, the owners address is also required in order to serve enforcement documents. For prosecutions the Council must prove to the court, service of the notice and we need the correct address in order to serve a summons to have the ability to prosecute.
- Section 12(9) and (10) of the proposed new bill are of limited benefit – this appears to have been copied from Section 118 *et seq.* of the Belfast Improvement Act 1878. Material arising from demolition is of much less value than the costs of removing or disposing of it. 12(9) and (10) are of limited value in the present day but could remain as an option.
- The ability to sell buildings or land to recover costs would be the most efficient way of ensuring that public money is used in a responsible manner and to allow for regeneration of long neglected blights on neighbourhoods.
- Where a building is used to carry such loads as to be dangerous, i.e. whilst being occupied, would require a specific risk assessment to be conducted, as potentially the council would be preventing a business to operate.

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Please provide comment on your understanding of ‘dangerous’ in the context of this Bill.

- Dangerous means that imminent or potential full or partial collapse of a building or structure, or material coming off a building or structure, for example during high winds, poses a risk to the health and safety of all possible members of the public, including trespassers, or damage to vehicles.

Please provide comment on the dangerous structure notice, the appeal and action for breaches as appropriate

- Council would seek clarification on the purpose of the owner having to ask the council for permission to demolish. What are the parameters against which councils are expected to judge such a request? Planning permission is required to alter and demolish listed buildings and those within a conservation area. It appears to the Council that inclusion of requiring permission to demolish non-protected buildings places an unnecessary burden on land owners and possible delay in circumstances where there is a danger to the public.
- The appeal mechanism against the issue of a dangerous structure notice (Section 8) is not realistic. Section 22 (1) states that the notice is of no effect pending final determination. If the person of interest appeals on the first day, the time period cannot be considered to be 14 days as up to six weeks must be added to the timeframe to allow for a date for the case to be heard in court. That means a dangerous structure could sit in limbo for 2 months. This would be a regressive measure. Ultimately Council must have power to take action in default without having to wait for an appeal or prosecution. Ultimately the landowner will have avenues to challenge the Council's decision through either an injunction application or resisting Council attempts to recover costs.
- We are content with the proposed action on breaches.

Clause 10 (Emergency action)

Information:

Clause 10 (Emergency Action) deals with a building which is considered by a council to be in such a state or is carrying such loads as to be dangerous and immediate action should be taken to obviate the danger and allows a council to take the necessary steps for that purpose.

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Clause 10 also requires that after seven days from the date when remedial works began, a council must give notice to at least one person with an interest in the building advising of the action being taken and that an appeal may be made to a Magistrates' Court against that action, stipulating the grounds for appeal.

Clause 10 also deals with cases where an interested person sustains damage as a result of the exercise of a council's power under clause 10 - in such cases the person is entitled to compensation if a Magistrates' Court determines that the council was not justified in its exercise of the power (whether on an appeal under clause 10 or by a separate application under clause 10). Any disputes around compensation shall be determined by the Lands Tribunal or by an agreed arbitrator.

Clause 10 also allows a district council to charge a fee for exercising its powers under the clause. The fees may be specified in regulations to be made by the Department.

9. Do you agree that Clause 10 will empower councils to tackle the issue of 'dangerous structures' requiring 'Emergency Action' regarding a building in its district that is in such a condition as to be dangerous, or is used to carry such loads as to be dangerous and immediate action should be taken to remove the danger, and that the council may take whatever steps are necessary to remove the danger - If not, why not?

No

If no, please explain further.

- See answer above in relation to this question. To allow this process would create a further burden on the rate payer and act as a disincentive to taking action in default. Also it is not clear what is meant by compensate.
- In the common case in which no owner is to be found, the council will still carry out the emergency work, but at the ratepayers' expense unless the building or land can be sold.
- Charges against land only work where there is a current demand for the development of the site/property and its value is well in excess of the charges against it. This is an ineffective remedy as in most cases the land would be developed if it was economically viable. Charges against the land only make it less likely to be redeveloped.

