

Document Pack

**Committee and Members' Services Section
Chief Executive's Department
Belfast City Council
City Hall
Belfast
BT1 5GS**



13th April, 2010

SPECIAL MEETING OF STRATEGIC POLICY AND RESOURCES COMMITTEE

Dear Councillor,

The above-named Committee will meet in the Lavery Room (Room G05), City Hall on Thursday, 15th April, 2010 at 10.30 am, for the transaction of the business noted below.

You are requested to attend.

Yours faithfully

PETER McNANEY

Chief Executive

AGENDA:

1. **Routine Matters**
 - (a) Apologies
2. **Transition Committee Business**
 - (a) Review of Public Administration - Transfer of Functions (Pages 1 - 78)
 - (b) Clean Neighbourhoods and Environment (Northern Ireland) Bill; and Regeneration and Housing Bill (Pages 79 - 184)
 - (c) Local Government (Disqualifications) (Amendment) Bill (Pages 185 - 194)
3. **Democratic Services and Governance**
 - (a) Committee Meeting, 7th May, 2010 (Pages 195 - 196)

To: The Chairman and Members of the Strategic Policy and Resources Committee

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Belfast City Council

Report to:	Strategic Policy and Resources (Transition) Committee
Subject:	RPA – Transfer of Functions
Date:	14 th April 2010
Reporting Officer:	Peter McNaney, Chief Executive
Contact Officer:	Kevin Heaney (ext. 6202)

1.0	<u>RELEVANT BACKGROUND INFORMATION</u>
1.1	Members will be aware that detailed discussions have been ongoing between central and local government officials, under the auspices of the Transfer of Functions Working Group, regarding the transfer of functions to councils (refer to Appendix 1) as a result of the RPA and the associated operational and financial implications.
1.2	The Transfer of Functions Working Group was established to provide greater clarity in terms of the scope of the functions to transfer and the associated resources (where known). The Working Group comprises of senior officials from both transferring function Departments and local government including Belfast City Council with the Chief Executive as Chair of the group.
1.3	Constructive discussions have taken place over recent months to scope the transferring functions that Government Departments are to transfer; the resources attached, and to identify those operational and implementation issues which need to be addressed or require further clarification prior to transfer. This has cumulated in a suite of draft reports being prepared which set out detail on each transferring function area – copies of which are attached at Appendix 2.
2.0	<u>KEY ISSUES</u>
2.1	<p>Transferring function Departments are finalising draft proposals with regard to how functions will transfer to local government and it should be noted that the following working assumptions seem to be emerging:</p> <ul style="list-style-type: none"> i) transfer will be on the basis of an 11 council delivery model which will inevitably result in resources being drawn out of Belfast, towards other parts of the region; ii) funding will be transferred on the basis of grant aid for initial 3 years which will bring with it a degree of centralised scrutiny/oversight. <p>The Council will clearly need to give full consideration to the emerging Departmental proposals and the potential resource implications for Belfast. There appears to be a trend whereby central government departments are reviewing how resources can be redistributed from Belfast across the 11 new councils albeit the core funding/policy drivers (e.g. social and economic need) and stakeholder expectations remain unchanged. This is a major risk for the Council which needs to be managed carefully. The core principles for moving forward should be that transferring functions should be rates neutral at point of transfer with service continuity paramount.</p>

2.2	<p>STRATEGIC ISSUES</p> <p>While constructive engagement has taken place over recent months, there still remains the need for detailed work and negotiation on a range of issues, particularly pertaining to funding. Discussions on transferring functions cannot be progressed in isolation from crucial decisions yet to be finalised on:</p> <ul style="list-style-type: none"> i) Establishing the true costs of the transferring functions – <i>issues around the transfer of resources and budgets are becoming increasingly complex as the process of due diligence continues to highlight the lack of clarity/detail on the true cost of delivering the services</i> ii) How to ensure there is no adverse impact on the rate base at point of transfer – <i>potential need for some form transitional rates support grant may be required</i> iii) Timetable for the transfer of functions – <i>clarity required as to the timetable and critical milestones</i> iv) Confirmation on how services will transfer to local government on Day1 – <i>working assumption that functions will transfer on basis of 11 councils</i> v) Future sustainability of funding for transferring functions and CSR process – <i>significant uncertainty remain around the future level and sustainability of funding given the fact that a large number of the proposed functions to transfer will be subject to bidding for resources under new Comprehensive Spending Review in 2011. Council officials are strongly advocating the need for a single CSR budget line for transferring functions.</i> vi) The disaggregation of funding and resources – <i>a decision is yet to be taken as to how budgets and resources are to be disaggregated across the 11 new councils</i> vii) Confirmation of transferring staff numbers and grades where possible - <i>this is necessary to inform any future consideration to be given to potential organisation design and service delivery models.</i>
2.3	<p>In the absence of any firm decisions and clarity regarding each of the aforementioned issues it will be impossible for local government and Transition Committees to undertake any effective due diligence review of the potential resource implications resulting from the transfer of functions and enable them to consider within the context of the incoming financial planning cycle for 2011/2012.</p>
2.4	<p>A number of these issues will undoubtedly be considered and negotiated at a regional level and set the broad parameters/framework for the transferring functions and any consideration given to potential service delivery models. The Council will ensure that it remains centrally involved in such discussions.</p>
2.5	<p><u>DSD Functions</u></p> <p>While detailed information is set out at Annex 1 to this report in regards to the DSD related functions to transfer to local government, the table overleaf provides a summary of the estimated budget and staff attached to the functions. It should be noted the revenue for 2010/11 is subject to confirmation of baselines following the NI Executive review of Spending</p>

Plans for 2010/11 as part of CSR process.

In this context Members will be aware that central government expects the next CSR process to be extremely challenging.

Table 1: Summary of estimated DSD Budget and Staff to transfer

Function	Budget (Rev/Capit Grant) £'000	Staff Costs £'000	Accom Costs £'000	Other Costs £'000	Income £'000	Staff Nos
Tackling Urban Deprivation	20,000	2,780			(400)	79
Town and City Centre Regeneration	44,000	2,040	-	-	-	58
Local Community Development	7,000	176	-			5
Houses in Multiple Occupation	-	700	-	500	(500)	33
Housing Unfitness	-	8	-		-	-
Local Energy Conservation	-	-	--		-	-
Living Over the Shop Initiative	tbd	tbd	-	-	-	tbd
Total	71,000	5,704	658k	500+	(900)	175

- 2.6 While no decision has yet to be made as to the allocation of such resources, Members will note that under the current DSD policy and operational arrangements around 60% (approx) of its effort and resources, particularly pertaining to urban deprivation and Town and City Centre Regeneration, are administered within Belfast. It is estimated that 20% is targeted in the North West and 20% across other regional towns and cities.
- 2.7 The ongoing engagement with DSD officials has raised a number of important issues which need to be brought to the attention and consideration of Members. These include the following:
- 2.8
- **Allocation of Funding:** Whilst the methodology for the allocation of capital funding is still to be agreed, DSD departmental officials has suggested that in terms of 'Town and City Centre Regeneration' that the funding be distributed across all councils who could then direct these resources as they see fit to meet local requirements within agreed overall priorities. Belfast would receive an additional allocation to reflect its regional status and its ongoing commitments in respect of Laganside. Based on current budgets it has been suggested by Departmental officials that this would be something in the order of £2 million per new Council with an increased figure of about £4 million for Belfast to reflect its regional status (plus additional funding for Laganside).
 - **Investment Fund:** DSD has indicated that consideration is currently being given to the possible establishment of an investment fund which would administer the remaining capital funding held by the department to priority regeneration projects across N. Ireland.
 - DSD has also indicated that consideration is also being given to the possible retention of a large proportion of capital funding (subject to CSR bids being secured this potentially may be in excess of £20m) against which councils would submit bids for projects. Funding would be allocated on the basis of agreed criteria which remain to be finalised but are likely to include a project's impact on the relevant Council area and the wider

	<p>region, contribution to meeting PSA targets and on its leverage of other funding.</p> <ul style="list-style-type: none"> ▪ Further clarification is required from the DSD on the current proposals for the creation of such an investment fund and how it would be created, administered and evaluated. ▪ Asset Transfer: DSD currently hold very significant working assets including land banks. DSD has stated that the working assumption in moving forward is that all assets will transfer to local government. DSD officials have indicated, however, that some 'high value' assets may transfer with conditions attached e.g. in terms of their potential future use and/or the Departments ability to claw back a proportion of monetary gain in the event of a major capital windfall being secured as a result of the asset being sold. More detailed discussion with the Department will be required. ▪ Policy Framework: DSD is currently reviewing its strategy and policy framework for urban regeneration and community development and for the housing functions being transferred. Again, this may have potential implications for the future allocation and prioritising of funding. When more substantive information becomes available in regards to this review, it will be brought to the attention of Members for consideration.
2.9	<p><u>DoE Planning Functions</u></p> <p>Members will note that the regional discussions with the Planning Service to date have been predicated on the following assumptions. Firstly the transfer of planning functions will take place in the context of 11 local councils each of which will have a separate planning function. Secondly, that the planning functions which are to transfer are those which were set out by the Environment Minister in March 2008, which are that district councils will take on responsibility for delivering the following key planning functions:-</p> <ul style="list-style-type: none"> • local development planning, which replaces the current Area Plan arrangements; • development management (formerly known as development control) – in practice this will involve the councils making decisions on over 90% of planning applications; and • enforcement.
2.10	<p>Members will be aware that the Planning Service has received a lot of negative press coverage over recent months in regards to its performance, effectiveness and value for money. As the service is primarily self-financed through planning application fees, the current economic downturn has had a significant adverse impact on the service i.e. estimated to be running at an annual operating deficit of £7million.</p>
2.11	<p>There remains uncertainty around the level of staffing and resources which are likely to transfer to local government and whether or not their will be any streamlining/rationalisation in advance of transfer.</p>
2.12	<p>In regards to the Belfast situation, discussions with Planning Service officials has indicated that under the current structure there is approximately 60+ professional staff dealing with Belfast planning related work. There are 20 additional administrative and support staff based in the Belfast Divisional Office, however, they also provide support to Castlereagh and Newtownabbey. Again, the Council will need to engage with the Department and Minister to ensure that appropriate resources transfer with functions.</p>
	<p><u>RPA REFORM TIMETABLE</u></p>
2.13	<p>Members will be aware that the Environment Minister, Edwin Poots MLA is locked in ongoing negotiations with Ministerial colleagues within the NI Executive regarding the RPA local government reform process and progressing necessary legislation including the Local Government Boundaries (NI) Order and the Local Government (Reorganisation) Bill. Discussions are also ongoing in relation to how the reform programme will be funded.</p>

2.14	It is understood that if there is no political agreement around these critical issues secured within the coming weeks, then the already tight legislative timetable would be unachievable and the local reform programme (in its current form) could be at significant risk.
2.15	In the event that the reform programme would not proceed as originally planned in 2011, there is potential scope for some functions still to transfer to councils e.g. DSD and DoE Planning related functions. The DSD Minister is already progressing the necessary legislation (e.g. draft Regeneration and Housing Bill) to enable the transfer of functions to councils. The DoE Planning Service has indicated also that it would be minded to transfer elements of Planning to councils notwithstanding any delay in the overall RPA programme.
2.16	Within this context, the Council should consider accepting the early transfer of such functions subject to a number of fundamental conditions such as transfer should be rates neutral at the point of transfer and that services being transferred should be adequately resourced. Authority is sought for engagement with the relevant departments in regards to the practical implications of handover and integration of the functions within the Council. Consideration should also be given to the potential for the Council to take forward pilots or partnership projects with central government departments in advance of the transfer to ensure the most efficient and effective transfer of functions and maximise any possible synergies which can be achieved through this process.
2.17	<p>It is suggested that in moving forward there are a number of common principles which we should all seek to achieve as part of the transfer of functions process:</p> <ul style="list-style-type: none"> ○ Providing strong local government with service performance and costs of delivery in line with national best practice; ○ Adding value for citizens with increased citizen satisfaction with services and value for money; ○ Attracting developing and retaining high quality and dedicated staff with increased satisfaction levels and reduced staff turnover; and ○ Providing value for money with minimum rate increases and decreased costs.
2.18	Detailed design work is now needed to develop viable options as to how the transferring functions may transfer and be assimilated within councils. The Council should take a lead role in driving forward such work. Council officials are continuing to engage with transferring functions departmental officials (e.g. DSD, DoE Planning, DRD Roads) to examine what is proposed to transfer to BCC. An initial officer workshop had been held in November 2009 to establish a shared understanding of the functions proposed to transfer to BCC (a copy of the workshop report is attached at Appendix 3) and it is proposed that a workshop should now be organised for Elected Members to further explore those issues.

4.0 Resource Implications

There are no Human Resource or financial implications contained within this report.

5.0 Recommendations

Members are asked to:

- a) note the contents of this report and the appendices attached; and
- b) agree that the Council continues to explore the potential for the early transfer of functions, notwithstanding any potential changes in the RPA reform timetable, subject to the conditions outlined above.

6.0 Appendices

Appendix 1: Summary of functions transferring to local government

Appendix 2: Detailed reports on the transferring functions

Appendix 3: Copy of workshop report on discussions with transferring function departmental officials

Transfer of Functions – Summary

Planning (transfer from DoE)

- Local development plan functions
- Development control and enforcement

Public Realm Aspects of Local Roads (transfer from DRD)

- Streetscaping
- Off street parking / on street parking enforcement (Central Government retain policy ownership for this function)
- Pedestrian permits
- Alley gating (traffic regulation orders facilitating alley gating to avoid antisocial behaviour)
- Permitting local events to be held on roads

Urban regeneration and Community Development (transfer from DSD)

- Functions associated with physical development (such as environmental improvement schemes, comprehensive development and urban development grant)
- Area based regeneration (such as neighbourhood renewal)
- Some community development programmes for the voluntary and community sectors

Housing (transfer from DSD/NIHE)

- Registration of houses in multiple occupation
- Housing unfitness responsibilities, including repair and demolition notices
- Energy conservation at a local level
- Living over the Shop Scheme

Local Economic Development (transfer from DET)

- Start a Business Programme and Enterprise Shows
- Youth Entrepreneurship (such as Princes Trust and Shell Livewire)
- Social Entrepreneurship
- Investing for Women
- Neighbourhood Renewal funding relating to enterprises initiatives

Local Tourism (transfer from DETI)

- Small scale tourism accommodation development
- Local tourism marketing
- Local tourism product development
- Visitor servicing
- Providing business support including business start up advice along with training and delivery of customer care schemes
- Providing advice to developers on tourism policies and related issues

Transfer from DARD

- Delivery of the EU Rural Development Programme

Transfer from DCAL

- Authority to Spot List to enable Councils to add a building to the statutory list on a temporary basis, subject to ratification by the DOE
- Authority to draw up local lists of buildings that are of architectural and/or historic interest
- Armagh County Museum
- Local water recreational facilities
- Local sports
- Functions of the NI Museum Council
- Local arts
- Local festivals
- Donaghadee Harbour

OTHER

- Community Planning and Power of Wellbeing

Appendix 2

Transfer of Functions Working Group

Detailed Sub-Group Reports

Content

- Annex 1: DoE Planning Sub Group Report
- Annex 2: DRD Roads Sub Group Report
- Annex 3: DSD Sub Group Report
- Annex 4: DARD Sub Group Report
- Annex 5: DCAL Sub Group Report
- Annex 6: DETI Sub-Group Report

PLANNING TECHNICAL SUB-GROUP

Interim Report to Transfer of Functions Working Group

Summary: The purpose of this interim report from the Planning Technical Sub-Group is to update the Transferring Functions Working Group (TFWG) on current discussion between local government and the Department of the Environment Planning Service and setting out a proposed process for taking forward outstanding issues.

Action: The TFWG is asked to note the current position.

Context

1. The Transfer of Functions Planning Sub-Group has been tasked with reporting to the main Transferring Functions Working Group on the following areas:-
 - Detail the planning functions transferring to local government and establish the potential synergies with other functional areas delivered by councils with a view to informing future integration discussions.
 - Consider the reform proposals for the Planning System and identify any associated implications for the transfer of functions to local government
 - Establish the current cost of delivering the planning functions to transfer to local government and the estimated cost of the reformed functions to transfer
 - Establish the current sources of funding the delivery of the transferring functions and examine potential future funding sources
 - Develop guiding principles and a framework around which the agreed planning functions may transfer to local government
 - Identify any outstanding issues which still need to be addressed in moving forward and make recommendations as to how such issues should be progressed.