Please provide comment on any aspect of the Emergency Action powers provided for in Clause 10, including the assessment the council must conduct; the notice of its intention to exercise the power; the proposal of a fee; the appeal; and the timescales

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- It is standard practice, in deciding how to proceed when assessing a dangerous structure (we have been enforcing the 1878 Belfast Improvement Act, since 1973 as Belfast City Council, and prior to that as the Belfast Corporation), to conduct such an assessment. However, clarification is required in relation to what this assessment entails.
- Is the fee associated with a third-party assessment of a structure?
- An appeal against a notice served under Section 10 cannot be allowed to delay the removal of the danger.

Clause 11 - Defective premises

Clause 11 - Defective premises notice

Information:

Clause 11 allows district councils to serve a **Defective Premises Notice** in circumstances requiring rapid remediation (e.g. a building which had an incorrectly installed staircase). This is to be used where the premises appear to be in such a state as to be "prejudicial to health or a nuisance."

The building does not have to be dilapidated or dangerous, but the council considers the problem needs to be tackled quickly.

The council may serve a notice stating that it intends to remedy the defective state of the premises and specifying the defects which it intends to remedy. Nine days after the Notice takes effect, a council may carry out whatever remedial works are necessary.

Clause 11 also allows the person on whom the notice was served to serve a counter notice within seven days of the defective premises notice taking effect stating that they intend to remedy the defects themselves. In this case the council is prohibited from taking any action unless the person fails to remedy the defects within a specified time or to a specified standard.

Clause 11 further requires that after seven days from the date when remedial works began, a council must serve notice on the person who received the original notice advising that an appeal may be made to a Magistrates' Court against the works, stipulating the grounds for appeal.

10. Do you agree that Clause 11 will empower councils to tackle the issue of premises in its district which are in a defective state, but there would be an unreasonable delay in remedying the defective state of the premises if the procedure

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under Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (statutory nuisance) were to be followed - If not, why not?

No

If no, please explain further.

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- The preferred option in the 2016 consultation was for a new Bill to provide a single source of powers and enforcement. Whilst the rationale to have a suite of composite powers to address all aspects of dilapidation appears logical, it should be noted that Council officers who are assessing conditions in premises that may be deemed to constitute a statutory nuisance must consider each case and determine the most appropriate legislation to achieve the desired outcome. Therefore, for most cases, the primary powers contained within the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 are used by Councils to remedy cases where a statutory nuisance exists.
- Councils rely upon the existing “Defective Premises” provisions under Article 65 of the Pollution Control and Local Government (Northern Ireland) Order 1978 to deal with statutory nuisance conditions in premises/on lands which either require urgent attention and/or where there is no known owner. The current powers enable the Council to undertake necessary urgent works after a nine-day Notice has been served and these provisions are only used for a limited number of cases.
- It should be noted that there is a difference between a nuisance which is prejudicial to health and defective premises which relate to the physical structure of the building.
- The proposed Clause 11 re-enacts powers within Art 65 of Pollution Control & LG Order 1978 with some changes. However, the example of using the proposed clause 11 powers to address a “defective staircase” cannot be dealt with under nuisance provisions under this clause. (See *R v Bristol City Council, ex-parte Everett* (13 May 1998) High Court, Queen's Bench Division) as matters of health and safety, aesthetic appearance or danger from derelict / dilapidated property are not deemed to be a statutory nuisance. Therefore, Councils will only be able to use this provision in the limited circumstances as outlined above to address conditions which meet the definition of a statutory nuisance and require an urgent remedy or where there is no known owner.
- It is noted that an appeals provision has been introduced under clause 11(7) & 11(8) and only allows Councils to serve an appeals notice within seven days after the Council has commenced the remedial works specified in the notice. Clause 22 (1) effectively means that if an appeal is taken, all works specified by the Notice will have to await the outcome of the court appeal process. This would cause any outstanding urgent works being undertaken by the Council to cease and the proposed works would be subject to court efficiency resulting in potential long delays to any remedial action. This would negate the purpose of this legislation to allow Councils to expedite urgent remedial works as the appeals process will result in an unreasonable delay.
- A review of these clauses would be welcomed following further engagement with Councils.
- The Council notes that under this clause, there are powers to serve Notice on the owner, occupier or responsible person only. The Council relies on these powers to deal unoccupied premises with no known owner, occupier or responsible person and would therefore welcome further consideration under this provision to address the service of a Notice when no owner, occupier or responsible person is known or exists.
- The provision allowing for counter notices is unnecessary. As with any circumstance in which a council service a notice, if an owner advises they intend to do the works then the Council will allow reasonable time for that to take place. This provision adds an unnecessary burden on both owners and councils.
- In conclusion, the Council wishes ensure that the powers contained in the Dilapidations Bill under clause 11 do not impede the efficacy of the powers that are already at the disposal of the Council under Article 65 of the Pollution Control & LG Order 1978.