This interim report sets out the position on current discussion between the Planning Sub Group and the Department of Environment Planning Service and highlights where further detail and

discussion is required on specific functions to allow for the development of efficient and effective options for operational delivery.

Update and Way Forward

Background

The Planning Sub-Group has met twice since early November, and presents this paper as an update.

The transfer of planning functions to local government is the single largest transfer in staff terms, and will place the bulk of planning decisions within the remit of the new Councils.

Planning Service has committed to work closely with Local Government through the range of Local Government Reform Implementation structures, and specifically through the Planning Sub-group to take forward the detailed implementation planning and delivery tasks.

Given the size and complexity of the issues involved, it was not feasible for the Planning Sub-group to have resolved them by December. The group is committed to a process of continued engagement over the coming months which will deliver the necessary steps for the transfer of the reformed planning system.

Assumptions

This paper is predicated on the following assumptions. Firstly the transfer of planning functions will take place in the context of 11 local councils each of which will have a separate planning function. Secondly, that the planning functions which are to transfer are those which were set out by the Environment Minister in March 2008, which are that district councils will take on responsibility for delivering the following key planning functions:-

- local development planning, which replaces the current Area Plan arrangements;
- development management (formerly known as development control) – in practice this will involve the councils making decisions on over 90% of planning applications; and
- enforcement.

Other responsibilities will include:

- conservation area designation / consents.;
- temporary listing of buildings, including non-statutory local listing and control of demolition or works to listed buildings (following consultation with the Department);
- dealing with hazardous substances consent; reviewing old minerals permissions; control of advertisements; tree preservation orders; issuing completion notices; preparing simplified planning zone schemes;
- revoking, modifying or discontinuing planning permissions and consents;
- compensation liabilities arising from district council planning functions;

- responding to purchase and blight notices; issuing certificates of alternative development value; and
- maintaining a register of applications, consents, notices, certificates etc.

Following the transfer of powers to local government, the Department will retain responsibility for:-

- planning policy and guidance;
- planning legislation;
- processing regionally significant planning applications;
- fee setting and the power to make grants;
- applications for Crown or other development where national security issues are raised or urgent works are necessary;
- performance management / monitoring; and
- oversight.

Whilst the Planning Service has estimated that at present approximately 600-650 staff are involved in delivering the functions that will transfer to local government and we anticipate those staff transferring with the functions, the precise numbers of staff transferring is uncertain at this stage and will need to be firmed up as a matter of urgency.

Staff are currently based in 9 locations (HQ in Belfast, 6 Divisional Offices in Ballymena, Belfast Craigavon, Downpatrick, Londonderry and Omagh and 2 sub divisional offices in Enniskillen and Coleraine).

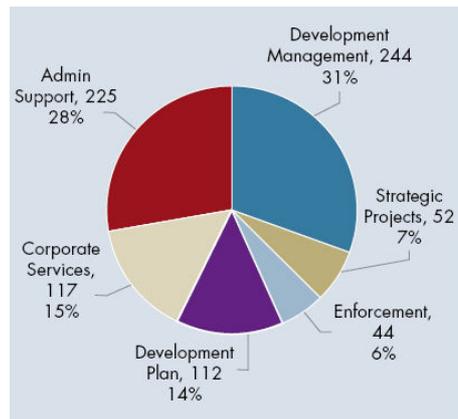
At present Planning Service does not have available information on the expected allocations of existing staff to the proposed 11 new planning authorities. Given that the existing planning function is spread across six divisional offices plus HQ, there will be a detailed process to undergo in terms of mapping staff to the new structures. This will need to cross-reference with the ongoing work of the Local Government Reform Joint Forum which has been established to take forward HR related matters. In Appendix A (Detailed Analysis of Transferring Functions) of the PWC paper, detailed staff breakdown by professional planners and administration staff, by grade is supplied, along with indicative staff costing.

The Northern Ireland Audit Office recently published a report examining the performance of the NI Planning Service¹. Within the report it is estimated that at the 31st March 2009, the staff complement within the Planning Service was 850, with 794 in post. The report provided a breakdown of the staff complement across the main business areas e.g. please see below.

Figure 1²

¹ NIAO report, The Performance of the Planning Service, 25th November 2009

² NIAO report, The Performance of the Planning Service, page 9, 25th November 2009



Current Costs of Delivering the Planning Function

	Current Costs £ (000)
Staff Costs	24,690
General Admin Expenses (e.g. non salary expenses, travel etc)	2,320
Other Costs	4,760
Notional Costs e.g. covers areas such provision of HR and Finance support which are provided centrally at present but are not "hard charged"	9,260
Income	(17,700)
NET COSTS	23,330

In making its submission to PwC,

Planning Service estimated the future costs of delivering the planning function across the 11 areas. This analysis did not attempt to allocate individual staff to location, and it was predicated on the assumption of overheads as a gross amount. It does not take account of any future synergies in councils post-transfer. The data submitted is replicated below:

Estimated Future Costs of Delivering the Planning Function

	Proposed Costs £ (000)
Staff Costs	
Professional & Technical	14,000
Admin Staff	4,550
HQ Staff	1,620
e-PIC Staff	250
Legacy Departmental Staff	4,770
GAE Costs	2,320
e-PIC Maintenance Cost	640
Other Costs	4,760
Notional Costs	9,270
Income	(17,700)
NET COSTS	24,480

It should be noted that fee income has dropped over the recent period to reflect the economic downturn. This has placed a resource constraint on Planning Service and must be factored into the transfer.

The initial work carried out by PS suggests a net increase in cost (as expected) from delivering the planning function over 11 centres. In addition, it should be noted that it is likely that additional costs may attach to the delivery of the 'reformed' planning system which will transfer to Councils.

However, as set out above this data makes no assumptions on either the organisational design or potential future efficiencies, as it is predicated on 11 functional planning units transferring to the new councils.

Detail

There are two timeframes which this paper considers: firstly the immediate requirement to develop and agree a high level implementation plan, including the broad areas of work, for the transfer of the planning function to councils, and, secondly a detailed methodology for Planning Service and local government to engage through the Planning Sub-group to translate the high level plan into operational development to cover the agreed areas of engagement.

Stage 1, to be agreed by the Planning Sub-group and discussed at ToFWG, should establish the issues which need to be resolved, and the associated actions.

Key issues to be resolved are:

- Human Resources
- Finance/Funding
- Estates/location issues
- IT systems
- Capacity building
- Transitional arrangements prior to 2011 (including Pilot Development Plan work)
- Organisational Design options including the role and structure of the core planning function which remains with central government.

In more detail

Human Resources

The transfer of over 600 staff from Planning Service will be a significant HR process, and when combined with the task of amalgamating existing council staff, will be a challenge for the Transition Committees and Planning Service. Initial analysis of staffing numbers and grading has been supplied for the PWC analysis and will form the basis for consideration and refinement. Further detail regarding location and allocation of staff to the new councils will

be necessary and will be influenced by the development of Organisational Design principles. We expect this engagement to continue throughout the calendar year 2010, with significant tasks being:

- staff communication,
- staff workshops,
- staff awareness and training (cross training with council staff to be included in the programme),
- agreement on high level OD,
- engagement with DFP CPG in relation to the agreed central government guidance for staff transfers and terms and conditions,
- engagement with individual Transition Committees regarding detailed OD and staffing numbers, grades and locations.

Finance/Funding

Planning Service is required to provide an initial costing of the new planning arrangements as part of the Policy Memorandum to be attached to an Executive Paper on planning reform to be considered in the New Year.

This will be shared with the sub-group when available, and will form the basis of more detailed work, including the development of Regulatory Impact Assessments which must accompany the new legislation. PS has agreed to engage with Local Government on this work

PS is also committed to carrying out a piece of external consultancy in early 2010 to examine the management information requirements which councils should meet to enable the Department to carry out its oversight role and to inform the future review of planning fees. This work will also involve direct and meaningful engagement with Local Government.

Integration of this work with the wider finance sub-group will also be required, especially in relation to the issue of funding allocations post 2011 and the issue of income allocation across the 11 new councils.

Estates/Location Issues

Again, this work needs to be considered in the context of the existing estates strand, Key issues here include the location of the planning functions on day one, integration with council premises, cost issues and specifically the location of the new planning function in the Mid-Ulster council area which does not presently have any physical planning presence. As with HR these issues are closely linked to the OD outcomes.

IT Systems Issues

Planning Service is presently in late testing stages of the e-PIC project, which will be implemented in 2010/11. PS is committed to engaging with councils as soon as possible to ensure the smooth integration with new council systems. In terms of Management Information Systems, further consideration needs to be given to the interface between Local Government and the retained planning function in the centre in terms of sharing relevant information.

Capacity Building

This will be an ongoing process which has already started through PS partnership with RTPI in recent events. Two strand approach – need roll out internal PS training in preparation for the planning reforms, while working closely with the local government sector (e.g. Transition Committees, Transition Management Teams, NILGA, SOLACE etc) SOLACE and other groups to ensure a programme of capacity building and awareness is carried out. The timing of elected member capacity building must consider the expected turnover of member at election and through member severance.

Transitional Arrangements

PS is committed to working with Transition Committees in preparation for the new Development Plan arrangements and has identified Council clusters areas for pilot projects. This process will include links to other workstreams especially community planning.

Organisational Design

This is a key work area for the sub-group, and will include design options for local and central planning functions. It is recommended that early engagement takes place to establish a set of core principles for the new planning function in councils, as this will have a significant bearing on organisational arrangements. These principles should be agreed with the ToF group and SLB. Initial tasks will be to ensure that the added value which the planning function will bring to councils is understood and that OD options are then developed which will allow the new councils to maximise the benefits across the range of council functions (ie synergies with other existing or new functions).

It is recommended that a wider engagement with transferring functions is sponsored by the Transfer of Functions Group, which would seek to build on the cross cutting stakeholder engagement in Phase 1 of the PWC study, and be used to directly develop OD options for consideration. This would serve to provide initial options to assist Transition Committees, and should take place early in the New Year. It is important to note that there will be a legislative requirement for councils to carry out the planning function which will place certain obligations and duties on the new authorities which in turn will have an impact on the OD models.

Stage 2 should then consider the detailed engagement and agreement of targets to jointly address the issues during 2010. Significant engagement has taken place between Planning Service and local government through the implementation structures, including the PDPs and SLB, as well as engagement with NILGA and SOLACE.

It is recommended that the primary focus of continuing engagement should be through the ToF Planning sub-group, with representatives continuing to engage locally with Transition Committees. This two strand approach will allow the regional issues to be considered and provide local points of reference for each Transition Committee. It is hoped that the flow of information to Transition Committees will be enhanced by the revised implementation structures. It is recommended that an early planning event should be arranged to bring together the strands identified above and produce a detailed implementation timetable.

Context

A number of key events are due to occur in the coming weeks and months which will have a bearing on the process. These include the introduction of the new Boundaries Order, legislation must be introduced to the Assembly before the end of June 2009 covering Planning Reform and the Local Government Reorganisation, the legislation creating Statutory Transition Committees will be commenced, and the new statutory bodies will continue to make the necessary preparations for 2011, including appointments of Chief Executives designate. The position of the PwC report and the wider funding issues for local government reform will also be clarified.

These are important steps which must be factored in to the detailed examination of stage 2.

Way forward

Planning Service is committed to working closely with LG colleagues through the implementation structures, and specifically by focusing effort through the Transfer of Functions working group and planning sub group.

Planning service is currently preparing the Key Principles document for circulation to planning sub-group, for discussion and agreement prior to forwarding to RTCG/ SLB. It is intended that this document would set the agreed context of the planning reform and transfer.

Planning Service is in the process of developing a high level implementation milestones/key tasks document, and will share the draft with ToFWG to further develop it.

This document will set out the task list, responsible owners, milestones/checkpoints, interdependencies and delivery dates for all the implementation tasks set out in this paper. At this stage, and subject to finalisation of the detailed implementation plan, we are aiming to have the major tasks implemented by end February 2011, or earlier if possible. We have

arranged two key internal planning events to move the process forward and will seek to engage with TFWG on the draft implementation plans.

At this stage, while PS is not yet aware of either the final OD structures of LG, nor of the final agreed PS transfer model, we are planning on the assumption of 11 local councils delivering planning as a local function.

DRD TECHNICAL SUB-GROUP

Interim Report to Transfer of Functions Working Group

Executive Summary

The purpose of this Interim Report from the Department of Regional Development (DRD) [Roads Service] Transfer of Functions Task & Finish Technical Sub Group is to update the Transfer of Functions Working Group (TFWG) on progress made to date exploring the detail of the Roads Service functions transferring from Central to Local Government, and to highlight areas which need further clarification.

Action

The TFWG is asked to note the current position

Introduction

1. The Transfer of Functions Technical Sub Groups have been tasked with reporting to the TFWG on the following areas:-
 - To provide clarity on the detail for the functions transferring from Central to Local Government
 - To consider arrangements for integrating these functions within Local Government
 - To develop initial Guiding Principles around which the agreed functions may transfer
 - To identify any outstanding issues which still need to be addressed and
 - To make recommendation as to how to progress
2. The Interim Report sets out the current position following ongoing discussions between DRD and Local Government and highlights where further detail and dialogue is required in order to progress the development of effective and efficient options for service delivery post 2011.

Agreed Suite of Functions to Transfer from DRD to Local Government

- Pedestrian Permits
- Alley Gating
- Permitting Local Events on Roads
- Off Street Car Parking and
- On street Parking Enforcement

DETAIL ON WHAT IS TRANSFERRING

Pedestrian Permits

- Enforcement of unauthorised stationary vehicles in pedestrian zones is currently handled as part of the existing NSL Enforcement Contract
- Policy Guidelines relating to the authorisation of pedestrian permits will transfer to Local Government and can be altered at a local level subject to observation of the due legislative process

Staff and Budget

- It is proposed that **£8k** budget will transfer to local government
- There are no staff transferring with this function

NB this covers administrative costs only – it does not include additional costs such as IT support etc

OUTSTANDING ISSUES FOR DISCUSSION

There is an administrative requirement for Councils to print off & issue permits – consideration needs to be given to adoption/ development of an appropriate IT system

Local Events on Roads

- This has recently commenced the 2nd stage in the Legislative process and is being progressed through the Miscellaneous Provisions Bill
- Councils may be able to charge the promoter for such events – potential income stream for Local Government

Staff and Budget

- There is **no** associated resource attached to or identified for transfer in relation to this function

Alley Gating

- Roads Service currently facilitates this function for alleys which are adopted
- Councils may receive applications iro non adopted alleys
- This is primarily a Belfast issue but there are some in Londonderry & elsewhere in the Province
- The organisation of the scheme & associated costs are borne by the promoter in the community
- DRD currently has limited input – approval & issue of Traffic Regulation Order – but will still need to be consulted and will have final say

Staff and Budget

- There is **no** associated resource attached to, or identified for transfer in relation to this function

Recommendation: *That consideration is given to where this might fit within the Community safety process*

Moving Traffic Offences

- This function is currently the responsibility of the PSNI
- DRD were working on taking powers to de criminalise moving traffic offences in bus lanes, however this is no longer being progressed by the Department

Staff and Budget

- There is **no** associated resource attached to, or identified for transfer in relation to this function

Recommendation: *Responsibility for this remains with the PSNI for the interim period*

Off Street Car Parking

A Model Transfer Scheme is currently being developed by the Finance & Estates Implementation Group to transfer the car park assets

OUTSTANDING ISSUES FOR DISCUSSION

- DRD to check wording in legislation iro requirement to retain transferred car park **for the purpose for which it was transferred (i.e. a car park)**
- DRD to check actual costs iro maintenance of car parks and to provide information on
 - Historical spend
 - Title deeds
 - Access agreements,etc
- DRD to provide clarity on public liability cover for car parks
- DRD to provide detailed information regarding established / new access agreements iro amenities / utilities
- DRD will consider possibilities around option for councils to vary current local tariffs – this will form part of the 'influencing model'

On Street Parking

- Policy responsibility for deciding on-street parking regulations will remain with DRD.
- This includes Residents Parking Zones – these Zones will be approved by DRD and enforced by Councils (via the NSL contract initially)

- NB Enforcement by NSL is for stationary vehicles only, any moving offences in a pedestrian zone are a criminal offence and enforced by the PSNI

OUTSTANDING ISSUES FOR DISCUSSION

- Fine detail around service delivery, and in particular enforcement, still to be explored, e.g.,
 - Process for issue of paper permit by Council after DRD approval (this refers to resident's parking zones only)

Car Parking Enforcement

- Enforcement activity is currently managed through contracts with NSL and SPUR (IT support).
- Following PDP C approval, and SLB endorsement, both contracts have now been extended to October 2012
- It is essential that detailed discussions take place between local and central government officials to agree how the enforcement function will be delivered from May 2011

Staff and Budget – approx 60 staff to transfer along with the car parking function – budget to be confirmed

Debt Recovery

- Outstanding debts (tickets etc) will transfer to Local Government at Transition

Staff and Budget

- There is **no** associated resource attached to this function

OUTSTANDING ISSUES FOR DISCUSSION

- Work is ongoing on a Memorandum of Understanding between ROI and DRD to share keeper details – this needs to be followed through in the period prior to Transition
- NB Finance & Estates Implementation Group are looking at policy around debt

Influencing Model

Early discussion has taken place as to what this framework might look like and DRD recently presented initial thoughts to the Task & Finish Technical Sub Group. Work is ongoing.

Next Steps

It is envisaged that DRD and Local Government will meet again in February 2010 to revisit the outstanding issues and to feed back to the ToFWG any emerging recommendations for consideration,. Particular attention should be given to the financial arrangements between councils to fund enforcement operations.

DSD TECHNICAL SUB-GROUP
Interim Report to Transfer of Functions Working Group

Summary: The purpose of this interim report from the Department for Social Development Transfer of Functions Task and Finish Technical Sub-Group is to update the Transferring Functions Working Group (TFWG) on current discussion between local government and the DSD and to highlight where further detailed discussion is required. This report builds on the previous report submitted to the TFWG in April '09.

Action: The TFWG is asked to consider the contents of this report and the issues contained therein and agree the continued engagement between central government and local government officials.

INTRODUCTION

2. The Transfer of Functions Technical Sub-Groups have been tasked with reporting to the main Transferring Functions Working Group on the following areas:-

- Provide clarity on the detail of the functions transferring from central to local government;
- Consider arrangements for integrating these functions within local government
- Develop initial guiding principles around which the agreed functions may transfer to local government
- Identify any outstanding issues which still need to be addressed in moving forward and make recommendations as to how such issues should be progressed.

This interim report sets out the position on current discussion between local government and the Department for Social Development and highlights where further detail and discussion is required on specific functions to allow for the development of efficient and effective options for operational delivery.

EXECUTIVE SUMMARY

2. The following section provides a brief overview of the proposals in regards to the proposed DSD functions (and associated resources) to transfer to local government. It sets out the key issues identified by the Technical Sub-Group as part of their consideration of the technical and operational implications associated with the transfer proposals.

Proposed Functions and Resources to Transfer

4. The following DSD related functions are to transfer to local government.

- Tackling Urban Deprivation;
- Town and City Centre Regeneration;
- Local Community Development;
- Houses in Multiple Occupation (HMOs);
- Housing Unfitness;
- Local energy conservation; and
- Living Over the Shop Initiative

Budget and Staff

5. Table 1 below provides a summary of the budget and staff attached to the functions proposed to transfer to local government. It should be noted the revenue for 2010/11 is subject to confirmation of baselines following the NI Executive review of Spending Plans for 2010/11 as part of CSR process.

Function	Budget (Rev/Capit Grant) £'000	Staff Costs £'000	Accom Costs £'000	Other Costs £'000	Income £'000	Staff Nos £'000
Tackling Urban Deprivation	20,000	2,780			(400) ⁴	79
Town and City Centre Regeneration	44,000	2,040	-	-	-	58
Local Community Development	7,000	176	-			5
Houses in Multiple Occupation	-	700	-	500	(500) ⁵	33
Housing Unfitness	-	81	-		-	-
Local Energy Conservation	-	-	--		-	-
Living Over the Shop Initiative	tbd	tbd	-	-	-	tbd
Total	71,000	5,704	658k²	500+	(900)	175
Notes:						

- 1 - Salary Equivalent Cost
2 - £428k notional cost and £230k direct cost
3 - £229k notional costs in respect of land and property services, legal services, IT costs and business development costs.
4 - URCDG generates approx £400k from rental income.
5 - This could increase to £700k by 2011.

Other Notes:

- Capital Income to fund the capital programme in line with ISNI strategy varies. In 2009/10 the Capital Income Budget is £16.7m compared with £108m for 2010/11.
- £132m (This figure may decrease) of Working Capital Assets are to transfer for the benefit of all Councils. There may be an issue in respect of the ability for Councils to retain asset receipts to acquire new assets. DSD is considering a regional investment fund for transferring assets.

Issues requiring further consideration

- **Funding:** Concerns about the future sustainability of funding as the majority of functions to transfer maybe subject to efficiency savings and it may be necessary to secure bids in the next Comprehensive Spending Review to establish an appropriate baseline to transfer. (CSR process will commence in Spring 2010 and approved in early 2011. Need for urgent discussions between DSD, DFP and local government to quantify the level of resources to be secured for the future delivery of the functions post 2011.
- **Budget allocation methodology:** Ongoing consideration is being given to how resources will be disaggregated across the 11 new local Councils. This issue will need to be considered within the context of the overall funding regime for new Councils, both in the short and long-term post RPA
- **Grant funding:** Whilst no decision has been taken yet on how funding will transfer to local government, the DSD has indicated that in the short-term funding for DSD functions will be on a grant basis. Within the recent draft 'Economic Appraisal' report prepared by PriceWaterhouseCoopers (PwC), which it should be noted has no status at the stage of drafting this report, it is recommended that a grant fund regime should be implementation for the period to 2015 and the Executive sub-committee agreed in November 2009 to grant funding
- **Policy Framework:** DSD is currently reviewing its strategy and policy framework for urban regeneration and community development and for the housing functions being transferred. This may have potential implications for the future allocation and prioritising of funding.
- **Role Clarity;** in moving forward it will be important that there is clarity between the respective roles of DSD and councils as well as a shared understanding of the joint relationship. The principle should be that DSD sets the policy and local government delivers on the ground.
- **Staff transfer model:** Ministers have indicated their support for allowing temporary transfer arrangements. As stated by the NI Executive Sub-Committee, the starting position for central government will be those

arrangements employed for staff transferring to the new health bodies earlier this year, but the final decision will be one for Ministers.

- **On-costs & Accommodation:** Under the current accounting arrangements within central government a large range of support services and accommodation costs are funded directly through DFP. How such costs are paid for in the future needs to be examined further within the context of transfer of functions. The status of offices currently used to house those DSD staff who will transfer will need to be determined.
- **Asset Transfer:** DSD currently hold very significant working assets including land banks. DSD has stated that the assets will be transferred for the benefit of councils. More detailed discussion on this will be required. Consideration needs to be given to the future flexibility for councils in relation to transferred assets. Local government would advocate that the assumption in moving forward is that assets will be transferred to councils as a further commitment to securing strong local government.
- **Investment Fund:** DSD has indicated that consideration is currently being given to the possible establishment of an investment fund (N.B. also referred to within the PwC draft report) which would administer funds partly generated from some central government assets to priority regeneration projects across N. Ireland. Local Government would seek further clarification on thinking with regard to how such a fund would be created, governed, administered and evaluated as well as any views regarding possible impact upon the transfer of assets to local government.
- **Pre-existing commitments for 11/12 and beyond** – consideration will need to be given to the transition process for projects/schemes which bridge the 2011 proposed transfer date. The early engagement of representatives of the new Councils' in the developmental stages of such schemes would support a more efficient and effective handover and strengthen the sustainability of such projects.
- **Capital schemes / regeneration projects:** in terms of the transition process, consideration will need to be given to the process to be put in place to effectively manage the assignment of agreements/ contracts to successor organisations and the assignment of agreements/ contracts to Councils where boundary changes mean that the future council custodian of a project changes
- **Urban regeneration projects jointly managed with OFMdfM:** Local government would seek ongoing engagement with the Department in regards to the future of key sites such as Girdwood in North Belfast and the ILEX development company in Derry/Londonderry which is currently managed/owned by DSD and OFMdfM.

- **Role of BSO:** the PWC report proposes that a specialist resource to handle Large Capital Projects could be housed in a centralised Business Services Organisation (BSO). Local government suggest that further consideration should be given to other delivery options for this function including, for example, a lead council approach.
- **Capacity Building:** it was agreed that capacity building across councils and transferring Departments would be essential. This could include joint working, staff exchanges, familiarisation sessions etc....
- **Performance indicators** – consideration of the level of oversight DSD will require for each transferring function. Including building this into a performance management and service improvement regime in such a way that promotes clarity and minimises bureaucracy.
- **Community Planning:** DSD and councils will need to agree the linkages between the work which is being transferred out and the new requirement placed on Councils to lead a Community Planning process.

DETAILED REPORT

POLICY CONTEXT

- The DSD Minister will retain responsibility for setting the strategic and policy framework for the functions transferring and the Department will therefore retain staffing and resources to administer these responsibilities together with sufficient structures and resources to ensure proper governance arrangements are in place between the Department and local Councils and that sufficient safeguards and controls are in place to ensure that public money is properly managed.

PROPOSED FUNCTIONS TO TRANSFER

i. Tackling Urban Deprivation

Context

- The primary vehicle for tackling urban deprivation within DSD is through the 'Neighbourhood Renewal Strategy' which targets over 250,000 people. Neighbourhood Renewal operates mainly in 36 designated areas that are within the most deprived ten percent of urban wards in Northern Ireland, as defined by the Noble Indices of Multiple Deprivation (currently under review).
- Based on the current DSD Strategy and Policy framework which focuses on need and deprivation, the geographic allocation of urban regeneration funding is approximately, 60% is in Belfast, 20% in the North West and 20% across other regional towns and cities.

Staff and Budget

- While the resource budget for Neighbourhood Renewal (2010/11) is **£20 million** currently this may be subject to efficiencies as part of the NI Executive Spending Plan Review for 2010/11 , future funding beyond 2011 will be subject to a bidding process as part of the next round of CSR, as will the capital element of the programme. It is proposed that NR funding will be allocated to councils using the existing methodology which is based on the Noble Indices of Multiple Deprivation [etc]
- There are **79 staff (WTE)** delivering the Neighbourhood Renewal Strategy which will transfer. They are currently housed in 8 different locations: the Department's development offices (James House, Howard Building, North City Business Centre, Woodstock Road (Belfast) Orchard House (Derry) Church Street (Ballymena), Banbridge Jobs and Benefits Office and Kevlin Avenue (Omagh).

DSD – Tackling Urban Deprivation

	Costs (£'000)
Budget (Revenue Grant)	20,000
Staff Costs	2,780
Income	(400)
Staff currently involved in this function	79 WTE
<i>Not: Staff Costs are based on the overall Urban Regeneration staff costs on a per capita basis.</i>	

Issues for further consideration

- The Department is currently reviewing its strategy and policy framework for urban regeneration and community development which may impact upon the future allocation and focus of funding. The anticipated completion date for this work is early Spring '10.
- Local government will be consulted as part of this process.
- Noted that other variables which may impact upon the emerging policy include the mid-term review of Neighbourhood Renewal recently completed by the Department and the review underway by DFP of Noble Indices of Multiple Deprivation.

ii. Towns and City Regeneration

Context

The status of the offices currently used to house DSD staff who will transfer will need to be determined.

- This relates to the physical regeneration work carried out by Belfast Regeneration Office (BRO), Belfast City Centre Regeneration Directorate (BCCRD), the North West Development Office (NWDO); and the Regional Development Office (RDO) to re-vitalise towns and cities across Northern Ireland. This work is currently undertaken in four ways:
 - o the creation of masterplans and development schemes;
 - o site assembly for developments;

- investment in major public realm schemes and environmental improvement schemes as part of a wider regeneration plan; and
 - the provision of direct grant to the private sector to try to tackle areas of market failure.
- **Masterplans** are designed to provide a clear strategy and process for managing the physical, economic and social transformation of an area. Masterplanning work typically involves the commissioning by the Department of independent expert consultancy firms comprising a range of specialists, for example urban designers, landscape architects, road engineers, etc, to develop masterplans for designated areas. This could range from spatial masterplans which cover a whole (or a large part of a) town to smaller site specific masterplans for particular sites, some of which may be in public ownership. Work on developing masterplans invariably involves a range of other statutory bodies including the local Council, Roads Service, Planning Service, NIHE as well as the private sector and should be considered within the wider community planning function to be undertaken by Councils.
 - **Comprehensive Development schemes** are carried out under the Planning (Northern Ireland) Order 1991. The acquisition of land and property can be achieved by agreement or through compulsory purchase by way of vesting. In addition DSD may also use powers to create a Development Scheme – particularly when a change to the Area Plan is required.
 - **Urban Development Grant** is a discretionary grant, governed by the terms of the Social Need (Northern Ireland) Order 1986. It can be operated by the Department in different ways - different levels of subsidy, different spatial application, support for different types of development etc. Its objective is the encouragement of private enterprise and investment through the development of vacant, derelict or underused land or buildings.
 - **Public Realm/Environmental Improvement (EI) schemes** are covered by the Social Need (Northern Ireland) Order 1986. They are targeted at the neighbourhoods, with funding contributing towards site clearance costs, the removal of sectarian graffiti, resurfacing schemes, tree planting and the upkeep and maintenance of land. More significant are public realm schemes, particularly in town and city centres. Such schemes are intended to improve the physical appearance of towns and cities with the overall aim of contributing to the regeneration of an area and attracting new investment.
 - **Belfast City Centre Regeneration Directorate** implements the Department's regeneration objectives for Belfast City Centre, dealing in some cases with major schemes that give rise to particularly complex legal and financial matters some of which have an impact beyond Belfast. The Directorate also manages the legacy of the Lagan-side Corporation including the Lagan Lookout, the weir and the Lagan-side Events programme.

Staff and Budget

- The Department would intend to place bids in the next budget cycle equating to **£40m to £50m** of capital in line with existing baselines to fund the development of new schemes by the new Councils.
- There are **58 staff (WTE)** involved in physical regeneration functions currently located in 6 offices (James House and Lesley House (Belfast), Orchard House (Derry) Church Street (Ballymena), Banbridge Business Centre and Kevlin Buildings (Omagh).
- It is proposed by DSD that funding will be made available for each local council to provide capital assistance to deliver certain minor capital projects, to make environmental improvements through public realm, to encourage regeneration by way of urban development grants or to supplement funding raised for more significant schemes.
- Whilst the methodology for the allocation of capital funding is still to be agreed, it is suggested that the funding be distributed across all councils who could then direct these resources as they see fit to meet local requirements within agreed overall priorities. Belfast would receive an additional allocation to reflect its regional status and its ongoing commitments in respect of Lagan side. Based on current budgets this would be something in the order of £2 million per new Council with an increased figure of about £4 million for Belfast to reflect its regional status (plus an additional £1 million for Lagan side).