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Please provide comment on any aspect of the Defective Premises powers provided for in Clause 11, including the Defective Premises Notice, the timescales and the appeal.

Clauses 12 – 15 Liability for Costs etc.

Refer to answer to Q10 above.

Clause 12 - Costs of district council

Clause 13 - Charge on land

Clause 14 - Costs of interested person

Clause 15 - Obstruction by occupier etc.

Information:

Clause 12 - Costs of district council - provides that where a district council has issued a maintenance notice, a dilapidation notice, a dangerous structure notice, a defective premises notice; or where a council has to take emergency action in order to remove danger, it may recover its costs from the relevant person where it has taken the necessary remedial action itself.

Clause 13 - Charge on land - provides for a district council to register a charge on the land in the Statutory Charges Register (Schedule 11 to the Land Registration Act (Northern Ireland) 1970) in respect of any costs incurred under clause 12 until such costs are recovered. It also provides for councils to register a Dilapidation Notice in the Register - to allow a property to be sold "with information" and binding the purchaser to the terms of the original notice where works have not been carried out.

Clause 14 - Costs of interested person - provides that where costs have been demanded under clause 12 a person who is receiving the rent for the land on behalf of another person would not be pursued for costs as it is not likely that they could be deemed responsible for causing a relevant nuisance.

Clause 15 - Obstruction by occupier etc. - provides that a court order may be made in a case where an occupier is preventing an owner from carrying out works to comply with a notice. It also provides for the associated offence and penalty.

11. Do you agree that Clauses 12 to 15 will empower councils to recover the costs which it incurs in so acting under section 3(1), 6(2), 9(2) or 10(2) (carrying out work) of the Bill, from the persons (who at that time have an interest in the land in question) as the council considers appropriate - If not, why not?

No

If no, why not?

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Proposals on cost recovery should have consideration to the following points:

- Is the power to sell land (1881 Conveyancing Act) compatible with the 1998 Human Rights Act? A power to sell land is essential to the council affording the level of enforcement as envisaged.
- Charges on land are frequently little better than useless.
- There should be provision for any council to be able to vest the land that they have had to carry out works in default on. The ability to vest the land will provide the council with the ability reuse, develop or sell the land and provide the council with an ability to generate funds for future works in default on other land.
- Dangerous and severely dilapidated buildings are frequently in areas where the land is of low value and the prospect for redevelopment is low, and for many years into the future.
- Demolition costs are high.
- Vacant sites often sit undeveloped for decades. In such circumstances, our charges are usually higher than the site value, thus effectively acting as a deterrent to development. We have had experience where after we have incurred costs of carrying out works in default, a company has simply been dissolved.
- It also important that the council is given powers to recover costs from liquidators and receivers.
- Section 13 refers only to a charge on land due to a dilapidation notice – a dangerous structure notice is not mentioned. Why is this?

Please provide comment on any aspect of the cost recovery actions provided for in Clauses 12 - 15, including costs of the district council; charge on land; costs of interested person and obstruction by occupier.

- Charges on land are ineffective and cumbersome for councils to recover costs in respect of works carried out in default. As outlined above the legislation should provide councils with the ability to vest the land to recover costs.
- Please refer to the answer to question 11 above.
As an example, Council demolished three very large, dangerous Victorian terraced (former) dwellings in 2011. Key issues:
 - The properties were at that time in the hands of a receiver.
 - The site currently remains undeveloped.
 - The council has no prospect of recovering the costs, which fell to the ratepayer.
- Clauses 14 and 15 go into much detail for scenarios which we have never encountered or, more accurately, never failed to overcome using current legislation. We have no objection to their inclusion, however.

Clauses 16 – 20 Miscellaneous functions of district councils

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Clause 16 - Information

Clause 17 - Consultation with planning department

Clause 18 - Power of entry

Clause 19 - Fixed penalty

Clause 20 - Guidance

Information:

Clause 16 – Information - gives district councils the power to require information with regard to ownership, other persons having an interest in the premises, use to which the property is being put, etc. The clause also provides for two offences and penalties.