DSD – Town and City Regeneration

	Costs (£'000)
Budget (Capital Grant)	40,000
Budget (Revenue)	4,000
Staff Costs	2,040
Staff currently involved in this function	58 WTE
<i>Note: Staff Costs are based on the overall Urban Regeneration staff costs on a per capita basis.</i>	

Issues for further consideration

- The capital budget that will transfer and the methodology for allocation to the new local councils in 2011 is subject to discussion and agreement with DFP
- Work is underway in DSD to establish the options available by which the capital budget might be distributed to the new councils.
- This consideration includes an analysis of the potential for establishing an investment fund that would distribute funds generated from central government assets and the private sector to priority regeneration projects across Northern Ireland.
- Local Government would seek further clarification on the current thinking with regard to how such a fund would be created, governed, administered and

Issues for further consideration (continued)

- DSD indicated that consideration is being given to the allocation of a specific funding amount to each council to undertake minor capital projects (based on current budgets this would be £2m per council with £4m in Belfast to reflect its regional status (and an additional £1m for Lagan side).
- DSD intend to oversee a large capital budget (e.g. potentially in excess of £25m) as a challenge fund to which councils can submit bids for projects.
 - If such a challenge fund is put in place, caution should be taken not to over-bureaucratise the process which will be costly and cause delays.
 - It is intended that funding to enable local Councils to take forward large scale developments would initially be held centrally by the Department with the new local Councils being required to put forward bids.
 - Funding would be allocated on the basis of agreed criteria which remain to be finalised but are likely to include a project's impact on the relevant Council area and the wider region, contribution to meeting PSA targets and on its leverage of other funding.
 - Local Government will be consulted in the development of any necessary policy/framework for the challenge fund.

iii. Local Community Development Support**Context**

This function comprises two programmes currently delivered by DSD:

- The **Community Support Programme** (previously known as the District Councils' Community Services Programme) aims to strengthen local communities, increase community participation and promote social inclusion. To this end it provides funding for community groups, activities within communities and local advice/support services. The programme is a collaboration involving the Department for Social Development, District Councils, local community groups, voluntary groups and local advice organisations; and
- The **Community Investment Fund** was established to deliver a longer-term, strategic commitment to supporting community development. The Fund has been set up in the context of a number of existing central and local government funding initiatives which support community development activity. The Fund is aimed at sub-regional and multi-neighbourhood organisations that provide support services, or co-ordination for smaller local community groups, and which are capable of developing their provision of support & services to such groups on a wider scale.

Staff and Budget

- The 2010/11 revenue budget for the Community Support Programme and the Community Investment Fund is **£7 million** with **5 WTE staff** allocated to the latter function.
- The current funding breakdown is **£5m** (approx) for Community Support Programme and **£2m** (approx) for Community Investment Fund. This funding is subject to confirmation of baselines from the NI Executive review of Spending Plans 2011 and maybe subject to revision based on efficiencies to be identified post 2011.

DSD – Local Community Development

	Costs £'000
Budget (Revenue Grant)	7,000
Staff Costs	176
Staff involved in this function	5 WTE
<i>Not: Staff Costs are based on the overall Urban Regeneration staff costs on a per capita basis.</i>	

Issues for further consideration

- Any future funding will be subject to CSR bidding process.
- The review being undertaken on behalf of the DSD (referred to previously) on the strategy and policy framework for urban regeneration and community development is a variable that should be noted. Again local government should be engaged within this review process.

iv. Houses in Multiple Occupation (HMOs)

Context

- There are around 12,000 HMO properties in Northern Ireland.
- NIHE has powers in terms of: tackling overcrowding; determining and enforcing (in association with the relevant authorities) appropriate standard as regards health and safety, hygiene and fire safety; and addressing the physical condition of properties and their management.
- The HMO registration scheme helps to reduce the risks associated with HMO properties and provides a list of good quality private rented properties which are maintained to an acceptable standard.
- The registration scheme implementation programme requires a comprehensive programme of inspections and action plans. HMO grants are

processed by the Housing Executives' grants offices and the budget for making these grants available will not transfer to the district councils.

- The function complements Councils' environmental health role, which includes fitness inspection of private rented sector properties, and their anticipated new community planning and general well-being responsibilities.

Staff and Budget

- There are **33 staff (posts)** involved in HMO functions currently located in 2 offices (Coleraine and Anne Street, Belfast).
- It is proposed that **£700,000** revenue costs (i.e. salary costs) will transfer with this function.
- There is an anticipated registration fee income of £500,000 (2008/09) which the Housing Executive currently use to finance activities which deal with problems associated with concentrations of HMOs such as Community Safety Wardens Schemes etc.

DSD – HMOs

	Costs (£'000)
Staff Costs	700
Other activities	500
Revenue from Registration Fees	500
Staff involved in this function	33 WTE

Issues for further consideration

- Whilst the majority of HMO staff is currently located within the Belfast and Coleraine offices, they cover all HMO activity across Northern Ireland and, therefore, further consideration will need to be given to the allocation of both staffing and resources post transfer.
- Within the next 12 – 18 months the Housing Executive also proposes to reallocate some staff in the Craigavon Grants Office to deal with the registration of the significant number of HMOs in the South East area of Northern Ireland.
- Consideration is currently being given to potential options for the transfer of the HMO responsibility to Councils. Options being considered (as set out within the PwC Phase II report) include:

Options for Transfer

- **Option 1: DSD HMO Function – Full Transition:** This option involves the full transition of this function to councils, however the funding and staff would be allocated on the basis of current/ emerging need, rather than an arbitrary
- **Option 2: DSD HMO Function – Collaborative Delivery:** This option involves the delivery of the function at a regional level, where all councils would have access to the HMO service but staff could be located in offices where need is greatest. If this option is taken forward then negotiations

v. Housing Unfitness

Context

- The Northern Ireland Housing Executive (NIHE) has a statutory obligation to identify and address unfitness in housing across all tenures. It employs a number of methods to tackle the problem ranging from issuing Closing Orders for individual properties, through to Demolition and Clearance Orders to full urban renewal schemes.
- Financial penalties are imposed on persons who continue to occupy, or permit others to occupy an unfit property. This is essentially a regulatory function but it could lead on to the provision of grant aid under the Private Sector Grants Scheme or the Group Repair Scheme.
- Local Councils' Environmental Health Officers, under the new Private Tenancies Order, have the same powers as those which the Housing Executive possesses in terms of identifying unfitness and drawing up schedules of work required to make relevant properties fit. The Rent Officer for Northern Ireland is empowered to apply interim rent control to unfit properties until such times as they are made fit.

Staff and Budget

- There is no staff resource directly allocated to this function.
- The estimated salary costs which are dispersed across a number of staff is £8,000.

Issues for further consideration

- Provision of Grants – work is underway in the Department to determine the future role and scope of the private sector grants scheme.

vi. Local Energy Conservation

Context

- Under the Home Energy Conservation Act (1995), the Housing Executive was designated as Northern Ireland's sole Home Energy Conservation Authority. The Act required the Housing Executive, in 1996, to develop a strategy to significantly improve the energy efficiency of the entire housing stock and to submit annual progress reports thereafter.
- While the NIHE will retain its current functions the new local Councils will be responsible for bringing forward local initiatives. To some extent this will formalise what has already been happening on a limited basis with some local Councils.

Staff and Budget

- Whilst it has been agreed that local energy conservation activity will transfer to councils, it should be noted that this is more a role and not a function transferring.
- There is no staff or resources attached to the transfer of this function.

vii. Living Over the Shop Initiative (LOTS)

Context

- The overall purpose of the Living Over the Shops (LOTS) initiative is to encourage people back to live in villages, towns and city centres, as a contribution to broader regeneration.
- Introduced on pilot basis in 2002, LOTS provides grant support for work carried out to make properties over shops fit to live in and, in the case of most flats, fit for the number of people who live there.
- LOTS has to date been a targeted initiative available only in certain areas.

Issues for further consideration

- The future use of the LOTS scheme as a regeneration initiative will be considered as part of the work to establish a new Urban Regeneration and Community Development strategy and policy framework.

NON-TRANSFER of Travellers' Transit Sites

- It should be noted that based on the announcement made by the Minister for Social Development, Margaret Ritchie MLA on 18th November 2009, the management of Travellers' Transit Sites will not transfer to councils as part of the RPA process.
- The function will remain within the remit of the Northern Ireland Housing Executive.

NEXT STEPS

- It is recommended that this Group should continue to meet over the next few months to examine the outstanding issues and feedback to the Transfer of Functions Working Group any emerging recommendations for consideration.

Recommendation

- It is recommended that the Transfer of Functions Working Group notes the current position.

DARD TECHNICAL SUB-GROUP

Interim Report to Transfer of Functions Working Group

Executive Summary

The purpose of this Interim Report from the Department of Agriculture and Rural Development (DARD) Transfer of Functions Task & Finish Technical Sub Group is to update the Transfer of Functions Working Group (TFWG) on progress made to date exploring the detail of the DARD functions transferring from Central to Local Government, and to highlight areas which need further clarification.

Action

The TFWG is asked to note the current position

Introduction

1. The Transfer of Functions Technical Sub Groups have been tasked with reporting to the TFWG on the following areas:-

- To provide clarity on the detail for the functions transferring from Central to Local Government
- To consider arrangements for integrating these functions within Local Government
- To develop initial Guiding Principles around which the agreed functions may transfer
- To identify any outstanding issues which still need to be addressed and
- To make recommendation as to how to progress

2. The Interim Report sets out the current position after recent discussion between DARD, DSD and Local Government and highlights where further detail and dialogue is required in order to progress the development of effective and efficient options for service delivery post 2011.

Agreed Suite of Functions to Transfer from DARD to Local Government

The three main functions transferring from DARD to Local Government have been identified as:-

- Axis 3 of the 2007-13 Rural Development Programme (RDP)
- Community Development Strand of DARD Anti Poverty / Social Inclusion Programme
- Village Renewal / Regeneration

NB – No staff will transfer with these functions

Detail

The Rural Development Programme (RDP)

The RDP 2007-2013 is jointly funded by the European Union, through the European Agricultural Fund for Rural Development, and the Department of Agriculture and Rural Development (DARD).

The Programme aims to protect and enhance our rural environment and contribute to the development of competitive and sustainable rural businesses and thriving rural communities. It is worth over £500million and represents one of the largest ever investments in rural communities in Northern Ireland.

The RDP is split into three main areas:

- Axis 1 - Farming and Food;
- Axis 2 - Environment and Countryside; and
- Axis 3 - Rural Life

Axis 1

Budget = £45million

Aim = to improve the performance of Agriculture and Forestry businesses by:-

- funding farm modernisation projects,
- helping businesses to improve their processing and marketing skills
- supporting projects that will strengthen supply chain partnerships

Advice, mentoring and training is also available for farmers and their families.

Currently this programme is delivered jointly by DARD and an Agent (Countryside Agri Rural Partnership) contracted up to 2013

Recommendations –

- **That the current contract / delivery mechanism would continue until 2013**
- **That DARD would engage with Local Government early in the development the 2014/2020 programme to consider options for future delivery**

Axis 2

Budget = £390million

Aim = to help farmers to manage the land more sustainably and deliver important outcomes on biodiversity, landscape and climate change.

Currently this programme is delivered by DARD

Recommendation –

- **That DARD would continue to deliver this programme until 2013**

Axis 3

Budget = £100million

Aim = to improve the quality of life in rural areas by supporting a wide range of projects which include:-

- diversification
- business creation
- tourism

- basic services for rural communities
- village renewal
- conservation and upgrading of the rural heritage.

Currently this programme is delivered via the LEADER approach (an EU 'bottom-up' approach to local rural development A formalised joint service delivery mechanism (via the Local Government Order (Northern Ireland) 2009) is in place comprising seven joint council clusters (see map at Annex 1) which are responsible for the appointment & monitoring of a Local Action Group (LAG) to implement a rural development strategy.

Recommendations:

- **That the current delivery mechanism continues until 2013**
- **That DARD would engage with Local Government early in the development the 2014/2020 programme with a view to aligning new structures from 2014 onwards**

OUTSTANDING ISSUES

- DARD will explore options around legal continuity of current LAGs until 2014
- Further consideration needed around how the RDP / LAG delivery mechanism will fit with Community Planning process post 2011

Community Development (DARD Anti Poverty / Social Inclusion Programme)

DARD supports a rural community development infrastructure which provides access to and feedback from approx 800 rural community groups, and to this end has been funding:-

- The Rural Community Network (RCN)
- 11 Rural Support Networks (RSNs)
- The Northern Ireland Rural Women's Network (NIRWN)

These groups facilitate a vital link between the rural community, DARD and other Departments.

Recommendations

- **That a collaborative approach to community development is adopted, which brings together the bodies with the complimentary responsibilities below:**
 - **DARD** – rural community development
 - **DSD** – voluntary & community sector
 - **Local Gov** – community planning / community relations
- **That a structured change programme is supported, comprising all of the above bodies, in order to better align all strands of community development with the new councils.**
- **That local rural community development funding and activity will transfer to local government**

OUTSTANDING ISSUES

- DARD will clarify the resource (funding) transferring with local rural community development
- DARD will consider the future role of the regional elements of the rural community development infrastructure – RCN and NIRWN
- DARD, DSD and Local Govt will consider how best to engage with current rural community development organisations to achieve the changes required by 2011

Village Renewal / Regeneration

Funding (£12m) for renewal of towns and villages with populations below 4500 has been made available to the 7 Council clusters / Local Action Groups through the 2007/2013 RDP.

Recommendation

- **That Local Gov, in partnership with DARD and DSD, in planning the 2014/2020 RDP, ensure strategic alignment with the regeneration powers transferring from DSD to affect an integrated approach to urban & rural regeneration post 2011**

OUTSTANDING ISSUES

- DSD to clarify detail of regeneration powers transferring to local government
- DARD and Local Govt to further explore how the RDP measure can maximise the opportunities for village renewal / regeneration post 2011

Next Steps

It is envisaged that DARD and Local Government will meet again in early New Year to revisit the outstanding issues and to feed back to the ToFWG any emerging recommendations for consideration

ANNEX 1

See attachment

DCAL TECHNICAL SUB-GROUP

Interim Report to Transfer of Functions Working Group

Summary: The purpose of this interim report from the Culture Arts and Leisure Transfer of Functions Task and Finish Technical Sub-Group is to update the Transferring Functions Working Group (TFWG) on current discussion between local government and the Department of Culture Arts and Leisure and to highlight where further detailed discussion is required.

Action: The TFWG is asked to note the current position.

Introduction

3. The Transfer of Functions Technical Sub-Groups have been tasked with reporting to the main Transferring Functions Working Group on the following areas:-
 - Provide clarity on the detail of the functions transferring from central to local government;
 - Consider arrangements for integrating these functions within local government
 - Develop initial guiding principles around which the agreed functions may transfer to local government
 - Identify any outstanding issues which still need to be addressed in moving forward and make recommendations as to how such issues should be progressed.
3. This interim report sets out the position on current discussion between local government and the Department of Culture Arts and Leisure and highlights where further detail and discussion is required on specific functions to allow for the development of efficient and effective options for operational delivery.

Agreed Suite of Functions to Transfer

1. The functions within DCAL which have been identified for transfer to local government are as follows:
 - Armagh Country Museum
 - NI Museum Council
 - Local Arts
 - Local Sports
 - Local Water Recreational Facilities

Detail

Armagh Country Museum (ACM)

Context

1. The Armagh Country Museum is currently managed by the National Museums Northern Ireland (NMNI) under the Museums and Galleries (NI) Order 1998.

Functions Transferring

2. It is proposed that all functions of the ACM will transfer from NMNI to the new Armagh, Banbridge and Craigavon District Council by 2011.

Resource Allocation

3. The current budget of the Armagh Country Museum is £312K (approx), with a staff complement of 7.5 staff.

Outstanding Issues

- Uncertainty remains with regard to how the annual budget will transfer to local government. Discussions ongoing with the Department of Finance and Personnel as to the means of transfer.
- DCAL has issued a draft staff transfer scheme and sent to NMNI for consultation.
- Staff transfer scheme is dependant on the regional discussions around pensions transfer e.g. will staff be permitted to remain in the PCSPS.
- NMNI has recently released draft legal documentation which contains some conditions which may impact upon the transfer of the asset. The Armagh, Banbridge and Craigavon District Council Transition Committee are currently considering this paper and will respond to NMNI.

Northern Ireland Museums Council (NIMC)

Context

- The Northern Ireland Museums Council (NIMC) is a company with charitable status established in 1993 which is funded in the main by DCAL but also from its membership which includes local government. The NIMC provides a range of functions including (but not exclusively): advice and training; assistance with accreditation; awarding of small grants; research; strategy building; policy advice; and fund raising.

Functions Transferring

- Whilst it has been decided that the functions provided by the NIMC would transfer to local government, consideration is currently being given to the practicalities of how the NIMC would transfer to local government.

Resource Allocation

- The Northern Ireland Museums Council has a budget of £279K (approx.) with a staff complement of 4 FTE staff.
- Given the relatively small size of the NIMC it is not considered appropriate to decentralise it across the new 11 council model.
- Noted that the PwC draft Economic Appraisal of options for local government service delivery puts forward a proposal that the transfer of the NIMC to local government should be on the basis that it “moves across to the new Local Government Association (LGA) and the costs are included in the overall operating costs of the new LGA”.
- There are potential legal issues which would not make this a viable option i.e. you cannot transfer functions (i.e. impose liabilities on) to a non statutory body such as the LGA. . The new BSO may be a more appropriate home for NIMC functions.

Outstanding Issues

- No decision taken on the means of transfer of the NIMC to local government.
- Consideration being given to how the transfer of NIMC fits with the proposals emerging from the PwC Phase II Report in regard to the establishment of a Business Services Organisation (BSO).
- DCAL have developed an options paper examining the role/function of the NIMC, which the minister is now considering. Local Government will be consulted on the outcome.
- A number of possible delivery options put forward by the paper for further consideration include:
 - i) Postpone transfer for 5 years
 - ii) Transfer to DCAL
 - iii) A regional service delivery model e.g. Transfer to the proposed Business Services Organisation if it goes ahead or to LGA
 - iv) Transfer of the specialist services of NIMC to the National Museums Northern Ireland

LOCAL ARTS

Context

- DCAL provides funding for the arts in Northern Ireland, sets arts policy and supports arts based initiatives at a local level.

Transferring Functions

- It is proposed that funding for Local Arts and Culture Projects would be transferred from the Arts Council Northern Ireland to local government

Resource Allocation

- The funding awarded by the Arts Council NI to organisations for local arts and culture projects varies year on year, however the funding budgeted for 2009/10 amounts to approximately **£1.1m**.
- It should be noted that currently the majority of funding (85%) has been allocated to projects in Belfast and Derry/Londonderry. These projects could not continue without ongoing funding.

Outstanding Issues

- DCAL and the Arts Council have considered how Local Arts funding could be allocated in the future. There remain issues in regard to how funding will be disaggregated across local government whilst ensuring that existing/planned funding commitments are delivered.
- A policy paper has been developed and is currently out for consultation (until 10th March) with the Transitional Committees and other key stakeholders on the detailed arrangements for the transfer of funding. The Arts Council will then consult with the relevant local arts organisations between May and August 2010.
- Proposals will be finalised and Ministerial approval sought in September 2010.
- The Department and the Arts Council will then work with district councils to prepare for the transfer of the function in May 2011. The amount of funding to transfer is expected to be in the region of £1m based on the Arts Council's expenditure on local arts activity in 2009/10.
- It is proposed that funding will be allocated to councils on a per-capita basis with weightings for deprivation and an additional weighting for Belfast and Londonderry. This would ensure that funding for local arts could be disbursed more equitably across councils (currently 5 of the new council areas do not have any organisations in receipt of local arts funding from the Arts Council).

~~The DCAL Sub-Group raised concerns with regard to any future scrutiny role of the Arts Council over the activities of councils. Stated that DCAL should not sanction~~

the activities or plans of councils but rather provide advice and assistance as necessary.

Local Sports

Transferring Functions

- There is no transfer of function relating to local sports. It is recommended that local government would have greater involvement in the determination of local sports activity.
- Under the Active Communities Programme, the 11 councils will have direct responsibility for allocation of slightly over £3m per annum and within the framework of the set KPIs, local government has the autonomy to decide how to spend this money in response to identified local need. This programme advocates closer working relationships with councils and supports the community planning process.

Outstanding Issues

- It is the view of Sport NI that there is already effective engagement with local government through the Council Leisure Officers Association (CLOA) and they feel that they have exceeded their RPA commitment with the **Active Communities** programme
- The view of CLOA has been sought and they will provide a formal response after their meeting on the 19th February.

Local water recreation facilities

Context

- DCAL has permissive powers in the Water Order 1999 to provide Water Recreation facilities for public use. This function transferred to DCAL from DARD under the (Transfer and Assignment of Functions) Order (NI) 1999. DCAL also inherited certain responsibilities for abandoned navigations under the Inland Navigation Act (Northern Ireland) 1954.

Functions Transferring

- At present, there are 21 sites, of which eight are owned by the Department, nine are leased, and four are of no clear ownership. DCAL have indicated that in all three categories the sites will transfer, with legal advice indicating that the latter will transfer with “possessory title”.
- There are ongoing local negotiations to resolve any outstanding ownership issues.

- The 21 sites proposed to transfer include riverside walks and paths, car parks, slipways and canoe steps. These are currently maintained on DCAL's behalf by the Rivers Agency under a Service Level Agreement.

Resource Allocation

- No staff will transfer to local government with this function. The transfer of resources relates only to assets and associated maintenance budgets which is estimated at £52,000 per annum (approx).
- Consideration should be given to the potential integration of maintenance duties within the Councils own maintenance work teams.

Outstanding Issues

- Negotiations ongoing between DCAL and relevant councils regarding the transfer of responsibility for sites.
- Detailed mapping exercise currently being undertaken by DCAL on the locations of the 21 sites.
- The potential liability and insurance risks for local government was highlighted. Noted that DCAL currently self insure.

NEXT STEPS

1. There are a number of key issues which need to be considered further including the outcome of the options paper on the transfer of the Northern Ireland Museums Council; the feedback following consultation on the policy paper on how local arts funding will be administered in the future; and feedback from Council Leisure Officers Association (CLOA) on effective working relationships with SportsNI.
2. Clearly the local government sector will need to remain fully engaged in the process, reviewing the merging proposals on the above issues and in determining the best way forward.
3. It is recommended that this Group should continue to meet over the next few months to examine the outstanding issues and feedback to the Transfer of Functions Working Group any emerging recommendations for consideration.

Recommendation

1. It is recommended that the Transfer of Functions Working Group notes this current position.

JOHN BRIGGS

Chair of Culture Arts and Leisure Transfer of Functions Technical Sub Group
Date: Janaury 2010

DETI TECHNICAL SUB-GROUP

Interim Report to Transfer of Functions Working Group

DRAFT

Introduction

This report presents the current state of progress on the DETI Transfer of Functions package. It sets out:

Section 1

- the original suite of functions proposed for those under the DETI family incorporating local economic development (transfers from Invest NI) and local tourism (transfers from NITB)

Section 2

- A clear and refined description of the actual or specific activities transferring including financial resources activity and an analysis of issues and recommendations arising from of the DETI Transfer of Functions sub-group.

Section 3

- Recommendations from the DETI Transfer of Functions sub-group on how to move forward

Section 1

Proposed Functions Transferring (Minister Foster statement of 13 Mar 08)	Actual / Detail of Functions Transferring (ToF Sub-Group Oct 09)	Budget Transferring / Current Resource	Funding Commitment beyond 2011
ECONOMIC DEVELOPMENT			
Start a Business programme	Enterprise Development programme (formerly Start a Business programme)	£4,750,000	Secured up to March 2012
Enterprise Week		£195k over 3 years, plus £100k from DE up to 2011	Budget approval to November 2011.
Enterprise Shows	'Go For It' marketing campaign (in full) marketing element behind Enterprise Development programme	£1,200,00 p/a	Budget approval to March 2012
Youth Entrepreneurship such as Princes Trust & Shell Livewire	Disadvantaged Youth Entrepreneurship (formerly Princes Trust)	£600,000	TBC in terms of programme detail, budget and timescales.
	Advantage NI (formerly Shell Livewire)	£300,000	
Social Entrepreneurship	Social Entrepreneurship	£900,000	Budget approval to June 2012

Investing for Women	No specific programme – <i>subsumed into Enterprise Development programme</i>	0	No separate budget – <i>subsumed into Enterprise Development Programme</i>
Neighbourhood Renewal Funding relating to Enterprise Initiatives	No specific programme – <i>subsumed into Enterprise Development programme</i> Ringfenced inside EDP contract ie neighbourhood renewal targets	0	No separate budget – <i>subsumed into Enterprise Development Programme</i>
TOURISM			
Small scale tourist accommodation	No specific programme – but one-off funding allocation transferring	£330,000	No specific programme – annual funding allocation transferring
Local tourism marketing Local tourism product development Visitor Servicing Providing business support including business start-up advice along with training & delivery of customer care schemes Providing advice to developers on tourism policies & related procedures	No specific programmes : one-off funding allocation transferring	£1,000,000	No specific programme – annual funding allocation transferring

Section 2

1. Enterprise Development Programme – (formerly Start a Business / Small Business Programme)

A new contract for delivery commenced in January 2009 for two years and three months until March 2011.

There is a break clause which permits termination of the contact or any part of the services by giving three months written notice. There is the potential for a further two one year extensions from 2011 which means the contract could be extended up to 2013. Funding has been approved up to March 2012 only. KPMG are the overall monitoring agent with a contract for all five INI regions. Invest NI issued a single letter with five separate contracts to Enterprise NI for delivery.

ISSUE

Each Council will have to decide how to deliver the EDP beyond March 2011. This will mean the EDP budget will have to be capable of being split across 11 Council areas. A method of distribution will have to be determined. Councils may collectively decide to share resources and deliver this together. In either event it is considered necessary to have a regional coordination mechanism.

Such a mechanism could potentially be provided via Invest NI assisting 11 Councils through a Local Area Agreement / SLA type approach as part of the wider Community Plan. Invest NI have indicated they are willing to undertake coordination if requested for 2011/12 year as part of the transition process. Decision will have to be made in context of the 'Options for Service Delivery' / PWC report. Assuming a budget for EDP beyond 2012 is secured, there is an option of renewing contract of Enterprise NI for a further year from 2012 subject to performance.

Prior to the instigation of the Independent Review of Economic Policy (Barnett Review) in December 2008, DETI had commenced the preparation of a NI Enterprise Strategy. The overall output was intended to be an enterprise pipeline of support with clear areas of responsibility and focus assigned to create a co-ordinated approach to enterprise development.

Work on the NI Enterprise Strategy was put on hold pending the outcome of the Barnett Review. The Barnett Review has called for the creation of a new regional economic strategy. It is unclear at this stage how this will impact on the proposed NI Enterprise Strategy.

RECOMMENDATION

Transitional Councils permit the contract for the Enterprise Development Programme to continue through the break clause at 2011 and agree in advance a one year extension from April 2011 to 2012.

2. Go For It Campaign

Invest Northern Ireland currently deliver a centralised marketing campaign known as Go For It - this will transfer in full to Councils. Go for it is the marketing operation behind the Enterprise Development Programme and consists of a centralised above the line marketing campaign utilising various media channels (including TV, Radio, Press and online channels) to ensure regional media coverage. The campaign budget for promotion of the Go for it - Start up campaign is approximately £800,000 per annum.

In addition to the centralised campaign delivered by Invest Northern Ireland, Enterprise Northern Ireland co-ordinate a below the line regional marketing campaign utilising the Local Delivery Agents which address the local market conditions, delivering broad messages about entrepreneurship and starting a business across NI. The regional marketing budget is included in the Enterprise Development Programme Budget line illustrated in point 1 and is approximately £500,000 per annum.

The EDP advertising requirements were delivered under contract by the Leith Agency. The contract which commenced in June 2009 for an initial period of two years was mutually terminated in December 2009. Invest NI are currently working with CPD to put in place a tender competition for a new supplier to deliver the EDP advertising and design requirements. Invest NI believe the new contract will be in place by April 2010 for an initial period of 12 months, with the possible extension for a further 12 months to March 2012. In line with the recommendation below Invest NI can add a further 3 month extension to ensure the period up until and including June 2012 is covered by any new contract.

In addition to the EDP Advertising contract a contract is currently in place with Message Pad, Holywood, County Down. The Business case for the approval of the call centre contract is for £25,000 per annum. The contract was awarded on 29 August 2009 and the new supplier took up the contract from 13 September 2009 for a period of one year, with the option to extend for 6 months until March 2011, and then an option to extend for a further 12 months until March 2012.

ISSUE

Whilst it would be possible to split delivery of the **sub**-regional campaign activity across 11 Councils (£0.5m), there may remain a need for a regional campaign to ensure best value is achieved through TV media. Options for delivery of the regional campaign include Councils contracting with one lead Council, Invest NI or another organisation to manage the regional campaign.

RECOMMENDATION

Recommend a regional marketing campaign continues up to June 2011 until current contract expires. Councils collectively should consider approving one year extension to June 2012 to allow evaluation of approach and consideration of future options for delivery (*is funding in place to June 2011 or 2012?*)

Subject to project availability, from June 2012 Councils should approve a regional marketing campaign and agree an appropriate mechanism such as a lead Council to coordinate and deliver this on behalf of Councils. Sub-regional marketing should be delivered by each Council as an additional conduit to meet local needs.

3. ENTERPRISE WEEK

Activity under this heading has changed significantly over the last year with the introduction of a Northern Ireland aspect to the Make Your Mark Challenge and Clubs. This offers NI the opportunity to be part of a worldwide celebration of enterprise with the added benefits of:

- Using the marketing and programme materials developed by Enterprise Insight. This represents a considerable resource saving on an annual basis; and
- Benefitting from the accumulated learnings from Enterprise Insight, the Welsh Assembly and Scottish Enterprise who have run the Make Your Mark Challenge over a number of years. This will ensure that many of the risks that might occur in a 'Pilot' project are mitigated.

The target audience for this programme is 14-19 years old. A phased rollout of a NI Make Your Mark Challenge and Clubs project is underway with a Memorandum of Understanding with Enterprise Insight (UK initiative) in place for three years from 2009 – 2011.

£195k has been committed by Invest NI over three years along with £100k from the Department of Education for the first two years.

ISSUE

Given the nature of the MoU, it may be necessary to continue with delivery of this initiative at a regional level. Councils will need to agree an appropriate regional coordination mechanism.

RECOMMENDATION

To be confirmed.

4. Start-up Shows / Sponsorship Events

No longer a separate budget or activity as this has been subsumed into the Go For It campaign.

5. Youth Entrepreneurship (Princes Trust)

6. Disadvantaged Youth Entrepreneurship (Advantage NI)

Advantage NI – contract expires in March 2010.

Princes Trust contract expires in March 2010.

Invest NI has commissioned Cogent Management Consulting LLP ('Cogent') to conduct an Economic Appraisal of a proposed New Youth Entrepreneurship Programme encompassing a disadvantaged youth element, which would complement and add value to the enterprise support that is provided under EDP.

Whilst a budget has not been established (pre-appraisal) for the delivery of the proposed programme, it is anticipated by Invest NI that the total budget would be substantially less than the combined budgets for the two existing programmes. Furthermore, given planned changes relating to Local Government's responsibility in a number of areas of economic development, it is anticipated that funding for a New YEP would only be sought for a maximum of a 3-year period.

Should a basis for a future programme emerge from the appraisal work, this will require a formal casework submission and DETI / DFP and Ministerial approval and a tender procedure.

Specific clauses around duration and management will be drafted by Invest NI in consultation with Councils over the next few months. The new programme will be suitable for local shaping to act as conduit to engage this age-group (16-25 years old) to the wider EDP programme.

ISSUE

May be difficult to find provider to accept just one year of guaranteed business pending new Councils in May 2011.

RECOMMENDATION

To be confirmed

7. Investing in Women

No separate budget or programme

8. Social Economy

Social Entrepreneurship programme will transfer to Councils.

Contract awarded to Enterprise NI from April 2009 to March 2010 with the option to extend for a further two one-year extensions.

ISSUE

Presently a single contract but could be split into 11 post 2011. Could also be amalgamated with Enterprise Development Programme.

RECOMMENDATION

To be confirmed

9. Neighbourhood Renewal

No separate budget or programme

10. Smaller-scale Tourist Accommodation

Responsibility will transfer to Councils with a token budget. Recently no funds are committed to this as the original scheme was funded by International Fund for Ireland, which has now been exhausted. The Barnett Review, recommends that responsibility for financial support for all tourism accommodation projects should transfer to another suitable body.

Budget Transferring

The total budget proposed for transfer is £9.465m, this is made up of £8.065m per annum for the local economic development activity (Invest NI programmes) and £1.4m for the local tourism activity (NITB and Invest NI). It should be noted that identified programmes are subject to regular evaluation and economic appraisal which may result in changes being made to the activities (and associated budgets) which are currently identified for transfer.

The original budget proposed for LED transfer was £10.1m which was made up of £5.7m Invest NI baseline and £4.4m EU funding. The £8.065m now proposed has the advantage of being entirely baseline. Included within this sum is £1m of ERDF funding for the 'Go For It' campaign which may disappear under future funding, thus reducing the transferring baseline budget to £7.065m. This sum has the potential to be used for match funding drawdown of ERDF.