Clause 17 - Consultation with planning department (Heritage Sites) and relevant officers of DfC if the Heritage Site is a Historic Monument - requires a district council to consult relevant colleagues before issuing a notice in relation to a heritage site. It also provides that regulations may be made by the Department amending the definition of “heritage site” in subsection (2).

Clause 18 - Power of entry - provides for occasions where an authorised officer of the council may enter land in the council's area for the purposes of the Act. There are various notice periods provided for in the Bill. It also covers compensation and inserts a relevant offence provision of obstructing an authorised officer.

Clause 19 - Fixed penalty - provides for a discretionary £500 fixed penalty to be issued by councils to discharge liability for conviction for breach of a maintenance notice and for failure to provide information without reasonable excuse. The Department may amend the fixed penalty amount by regulations - Schedule 1 makes further provision regarding fixed penalties.

Clause 20 – Guidance - provides that a district council must have regard to any guidance issued by the Department.

12. Please provide comment on any of the miscellaneous functions of district councils to be found in Clauses 16 to 20.

Consultation with planning regarding heritage sites (Clause 16).

- Clause 16 allows the council to require a person who occupies land or received rent for it to provide the owner's details. This is a downgrade on Article 72 of the Pollution Control Order. We have used Article 72 to obtain information on owners from Estate Agents and Solicitors for example, which under Clause 16 we could not do. Otherwise, no comment.

The powers of entry or an authorised officer of a district council (Clause 18).

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No comment.

The fixed penalty provided for in Clause 19 when an authorised officer of a district council has reason to believe that a person has, in relation to land in the council's district, committed an offence under section 3(2) (breach of maintenance notice), or an offence under section 16(4) (failure to provide information without reasonable excuse).

- Council agrees with the proposal to introduce a penalty for the failure to provide information. However, there is a likelihood of applying a £500 fixed penalty with the detrimental site still not remedied. There are not many detrimental sites that could be remedied for £500.

The guidance for the time being issued by the Department for the purposes of this Act. A draft of the guidance, or a proposed revision of the guidance, must be laid before the Assembly.

- The ability to review proposed guidance documentation would be very useful in order to allow a full and comprehensive response to this consultation.
- Belfast City Council would welcome such guidance and would welcome the opportunity to share our experiences based over many years and many hundreds of enforcement cases using various acts and orders.

Clauses 21 – 23 General procedural matters etc.

- 21. Notices
- 22. Appeal
- 23. Offences: defendant

Clause 21 – Notices - provides for general issues relating to notices issued under the Act by district councils, such as variation and withdrawal.

Clause 22 - Appeal - provides that an appeal against a notice issued under the Act will suspend that notice being appealed until the appeal is concluded or withdrawn. However, this does not apply to an appeal against works under clauses 10 or 11. On the determination of any appeal under the Act, the court must give directions for giving effect to its determination. A subsequent appeal to the County Court may be brought against the original appeal decision.

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Clause 23 - Offences: defendant - provides for the procedures in cases where proceedings have been brought but the defendant ceased to be the owner/occupier before the end of the notice period.

13. Please provide comment on any aspect of the general procedural matters provided for in Clauses 21 - 23, including notices served under this Bill (Clause 21); appeals against a notice brought under this Bill (Clause 22) and for the procedures in cases where proceedings have been brought but the defendant ceased to be the owner/occupier before the end of the notice period (Clause 23).
General procedural matters Clauses 21 - 23.

- Comments on procedural matters are reflected in statements made earlier in this document – please refer to the answer given for Question 8.

Clauses 24 – 25 Interpretation

24. Meaning of “interested person” etc.

25. Other definitions

Information:

Clause 24 - Meaning of “interested person”, etc. - provides for the definition of “interested person” and also defines “owner” in relation to land.

Clause 25 - Other definitions - provides for definitions in respect of “building”, “land”, “authorised officer”, “use” and “the Department”.

14. Please provide comment on any aspect of the interpretation clauses provided for in Clauses 24 and 25, regarding the meaning of ‘interested person’ and other definitions.

Interpretation Clauses 24 and 25

- Clause 25 (2) states that a building includes ‘any other structure’. Is it the departments intention that this provides for application to such items as a retaining wall, posts, gates, wind turbines etc?