ISSUE

DETI and Invest NI have a robust approach to policy and programme evaluation and programmes are regularly reviewed to ensure they are still meeting identified need. Since the RPA decisions were announced in March 2008 some changes have been made to the programmes originally announced to transfer and these have been reflected in this paper. There remains a possibility that some of the identified transferring programmes may be further amended as the transfer date approaches.

RECOMMENDATION

Representatives of the local government side should be involved in the evaluation of relevant programmes and should be consulted as decisions are made which may impact on those activities which are to transfer.

ISSUE

Future matching funding may be able to be secured for elements of the Invest NI programmes transferring against £7.065m.

RECOMMENDATION

Provision will have to be made by DETI / INI for Councils to access and draw-down EU budget for such activities. This could be facilitated by having a specific 'budget line' created in the NI block of future EU funding programmes.

Section 3

Issues of Significance beyond DETI Sub-Group

The preceding sections have identified a range of issues which are specific to those activities which will transfer from DETI's agencies (Invest NI and NITB) to local government in May 2011.

During discussions of the Task & Finish Group, a number of wider outstanding issues have been identified. Reaching conclusions on these issues are out-with the remit of the Task & Finish Group but whatever decisions are reached will have an impact on a number of the specific outcomes/recommendations identified previously. It is likely that the issues identified below will also be relevant to the final conclusions of other Task & Finish Groups.

1. Regional Coordination Mechanism

Several of the programmes transferring would merit some form of regional coordination. Options considered include selection of a lead Council, a consortium approach or establishing a Service Level Agreement with a third party organisation such as Invest NI whom have indicated that they would be willing to undertake a degree of coordination in the initial period should Councils request them to do so. Obviously this issue has to be considered within the generic debate on-going on the most appropriate mechanism for regional coordination of services where applicable.

2. Financial Transfer Mechanism

Consideration has been given to the most suitable mechanism for the transfer of monies from Central Government or agencies to Councils under the RPA implementation. Whilst the DETI sub-group is aware that this issue is being considered generically, it wishes to highlight the need for an early resolution as the final decision taken will have an impact on how exactly the LED and Tourism activities will transfer. Following an analysis of options, the local government representatives have expressed a preference for monies to be transferred through the 'rate' mechanism as this would aid more flexibility in delivery. Practically speaking, it is likely to be necessary to use the 'grant' mechanism in initial years as it may be less complex to administer.

A decision needs to be taken with respect to how changes as a result of the current budgetary pressures are dealt with. It may be that the resources originally identified for transfer in 2007 and agreed in 2008, may be reduced as a result of CSR as we approach the 2011 transfer date.

Resources devoted to particular activities/programmes/functions may also change as the result of completed evaluations and changing Economic Development Priorities. Agreement is required regarding how agreed (prior to transfer) changes to identified activities should be handled. The issue of how the transferring resources are to be divided between the 11 new councils also needs to be addressed.

3. Budget Security beyond 2011

The DETI Sub-group is conscious that limited funding exists within Central Government budgets beyond 2011. The CSR 2011 process in its early stages and will determine budget allocations for transferring programmes. The table submitted as part of this report has identified the status of budgets. It will be important for Councils to be able to work in partnership with Central Government on implementing the CSR process so that adequate budgets continue to transfer in future years in parallel with the transferring responsibilities.

4. European / Match Funding potential

Contained within the INI programmes transferring is the sum of £1m ERDF which presently forms part of the 'Go for It' programme. Given the revision of EU programmes, this sum cannot be guaranteed beyond 2011. The baseline of £7.065m is the total core budget for all the LED programmes transferring. Since this is 'core' budget, there is the potential for this to be used to attract other match funding through leverage of other funds including European sources. It is possible the £1.4m Tourism transfer may also attract European match funding. However, in order for this to be a meaningful possibility, consideration should be given as to ringfencing of appropriate monies in future European programmes agreed at NI / DFP level to permit subsequent bidding by Councils for additional resources.

5. Future Economic Strategy / Enterprise Policy

The policy background of economic development is undergoing significant change at present, which has implications for the future form and extent of programme design and delivery. The proposed NI Enterprise Strategy was put on hold pending the outcome of the Barnett Review. While the DETI Minister has endorsed the need for a new Regional Economic Strategy to be developed by a newly established Executive sub-group, this proposal is now being considered by the full Executive. Regardless of the outcome of the Executive's deliberations, the need for some kind of 'Local Economic Development Framework' through which the responsibilities of local and central government post RPA can be clearly defined is needed. Such a framework will need to complement the new Community Planning powers of councils and take account of the role of other stakeholders such as the Local Enterprise Agencies whose future role will be shaped by the ongoing review of the Local Enterprise Agency network.

6. Tourism

Whilst some engagement ensued in the early period between NITB and the Transfer of Functions Sub-group, progress has been slow. Detailed debate was put on hold in the context of the work being taken forward by DETI and NITB on the creation of a new Tourism Strategy for Northern Ireland. Once the new Tourism Strategy is sufficiently progressed, the Task and Finish sub-group will seek to re-engage with NITB and DETI on tourism aspects of transfer and the implications of the new Strategy for the new councils.

DRAFT

RPA Transfer of Functions Discussions

Malone House

19th November 2009**Workshop Report****In attendance**

Gerry Millar	Belfast City Council
Sharon McNicholl	Belfast City Council
Emer Husbands	Belfast City Council
Kevin Heaney	Belfast City Council

Jackie Johnson	DSD
Elaine Wilkinson	DSD
Neil Dunlop	DoE: Planning
Tom McCourt	DRD: Roads Service

1. Background

The purpose of the workshop was to:

- i. establish a shared understanding of the functions proposed to Transfer to Belfast City Council
- ii. examine the current governance and support structures in place for the proposed transferring functions
- iii. identify those key transfer issues which need to be addressed and agree a process for how they could be effectively taken forward
- iv. agree key actions and next steps to ensure that the necessary momentum is maintained

Each stakeholder gave a presentation (copies attached at Annex 1) setting out a brief overview of their role and remit, organisational structures and highlighting any issues which they felt needed to be addressed in moving forward with the proposed transfer of functions to the Council

2. Belfast City Council Overview

- G. Millar provided an overview of the current challenges facing the Council in terms of the current financial pressures (both internal and external) facing the organisation and moving forward with the RPA process and the current uncertainties which are inherent in the process.
- Explained that the Council are going through a process of rightsizing and restructuring to ensure that it can drive out additional efficiencies which can sustain improvements in front-line service provision.

- Provided an overview of the current organisational structure and political governance arrangements in place within the Council and the respective roles of the Council, Standing Committees and Departments.

- Stated that the Council is eager to work with the transferring function departments to ensure the most efficient and effective transfer of functions and maximise possible synergies which can be achieved through this process. He explained that there are a number of common principles which we should all seek to achieve as part of the process e.g.
 - **Providing strong local government** with service performance and costs of delivery in line with national best practice;
 - **Adding value for citizens** with increased citizen confidence and increased participation in local democracy;
 - **Attracting developing and retaining high quality and dedicated staff** with increased satisfaction levels and reduced staff turnover;
 - **Providing service excellence** with increased citizen satisfaction with services and value for money;
 - **Providing value for money** with minimum rate increases and decreased costs.

- Explained that over recent years the Council has introduced a new corporate planning process and performance management system which underpins how services are delivered by the Council.

- Through the Value Creation Map process the Council seeks to maximise the added value it brings within the city and to improving the quality of life for citizens. It provides a framework which encourages greater integration across the organisation to deliver common priorities and goals.

- Through the corporate planning work, it has become clear that the strategic direction of the organisation has changed from predominantly functional service delivery to one whereby the Council now organises itself more effectively to work on a thematic basis to address issues such as safety, health improvement and wellbeing etc, as well as at a local (area-based) level.

- This means planning and allocating resources in new ways and has consequences in terms of how Members hold officers to account for delivery. It will require greater integration across the organisation.

- In terms of moving forward, the following were identified as key issues which need to be progressed:
 - **Transfer** - in terms of functions, budgets, people and assets?

- **Resources** – sustainability of funding (e.g. CSR, income based)
- **People** – process through which staff will transfer?
- **Assets/Accommodation** – identification of the accommodation requirements
- **Capacity Building** – for Members and officers crucial e.g. joint training
- **Alignment & Prioritisation** – of policies, strategies and programmes – need to manage expectations as we cannot afford to over-promise and under-deliver
- **Corporate Support Systems** – what systems, processes & procedures
- **Commitments** – we can only effectively plan if we know what commitments are in place e.g. current or planned capital/revenue
- **Brigading of services** - how will transferring functions be assimilated within the council?

3. Belfast Regeneration Office

- Elaine Wilkinson provided an overview of the current structural and governance arrangements of the organisation (refer to Annex 1)
- Explained that there are 5 Deputy Directors (Grade 7) in place overseeing a 1) Physical Development Branch; 2) 3 Area-based Teams (i.e. West, South & East Team, North and Greater Shankill Team); and 3) a Business Support Unit.
- The **Physical Development Branch** (lead by Mark O'Donnell) oversees the major projects and regeneration schemes. Also responsible for the Urban Development Grants, Environmental Improvements schemes and would oversee the development of Masterplans and Strategic Regeneration Frameworks.
- DSD has recently established an interim 'Service Delivery Model Project Team' which is examining the lessons learnt through the Neighbourhood Renewal programme and the legacy of NR projects. Seeking to identify best practice in regard to impact and outcomes. This will inform the future prioritisation of projects and allocation of funding which is particularly important within the current financial climate and the uncertainty with regard to the CSR funding process.
- Suggested that consideration should be given to the feasibility and potential benefits of establishing a centre of excellence within Belfast City Council around programme/project management.
- Each of the **Area-Based Teams** has a designated neighbourhood renewal officer. They would be responsible for developing smaller

scale projects and capital schemes which are transferred over to the Physical Development branch when they are of a certain scale.

- Noted that funding for Neighbourhood Renewal is issued by the Department on a grant basis.
- DSD would be keen to work more collaboratively with other statutory service providers and maximise any potential for joint projects.
- Noted that under the current recommendations put forward by the independent boundary commissioners with regard to the new Belfast City Council boundary two additional neighbourhood renewal areas will come into Belfast i.e. Colin Glenn (West Belfast) and Tullycarnet (East Belfast). This will bring the total of DSD designated neighbourhood renewal areas within Belfast to 15.
- Noted that DSD is currently reviewing its strategy and policy framework for urban regeneration and community development being transferred. This may have potential implications for the future allocation and prioritising of funding.
- Noted that the future of the Belfast Area Partnership Boards is currently under review by the Department. Contract was extended by 8 months to March 2011 with reviews at 6 month intervals.
- Noted that a review of community and partnership structures will need to be undertaken within the context of any future developments with Community Planning.
- The **Business Support Unit** provides the necessary oversight and administrative support across all the programme areas delivered by the department. Provides the necessary checks and balances in terms of due process.
- Noted that under the current accounting arrangements within central government a large range of support services and accommodation costs are funded administered centrally. Standard corporate support functions such as HR and ICT are provided centrally through HR Direct and IT Assist. How such costs are paid for in the future needs to be examined further within the context of transfer of functions.
- The status of offices currently used to house those DSD staff who will transfer will need to be determined.
- Noted that consideration will need to be given to the realignment of resources within each organisation to support the implementation of the project plan and key actions contained therein.
- Working on the premise that no additional resources would be made available to support the transfer of functions process but rather, capacity would be made available through the realignment/refocusing of existing resources.

Staff Transfer

- Whilst no final decision has been taken in regard to conditions on which civil service staff will transfer to local government, consideration will need to be given to how salaries are processed and whether or not councils will need access to HR Direct.
- Working on the current assumption that the majority of DSD staff will transfer to councils.
- **Key issues** which need to be progressed as part of the project plan include the transfer of: people, money, accommodation, assets and possible project/programme commitments.

4. Belfast City Centre Regeneration Directorate

- Jackie Johnson outlined the organisation structure for the Belfast City Centre Regeneration Directorate (BCCRD).
- Set out the policy context which underpins the work of the BCCRD and highlighted the fact that the Regional Development Strategy acknowledged the regional significance of Belfast City Centre as a key economic driver for the region.
- BCCRD was established to drive forward the regeneration of Belfast City Centre. In 2004 the Belfast City Centre Regeneration Policy was published which was originally a 10year strategy.
- Noted that almost 50-60% of the strategy has been completed to date, however, the remaining elements are likely to extend the strategy to a 15-20year period.
- Explained that there are 4 Directorates dealing with the key strands of work of BCCRD e.g:
 - Royal Exchange
 - Belfast Streets Ahead, City Centre Promotion and Nomadic
 - City Centre Policy, Masterplanning
 - Laganside and Cathedral Quarter
- Group was informed that the Department is nearing signing a development agreement for Royal Exchange which will mirror somewhat the approach adopted for the Victoria Square development. Noted that there was 15 staff had been designated to working on the Victoria Square project when at its peak.
- Highlighted the fact that BCCRD also have the ability to commit capital seed funding to pump-prime additional investment within the City Centre.

City Centre Planning/Master planning

- DSD has adopted a sequential/phasing approach to taking forward regeneration activity within the city centre.
- Whilst the majority of master planning work is nearing completion, there is a need for focused work for the South East Quarter of the City Centre.
- Consideration will need to be given to the transition process for projects/schemes which bridge the 2011 proposed transfer date. The early engagement of the Council in the developmental stages of such schemes would support a more efficient and effective handover and strengthen the sustainability of such projects.

Capital schemes / regeneration projects

- In terms of the transition process, consideration will need to be given to the process to be put in place to effectively manage the assignment of agreements/ contracts to successor organisations and the assignment of agreements/ contracts to Councils where boundary changes mean that the future council custodian of a project changes.

Asset Transfer

- Detailed consideration will need to be given to the process to be put in place to enable the migration of asset registers and necessary supporting information.

Laganside Estate

- It is the intention that all commercial contracts in relation to the Laganside Estate (approx. 12) will be handed over to the Council.
- The Laganside Estate comprises of Lagan, Cathedral Quarter, Queens Quay, with an annual budget of £4million approximately.
- Noted that a master planning exercise is underway in relation to the Queens Quay and a bridges strategy is being developed for the lagan.

5. DoE Planning Service – Belfast Divisional Planning Office

- Neil Dunlop provided an overview of the current structural and governance arrangements for the Belfast Divisional Planning Office.
- Noted that the Divisional Office currently covers three district council areas including Belfast, Castlereagh, and Newtownabbey.
- Noted that there are two planning teams focusing primarily on Belfast i.e. South & East Team (lead by Paul Montgomery) and North & West Team (lead by David Dowey). There is also an enforcement team (lead by Susan Wilkin) which has responsibility for the Belfast area.

- Noted that there was a recent reorganisation of the Divisional Officers with the centralisation of the Strategic Planning Directorate (including BMAP Team). Consideration is being given to the consolidation of the relevant parts of this Directorate back into the Divisional Officers pre-transfer.

Functions

- The following functions are proposed to transfer to local government:
 - local development planning, which replaces the current Area Plan arrangements;
 - development management (formerly known as development control) and
 - enforcement.

Other responsibilities will include:

- conservation area designation / consents.;
- temporary listing of buildings, including non-statutory local listing and control of demolition or works to listed buildings (following consultation with the Department);
- dealing with hazardous substances consent; reviewing old minerals permissions; control of advertisements; tree preservation orders; issuing completion notices; preparing simplified planning zone schemes;
- revoking, modifying or discontinuing planning permissions and consents;
- compensation liabilities arising from district council planning functions;
- responding to purchase and blight notices; issuing certificates of alternative development value; and
- maintaining a register of applications, consents, notices, certificates etc.

Following the transfer of powers to local government, the Department will retain responsibility for:-

- planning policy and guidance;
- planning legislation;
- processing regionally significant planning applications;
- fee setting and the power to make grants;
- applications for Crown or other development where national security issues are raised or urgent works are necessary;
- performance management / monitoring; and
- oversight.

Staff and Support

- Working on the assumption that the majority of professional staff will transfer to councils. Further consideration will need to be given to

the transfer arrangements to be put in place for business support and administration staff and the conditions on which they would transfer.

- Under the current structure there are approximately 50-60 staff dealing with Belfast planning related work.
- There are 20 additional administrative and support staff based in the Belfast Divisional Office, however, they also provide support to Castlereagh and Newtownabbey.
- Many of the corporate support functions are split across four tiers within DoE Planning Service e.g:-
 1. **Within Divisional Office** - Registry, Finance, Processing, Correspondence
 2. **From HQ** - Professional Guidance, Audit, Communications, IT systems
 3. **From DoE** - Press Office, HR
 4. **From NICS** - IT Assist, HRConnect, AccountNI,

Resources

- Traditionally the Planning Service was a self-financed primarily through planning application fees. However, it should be noted that fee income has dropped over the recent period to reflect the economic downturn. This has placed a resource constraint (funding deficit) on Planning Service and must be factored into the transfer.

Governance

- Consideration will need to be given to the necessary governance (including legal considerations) which need to be put in place within councils to deliver the planning function. Consideration will also need to be given to the potential impact on schemes of delegation.

Estates/Location Issues

- Key issues here include the location of the planning functions on day one, integration with council premises, cost issues around total on-costs.

IT Systems Issues

- Planning Service is presently in late testing stages of the e-PIC project, which will be implemented in 2010/11. Consideration will need to be given to how the system will be integrated with new council systems. In terms of Management Information Systems, further consideration needs to be given to the interface between Local Government and the retained planning function in the centre in terms of sharing relevant information.

- Planning is a core element of the NI Direct initiative and, at present, local government is not part of this.

Capacity Building

- This will be an ongoing process which has already started through PS partnership with RTPI in recent events. Two strand approach – need roll out internal PS training in preparation for the planning reforms, while working closely with the local government sector (e.g. Transition Committees, Transition Management Teams, NILGA, SOLACE etc) to ensure a programme of capacity building and awareness is carried out. The timing of elected member capacity building must consider the expected turnover of member at election and through member severance if taken forward.

7. DRD Road Service

- Tom McCourt set out the policy and strategic context underpinning the work of the Roads Service including the Regional Development Strategy 2025 and Regional Transportation Strategy 2012. He explained that the Belfast Metropolitan Transport Plan 2015 covers Belfast.

Transferring Functions

The following functions are to transfer to local government:

1. Off Street Car Parking

- Responsibility for the management and ownership of these assets are to transfer to local government.

2. On Street Parking

- This includes Residents Parking Zones – these Zones will be approved by DRD and enforced by Councils via the NSL contract
- Policy responsibility for deciding on-street parking regulations will remain with DRD.

3. Car Parking Enforcement

- Enforcement activity is currently managed through contracts with NSL and SPUR (IT support).
- Both contracts are due to expire in October 2010 but there is an option to extend (+1year +1year)
- Local Government sector need to decide how it wishes to progress this contract or the commencement of a new procurement process. This issue is being considered by the RPA

Transfer of Functions Working Group and will be decided by the Strategic Leadership Board.

4. Pedestrian Permits

- Policy Guidelines relating to the authorisation of pedestrian permits will transfer to Local Government and can be altered at a local level subject to observation of the due legislative process
- Enforcement of unauthorised stationary vehicles in pedestrian zones is currently handled as part of the existing NSL Enforcement Contract

5. Local Events on Roads

- Responsibility for permitting local events on roads and taking necessary actions to enable this e.g. temporary closure of a local road

6. Alley Gating

- This facility is only applicable to adopted alleys but Councils may receive applications for non adopted alleys
- This is primarily a Belfast issue but there are some in Londonderry & elsewhere in the Province
- The organisation of the scheme & associated costs are borne by the promoter in the community
- DRD currently has limited input – approval & issue of Traffic Regulation Order – but will still need to be consulted and will have final say

7. Influencing Model

- The DRD Minister has given a commitment that “local government will have formal and direct input into the local roads decision making process”.
- Work is currently underway between officials from local and central government to develop a model that best achieves this e.g.
 - **Capital:** Councils will influence capital expenditure on local roads and local transport and safety measures (e.g. Collision Remedial, Cycle Lanes, and Traffic Calming etc.)
 - **Maintenance:** RS will retain / enhance our contacts and negotiations on maintenance expenditure with Councils as at present. However, councils will not formally influence the maintenance programmes for local roads, which will be based on engineering decisions.
- The future relationship between the Roads Service and Councils needs to be considered within the context of the emerging

community planning process and the linkage between local community plans and wider area based spatial development plans.

- **Key issues** which need still need to be addressed in terms of the transfer of functions to local government is how the resources are to be disaggregated and the issue of cross-subsidisation is dealt with.

Next Steps

- Accepted that we cannot do everything at once.
- Need to jointly plan the way forward (route map) which sets out the key actions which need to be addressed.
- Consideration will need to be given to the realignment of resources & capacity within each organisation to support the implementation of the agreed joint project plan and key actions contained therein.
- Noted that the project plan needs to identify and prioritise those issues which can be progressed and those which cannot at this stage e.g. confirmation of future funding.

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Belfast City Council

Report to:	Strategic Policy and Resources (Transition) Committee
Subject:	Consultation on the Clean Neighbourhoods and Environment Bill; & Regeneration and Housing Bill
Date:	15 th April 2010
Reporting Officer:	Ciaran Quigley, Director of Legal Services
Contact Officer:	John Walsh (Ext. 6042) Kevin Heaney (Ext. 6202)

1.0	<u>Relevant Background Information</u>
1.1	Members will be aware that there remains uncertainty on whether or not the Review of Public Administration local government reform will progress as currently planned for 2011 with the establishment of 11 new larger councils and the transfer of functions. There remain a number of key outstanding decisions (e.g. local government boundaries, agreement on how the reform programme will be financed), which will impact upon the delivery of the RPA programme.
1.2	Notwithstanding, there has been two significant legislation Bills recently submitted into the Committee Stages within the NI Assembly and issued for public consultation. These include: <ol style="list-style-type: none"> 1. Clean Neighbourhoods and Environment (Northern Ireland) Bill; and 2. Regeneration and Housing Bill Both Bills are intended to confer additional statutory powers to local government; enabling councils to deliver more integrated and responsive services at the local level and improve the quality of life of citizens.
2.0	<u>Key Issues</u>
2.1	<i>Clean Neighbourhoods and Environment (Northern Ireland) Bill</i>
2.1.1	On 1 st March 2010, the Department of the Environment released the draft Bill for consultation, with comments sought by 23 rd April 2010. The Bill seeks to broaden the regulatory powers of local government to enable councils to manage and improve their local environments and enable simpler enforcement action to be undertaken.
2.1.2	The Bill seeks to bring forward corresponding provisions already in place within England and Scotland enabling local councils to: <ul style="list-style-type: none"> ▪ create revised powers to deal with nuisance alleyways; ▪ deal more effectively with the problem of nuisance vehicles by allowing district councils to remove them immediately; ▪ provide a range of new and extended powers to enable more effective control over the problems of litter, free distribution of printed materials and abandoned shopping trolleys; ▪ provide a range of new and extended powers to enable more effective control over the problems of graffiti and fly-posting; ▪ provide a range of new and extended powers in regard to dog control;

	<ul style="list-style-type: none"> ▪ provide more flexible powers for dealing with noisy neighbours, night-time noise from licensed premises and nuisance intruder alarms; ▪ update the legislation on statutory nuisance; and ▪ ensure greater flexibility at the local level for the use of fixed penalty notices.
2.1.3	Members will note that a detailed response, which strongly welcomes the new powers proposed under the Bill, albeit with the caveat that there will be potential resource implications, is being considered by the Health and Environmental Services Committee (a copy of which can be made available to Members on request). This Bill has been brought to the attention of the Strategic Policy and Resources Committee within the context of the RPA and the potential future service and financial implications associated with the proposed extension to the Council's statutory powers.
2.2	Regeneration and Housing Bill
2.2.1	The Minister for Social Development, Margaret Ritchie MLA, has recently launched for public consultation a draft Regeneration and Housing Bill (copy of which is attached at Annex 1) which sets out enabling legislation for the transfer to councils of some regeneration and housing related functions under the RPA. The closing date for the consultation is 26th April 2010.
2.2.2	The draft Bill puts forward policy proposals for the transfer of three areas of operational delivery from the Department of Social Development (DSD) and four from the Northern Ireland Housing Executive (NIHE) in May 2011.
2.2.3	<p>The three DSD related functions include:</p> <ul style="list-style-type: none"> ▪ Working in tackling urban deprivation; primarily the Neighbourhood Renewal Programme; ▪ Operational delivery of physical development projects under town and city environmental regeneration including; comprehensive development, public realm and environmental improvement; and ▪ Local community development support. <p>The four NIHE related functions include:</p> <ul style="list-style-type: none"> ▪ Houses in multiple occupation; ▪ Housing unfitness; ▪ The Living Over the Shops (LOTS) initiative; and ▪ Local energy conservation.
2.2.4	<p>The draft Bill seeks to enable Councils to:</p> <ul style="list-style-type: none"> ▪ address disadvantage and undertake community development ▪ provide financial assistance to address social need ▪ prepare and adopt 'statutory development schemes' ▪ develop land for planning purposes ▪ undertake environmental improvements and public realm schemes ▪ define and take forward a range of regeneration projects in their districts ▪ undertake certain statutory housing responsibilities

2.2.5	<p>Laganside Legacy</p> <p>Members will note that the Bill also makes specific provisions for the transfer of the former Laganside Corporation's legacy of assets, liabilities and development agreements to Belfast City Council.</p>
2.2.6	<p>Clearly this is a very important piece of legislation which has the potential to impact upon the future role and functionality of the Council. It represents the first real positive step in enabling the transfer of additional functions to councils and in creating strong and responsive local government. The proposals will enhance local government service delivery and the ability of the Council to make a real and lasting difference at the local level and, therefore, should be strongly welcomed.</p>
2.2.7	<p>However, there are issues of detail which are still to be worked out when the associated regulations and potential transfer schemes are drafted. The Council will strongly advocate the need for intensive dialogue and engagement with the Department in relation to the development of the detail as to how the Bill will be implemented and the content of any associated subordinate legislation.</p>
2.2.8	<p>Members will note that there has been initial engagement between DSD and Council officials to establish the emerging departmental position in regards to the specific detail of the transfer of functions and associated resources to Belfast. An update on such discussions is set out within the accompanying RPA Transfer of Functions report to be considered by the Committee.</p>
2.2.9	<p>While a detailed draft Council response is attached at Annex 2 for Members' consideration, there are a number of overarching strategic issues which Members should be made aware of. These include:</p> <ol style="list-style-type: none"> 1) Legislative Process: The Council is conscious that much of the detail around the outworking of this legislation will be set out within the subsequent regulations of which there is no detail at the moment. The Council would reiterate the need for the Department to consult with all interested parties in the drafting phase of any secondary legislation related to the draft Bill. <p>Due consideration will also need to be given to the inter-relationship between this Bill (and its component parts) and other RPA related legislation (e.g. Local Government Reorganisation Bill) and their component parts e.g. transfer schemes.</p> <ol style="list-style-type: none"> 2) Degree of central control/oversight: While the Council would accept the role of the Department and Minister in setting the regional policy framework within which the functions will be administered, local government should be afforded the necessary autonomy and flexibility to deliver local and innovative development schemes. 3) Regional Significance: Given the role of Belfast in the regional economy, it could be considered that any significant developments within the city are likely to have regional implications with the result that the proposals could be taken out of the Council's remit and retained by the Department under the current provisions. Clarity has been sought on this issue. 4) Transfer of Assets and Liabilities: The Council would be concerned that provisions exist within the Bill which enable the Department to make regulations specifying exemptions to the transfer of assets and liabilities to councils in relation to both development schemes and Laganside. This could have significant financial implications for the Council if the Department were to transfer high-cost liabilities, yet retain high value assets.

- 5) **Resources:** In advance of any transfer of functions there needs to be a full due diligence assessment undertaken to ensure that the level of resources are adequate to provide the council with the capacity to deliver the functions effectively.
- 6) **Laganside:** The Council would have concerns about the ability of the Department (within the provisions of the Bill) to exempt a number of undeveloped sites from statutory transfer and instead transfer them on a non-statutory basis to the Council with specific conditions attached. Clarification is needed as to the Department's intentions in regard to this issue and the basis of any conditions attached to transfer. Again, the Council would advocate the need to be consulted with at an early stage.

3.0 Resource Implications

There are potentially significant resource implications for the Council resulting from the outworking of the Bill and the associated potential transfer of new functions to the Council in the future. At this stage, the resource implications are unknown; however, further detailed work will be required, working with the Department to examine any resource implications for the Council.

4.0 Recommendations

Members are asked to:

- i) note the contents of this report and, in particular, the draft composite corporate response attached at Annex 2; and
- ii) agree that the response (incorporating any revisions made by Committee) be submitted to the DoE, subject to ratification of the Committee's decision by Council

5.0 Decision Tracking

Following Committee approval, the Director of Legal Services will submit the Council's response to the DoE, subject to full Council approval.

6.0 Appendices

Annex 1: Draft Regeneration and Housing Bill and Explanatory Memorandum

Annex 2: Draft BCC response to Regeneration and Housing Bill



The Draft Regeneration and Housing Bill

Consultation Document

(March) 2010

Proposal for a Regeneration and Housing Bill

This consultation document seeks views on the Department's proposals for a Regeneration and Housing Bill

Comments should be sent by (26 April 2010) to

Bebhinn Ni Bhriain

(See page 32 for contact details)

INTRODUCTION	1
PURPOSE OF THE CONSULTATION DOCUMENT.....	2
AIMS OF THE REGENERATION AND HOUSING BILL.....	3
DRAFT REGENERATION AND HOUSING BILL.....	7
PART 1: REGENERATION	7
CHAPTER 1: POWERS IN RELATION TO SOCIAL NEED	7
CHAPTER 2: DEVELOPMENT POWERS AND OTHER POWERS FOR PLANNING PURPOSES	10
CHAPTER 3: LAGANSIDE	15
CHAPTER 4: GENERAL	17
PART 2 – HOUSING.....	21
PART 3 – SUPPLEMENTARY	29
HUMAN RIGHTS	30
EQUALITY	30
REGULATORY IMPACT	30
FREEDOM OF INFORMATION.....	31
ALTERNATIVE FORMATS.....	31
CONSULTATION.....	31
ANNEX A - <i>Copy of Bill</i>	
ANNEX B - <i>Consultee list</i>	
ANNEX C - <i>Confidentiality & Data Protection</i>	

Introduction

1. The Review of Public Administration (RPA) in Northern Ireland is delivering wide ranging and comprehensive modernisation and reform of the public sector. The Review was initiated by the Northern Ireland Executive in 2002 and implementation began with major reforms of the education and health sectors. In March 2008 the Executive re-confirmed its commitment to RPA and launched the current phase of implementation with all Ministers signed up to the vision of ***“A strong, dynamic local government creating communities that are vibrant, healthy, prosperous, safe, sustainable and have the needs of all citizens at their core”***.
2. The Department for Social Development ('the Department') is firmly committed to this vision and is transferring considerable responsibilities to local government along with a sizeable budget and staffing resource. The transfer of these functions to the 11 new district councils will play a key role in bringing about strong local government and successful community planning within all council areas. The Department is transferring responsibility to councils for work on tackling deprivation including the Neighbourhood Renewal Programme; town and city regeneration including comprehensive development schemes, public realm and environmental improvement schemes; the delivery of support for the voluntary and community sector at local level; and some housing functions relating to houses in multiple occupation (HMO), housing unfitness (including repair and demolition notices), and local energy conservation. Responsibility for the Living over the Shop Scheme (LOTS) will also pass to local councils and this will complement their new regeneration role.
3. The Department will continue to have responsibility for policy in relation to the functions which are transferring and will also be able to oversee major regeneration schemes which have regional significance. Schemes of this scale are expected to be rare and councils will have operational responsibility for the vast majority of regeneration activity in their district.

4. The transfer of responsibilities from the Department to councils is taking place against a backdrop of wider local government reform under RPA. The Department of the Environment is responsible for creating the 11 new district councils and is introducing legislation which will give councils enhanced powers and will establish a new governance framework for local government. Responsibility for land use planning is being devolved from DoE Planning Service to councils and proposals for the Local Government (Reorganisation) Bill will give councils a new responsibility for community planning and a power of wellbeing. Further information on DoE's plans under RPA, including details of consultation being carried out is available from www.doeni.gov.uk/index/local_government. In addition, the Department for Regional Development is devolving responsibility for certain limited local roads functions. The transfer of these key responsibilities to a local level will allow the new councils greater scope to effect improvement of their areas.