Clauses 26 – 28 Supplementary

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Clause 26 - Repeals and consequential amendments

Clause 27 - Savings

Clause 28 - Regulations

Information:

Clause 26 - Repeals and consequential amendments provides for the repeals set out in Schedule 2 and allows the Department by regulations to make consequential amendments.

Clause 27 - Savings - preserves the effect of a notice served under any legislation being repealed by the Act, therefore allowing a district council to complete works which it has begun under such a provision before its repeal.

Clause 28 - Regulations - provides the Department with a power, when making regulations under the Act, to make incidental, supplementary, consequential, transitional, transitory or saving provisions. Regulations under the Act will be subject to the negative resolution procedure unless they amend a fixed penalty amount or amend the definition of “heritage site” in which case they will be subject to the draft affirmative resolution procedure.

15. Please provide comment on any aspect of the supplementary clauses provided for in Clauses 26 to 28.

Supplementary Clauses 26 to 28.

No comment

Clauses 29 - 31 General Interpretation, Commencement & Short Title

Clause 29 - General Interpretation

Clause 30 - Commencement

Clause 31 - Short Title

Information:

Clause 29 - General interpretation - contains general interpretation provisions.

Clause 30 – Commencement - concerns the commencement of the Act.

Clause 31 - Short title - provides for the short title of the Act.

16. Please provide comment on any aspect of Clauses 29 – 31 regarding general interpretation.

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General Interpretation Clauses 29 – 31.

No comment

Schedules

Schedule 1 Fixed Penalties

Schedule 2 Repeals

Schedule 1 - Fixed Penalties sets out the form and content, etc. of fixed penalty notices issued under clause 19. It also contains information regarding the use of fixed penalty receipts by district councils and gives the Department powers to make regulations regarding the use of receipts.

Schedule 2 – Repeals lists the necessary repeals.

17. Please provide comment on any aspect of Schedule 1 regarding the fixed penalties, fixed penalty receipts and the power to make regulations regarding the use of receipts.

Schedule 1

No comment.

18. Please provide comment on any aspect of Schedule 2 regarding the necessary repeals.

Schedule 2

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- The 2025 bill proposes to repeal three pieces of legislation used frequently, and successfully, by Belfast City Council's Building Control Service.

The first two of these are :

- The 1878 Belfast Improvement Act Part IX and
- The Belfast Corporation Act 1911, Section 76.

The use of these two Acts allows Council to take action on dangerous structures where the 'owner cannot be found'. The ability to take this action is crucial but it appears absent from the proposed bill. It is essential that any aspects of current legislation that allow Council to take action in all circumstances are not absent from the proposed Bill.

- Improved legislation to allow more effective enforcement is the aim, but what we have now (1878/1911) works for known and unknown owners. The Pollution Control Order Article. 66 works for known owners only with the added disadvantage that the magistrate cannot order the owner to carry out the works. Belfast City Council have also used Article. 72 of the Pollution Control Order successfully on many occasions. Refer comments to Q12 above.

Additional Information/Comments

19. Please provide any additional information or comments on any aspect of the Bill that you feel is relevant.

- Departmental guidance is essential particularly on subjective definitions such as "*detrimental to amenity*", in order to ensure consistency of approach and avoid potential legal challenges which could undermine the intent of the legislation.
- Given the absence of departmental guidance at this stage, Council would have reservations that the proposed Bill will have a significant financial and resource impact on Council. A full and comprehensive financial and resource appraisal to this consultation can only be made when in receipt of this information.
- As the consultation progresses, due consideration must be given to the resource implications associated with any new legislation, particularly the Council's ability to recover costs related to default works undertaken to address issues with dilapidated and/or dangerous buildings.
- Post conviction powers of the court need to be addressed, the ability of a District Judge to make an order specifying date that the works have to be completed by, consideration of a daily penalty post conviction and the ability to effectively implement same.

SURVEY QUESTIONS FOR DILAPIDATION BILL CONSULTATION

Additional information or comments.

Proposed Additions and Amendments

20. Please provide information on any potential amendments that you feel would enhance the Bill and the rationale for those.

Information on any potential amendments

Almost done...

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If you provide an email address you will be sent a receipt and a link to a PDF copy of your response.

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