Purpose of the consultation document

5. The Department for Social Development is seeking views from consultees on its proposals for a Regeneration and Housing Bill. A draft of the Bill is set out at Annex A. Part 1 of the Bill deals with regeneration and Part 2 covers housing provisions.

Aims of the Regeneration and Housing Bill

- To enable councils to address disadvantage and undertake community development;
- To enable councils to undertake environmental improvements and public realm schemes;
- To enable councils to define and take forward a range of regeneration projects in their district;
- To enable councils to undertake certain housing responsibilities currently exercised by the Northern Ireland Housing Executive.
- To facilitate a refocused regional role for the Department

PART 1

REGENERATION

Draft Regeneration and Housing Bill

Part 1: Regeneration

Chapter 1: Powers in Relation to Social Need

Background

6. The powers contained in the Social Need (Northern Ireland) Order 1986 allow the Department to pursue 'area-based regeneration' (e.g. the Neighbourhood Renewal strategy), provide support for the voluntary and community sector and undertake works for the improvement of the environment. Social Need Order powers underpin a wide range of activities undertaken by the Department, allowing it to support diverse regeneration and community development projects.
7. The Department currently operates a number of different programmes, for example Neighbourhood Renewal, Areas at Risk, Urban Development Grant, each with specific objectives but all of which are designed to address social need. The Department has benefited from the flexibility of the Social Need Order to allow it to tackle the multi-faceted nature of deprivation. The bulk of the Department's activities in this area involve the provision of financial assistance to third parties (including local councils, government agencies, private developers and community groups). The Department also relies on the Social Need Order to enable it to carry out environmental improvement works ranging from tree planting to major public realm initiatives such as 'Belfast: Streets Ahead' or the recently completed Public Realm Scheme in Armagh.
8. Historically, the Department also used its powers to take forward regeneration in rural settlements as well as urban areas. However, with devolution responsibility for funding such work in rural settlements was vested in the Department for Agriculture and Rural Development. Under RPA the Department is transferring responsibility to local councils for area

based regeneration and the budgets associated with this area of work. The Department will also be conferring social need powers to allow them to discharge this role and Councils will be able to use these powers to work in both urban and rural areas. However, funding for rural areas will still be the responsibility of the Department of Agriculture and Rural Development.

Summary

9. The proposed legislation gives councils wide-ranging powers to address social need in their district (in both urban and rural areas), largely reproducing the provisions of the Social Need Order as it currently applies to the Department.

Detail

Clauses 1 & 2 – Financial assistance to address social need; Conditions attaching to financial assistance

10. A council will be able to provide financial assistance to third parties which it considers will benefit (directly or indirectly) areas of social need in its district. A list of examples of the types of activities which a council may fund is given but this list is not prescriptive and councils will have wide discretion about what they decide to fund. Financial assistance may take the form of grants, loans, guarantees or the taking of any interest in property or in a body corporate. A council will be able to attach such conditions as it thinks fit to the provision of financial assistance and failure to comply with certain conditions may be an offence. For the purposes of determining whether a condition has been complied with or whether financial assistance has become repayable a council may by notice require a person to give information or produce books, records or other documents. Failure to comply with such a notice or providing false information in response to such a notice may be an offence.

Clause 3 – Power to carry out works for the improvement of the environment

11. Clause 3 allows a council to carry out works for the improvement of the environment which it considers will benefit an area of social need in its district. Certain works require the consent of the Department for Regional Development.

Clause 4 – Power of Department to provide financial assistance

12. Clause 4 amends Article 3 of the Social Need (Northern Ireland) Order 1986 by removing reference to districts in defining the focus of the Department's financial assistance. This more clearly reflects the role the Department will have in supporting regional level activity, for example community and voluntary sector organisations providing services across Northern Ireland.

Chapter 2: Development Powers and other Powers for Planning Purposes

Background

13. Part VII of the Planning (Northern Ireland) Order 1991 provides the legislative basis for the Department's physical regeneration work, for example: making development schemes; acquisition, disposal and development of land for planning purposes; and the extinguishment of public rights of way. These statutory powers are exercised in the public interest by the Department to unlock development opportunities by for example releasing underused or derelict land and buildings. The Department is empowered to acquire land and arrange for its disposal and development, after public consultation, in a comprehensive manner in accordance with an adopted plan for the area. Under RPA operational delivery for physical regeneration will transfer to local councils.

Summary

14. The Bill provides councils with corresponding powers to those available to the Department under the Planning Order to pursue physical regeneration and provides for a revised operational role for the Department which is limited to regeneration considered to be of regional significance.

Clause 5 & 6 - Development schemes of councils; adoption of development schemes by councils

15. These clauses give councils powers to prepare and adopt statutory 'development schemes' which, once adopted, form part of the local development plan. Development schemes have been used on occasion by the Department to pursue large-scale regeneration projects such as Victoria Square in Belfast.

16. Clause 5 allows a council to prepare a development scheme for an area in its district which it considers should be developed, redeveloped or improved as a whole. Development schemes must be defined by a map and set out in general terms the intentions for land use and layout.
17. The Department will be able to direct a council to prepare a development scheme where it considers that the regeneration of an area is required and likely to be of regional significance and the council is best placed to take this forward. This provision is related to clause 9 and the ability of the Department to make regulations requiring councils to provide information in relation to certain types of development proposals. (See paragraph 22)
18. Clause 6 specifies the procedure for consulting on development schemes and considering objections. Councils will be required to consult with the Department for Social Development in the preparation of development schemes and will also have to publicly advertise its draft schemes. Any relevant objections to a draft scheme which cannot be resolved must be considered by the planning appeals commission at public local inquiry. A development scheme cannot be formally adopted by a council without the approval of the Department. The Department will expect councils to demonstrate that they have worked with the Northern Ireland Housing Executive when developing scheme proposals which involve social or affordable housing.

Clause 7 – Acquisition of land by councils for planning purposes

19. A council will be able to acquire land, by agreement or compulsorily, for certain planning purposes. A council cannot compulsorily acquire Crown Land, for example former military sites held by the Office of the First Minister and the deputy First Minister for regeneration under the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003. The procedure for acquisition of land by vesting order is set out in Schedule 6 of the Local Government Act (Northern Ireland) 1972. Councils must

apply to the Department to make a vesting order if they wish to compulsorily acquire land. Proceedings for the acquisition of land in connection with a development scheme and proceedings in connection with the adoption of a development scheme can be taken concurrently up to a point but a vesting order cannot be made until the development scheme has been adopted. A council will be able to acquire land “in the interests of the proper planning of an area” if they are satisfied that the purpose for which they want to acquire the land is in keeping with an extant local development plan.

Clause 8 – Disposal of land held by councils for planning purposes

20. A council will be able to dispose of land which it holds for planning purposes in order to secure the best use of land or buildings or to secure the erection or construction of buildings or carrying out of works which the council considers are needed for the proper planning of the area in which the land is situated

Clause 9 – Development of land by councils for planning purposes

21. A council will be able to develop land which it holds for planning purposes by erecting or constructing buildings or carrying out works or entering into agreements with any person for the development of land. A council will also be able to maintain, repair and generally manage buildings or works on land which is being held for development purposes.

22. The Department will have the power to make regulations which would: require councils to provide the Department with specific information about their plans to develop land in particular circumstances and; enable the Department to delay the council from using its development powers in those circumstances for a specified period of time. The detail of these regulations will be developed and consulted upon separately. The purpose of the regulations will be to ensure that the Department is kept

informed of any proposed development which is likely to be of significance to the whole or a substantial part of Northern Ireland. It is intended that these regulations will be used to inform the Department's decision about whether to direct a council to prepare a development scheme under clause 5.

Clause 10 – Powers of council before acquisition of land for planning purposes

23. A council will be able to enter into agreements for the development or disposal of land which it intends to acquire compulsorily, at any time after it has published notice of the application for a vesting order.

Clause 11 – Extinguishment by council of right of way

24. A council will be able to extinguish by order public right of way over land which it holds for planning purposes if it considers that this is necessary for the proper development of the land. A council will have to publicise its intentions and serve notice on any affected statutory undertakers and electronic communications operators, for example NIE or Northern Ireland Water. Councils may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.

25. Sub-sections 7-11 contain a number of safeguards for operators of electronic communications networks in the event of an extinguishment order being made.

Clause 12 – Power of council to require information

26. A council will be able to issue a notice requiring the occupier of any premises or a person receiving rent for any premises to provide certain information to enable the council to make an order or issue or serve

notice. Failure to comply with such a notice or providing false information in response to such a notice may be an offence.

Clause 13 – Development schemes made by the Department

27. Clause 13 amends Article 85 of the Planning Order by restricting the ability of the Department to make development schemes. In order for the Department to make a development scheme it must be satisfied that the development, redevelopment or improvement of an area will be of regional significance and that the relevant district council is not best placed to carry this out.

Clause 14 – 17 Transfer of assets and liabilities to councils

28. The Bill provides for the transfer of assets and liabilities held or incurred by the Department for planning purposes to the appropriate district council. The Department will also be able to make regulations specifying exceptions to the transfer.

Clause 18 – Unadopted development schemes

29. The Department will be able to make regulations specifying transitional arrangements for an unadopted development scheme in the event that it is the process of making a development scheme when the Bill is enacted.

Chapter 3: Laganside

Background

30. The Laganside Development (Northern Ireland) Order 1989 established the Laganside Corporation with the object of securing the regeneration of a designated area of Belfast's waterfront. The Laganside Corporation was afforded regeneration powers under the 1989 Order which it could exercise within this designated area, including a number of powers which it could exercise in relation to a defined section of the River Lagan.

31. The Corporation was dissolved in 2007, having substantially fulfilled its statutory regeneration remit, and the Department assumed interim responsibility for management of Laganside's legacy of assets, liabilities and development agreements and the regeneration of a small number of remaining sites which the Corporation had acquired. Under RPA, Belfast City Council will take over these responsibilities from the Department and the original Laganside Order will be repealed.

Detail

Clause 20 - Transfer to council of certain functions in relation to Laganside

32. Clause 20 provides for the repeal of the Laganside Order and Schedule 1 sets out the powers which Belfast City Council will be able to exercise in relation to part of the River Lagan. These powers will enable the Council to safeguard the legacy of the work done by the Laganside Corporation and include: the power to execute works to facilitate access to the river or promote recreational use; power to construct bridges and weirs; power to make byelaws regulating e.g. fishing or the use of the river by vessels.

Clause 21 - 22 Transfer of assets and liabilities to council

33. The Bill provides for the transfer of Laganside assets and liabilities to Belfast City Council. The Department will also be able to make regulations specifying exceptions to the transfer. The Department may wish to exempt a number of undeveloped sites from statutory transfer under this Bill and instead transfer them on a non-statutory basis to the Council with specific conditions attached.

Chapter 4: General

Clause 23 – Surveys and Studies

34. A council will be able to conduct or fund studies, investigations or research related to the exercise of its functions under Part 1 of the Bill e.g. social need in its district; development or redevelopment of its area etc.

Clause 24 - Guidance

35. Following consultation with councils the Department will be able to issue guidance in relation to regeneration. For example, if a council is taking forward a regeneration scheme which involves an element of social or affordable housing, the Department will require councils to work with the Northern Ireland Housing Executive in developing its proposals, in the same way in which the Department has traditionally done. This is in recognition of the NIHE's role as Northern Ireland's strategic housing authority.

PART 2

HOUSING

Part 2 – Housing

Background

36. The Housing Executive is the strategic housing authority for Northern Ireland. As well as being the region's biggest social landlord, with around 90,000 homes, the Housing Executive delivers a range of functions covering all types of housing in both the social and private sector.

37. Unlike local authorities in Great Britain, councils in Northern Ireland have a very limited role at present in housing. This is largely confined to the private rented sector where councils share the responsibility for regulating aspects of the sector with the Department for Social Development and the Housing Executive.

38. This Bill seeks to transfer responsibility for the delivery of some housing-related services from the Housing Executive to the new councils. In particular, these services will strengthen the work of councils in regulating the private rented sector and will give councils a leading role in identifying and addressing unfitness in all types of housing.

Summary

39. Part 2 of the Bill is designed to transfer responsibility for a number of housing-related functions from the Housing Executive to the new district councils and make a number of related amendments to the existing law.

40. This Bill will extend councils' existing role to cover all housing within a council's area, with new powers for councils to intervene where a house is deemed to be unfit for human habitation. In many respects, this work complements the councils' new responsibilities for regeneration set out in part 1.

41. Councils' current work on the private rented sector will also be strengthened by the transfer of responsibility for regulating houses in multiple occupation.

42. A number of councils already work in partnership with other bodies to tackle fuel poverty by improving domestic energy efficiency. The Bill proposes to strengthen this position by providing councils with new powers to support this work. The Bill also increases each council's representation on the Northern Ireland Housing Council, an important advisory body on wider housing policy and delivery.

Detail

Clauses 25 and 26 – housing unfitness

43. The Housing Executive currently has a statutory obligation to identify and address unfitness in both social and private housing. To do this, it employs a number of methods to tackle the problem, including repair, closing, deferred action and demolition notices for individual properties, access to private sector grants in appropriate cases and the declaration of clearance and redevelopment areas.

44. Councils currently have more limited powers for dealing with unfit housing in the private rented sector. These are set out in the Private Tenancies (Northern Ireland) Order 2006.

45. Clauses 26 and Schedule 2 set out the proposals for transferring the statutory obligation to identify and address unfitness in all housing to councils. Councils will also be given a range of powers to deal with unfit housing, including the ability to serve repair, closing, deferred action and demolition notices for individual properties.

46. These powers will be complemented by a number of the new regeneration powers available to councils under Part 1 of the Bill, particularly the

powers to prepare and deliver development schemes to improve a whole area. A number of development schemes are likely to include a housing element. For this reason, the Housing Executive's powers to declare clearance and redevelopment areas, which are similar to those available to councils to undertake development schemes, are being repealed rather than transferred. Clause 25 sets out the detail of the provisions being repealed.

47. The Housing Executive will continue to retain responsibility for the delivery of private sector grants.

Clause 27 – Houses in multiple occupation

48. Houses in multiple occupation (HMOs) are one part of the private rented sector, providing accommodation to individuals without a close family relationship, such as students, young professionals and migrant workers.
49. Over nearly twenty years, Government policy on HMOs has focused on improving the standard of accommodation and the way in which this is managed. To date, the Housing Executive has been responsible for regulating HMOs, including the management of a registration scheme which operates in areas with higher concentrations of HMOs.

Clause 27 and Schedule 3 transfer this responsibility for HMO regulation to councils.

50. As HMOs tend to be concentrated in areas with large numbers of students and migrant workers, some councils will have a more significant role than others. Councils can, if they wish, work in partnership with one another in the regulation of HMOs, using powers available to them under the Local Government (Northern Ireland) Act 1972. This may be a particularly attractive option for those councils with lower numbers of HMO properties.

Clause 28 – energy efficiency

51. Under the Home Energy Conservation Act 1995 the Housing Executive was designated as Northern Ireland's sole Home Energy Conservation Authority. The Act requires the Housing Executive to develop a strategy to significantly improve the energy efficiency of the entire housing stock and to submit annual progress reports thereafter.
52. The Energy Efficiency (Northern Ireland) Order 1999 also gave the Department for Social Development powers to promote energy efficiency in residential accommodation. The Department has used these powers to establish the Warm Homes Scheme and develop a strategy for tackling fuel poverty in Northern Ireland. Fuel poverty is defined as where a household has to spend more than 10% of its income on fuel to maintain an acceptable level of warmth in the home.
53. A number of councils have already undertaken a range of actions on energy efficiency and fuel poverty. The Bill formalises this position and provides all councils with powers to promote domestic energy efficiency in their districts. The proposals include powers to deliver advice and information, provide funding or other assistance and produce action plans to improve domestic energy efficiency.
54. To ensure coherence with existing activity, councils will be required to take account of work undertaken by the Housing Executive and the Department and provide information to the Housing Executive for the purpose of carrying out its functions as Home Energy Conservation Authority.

Clause 29 – Housing Council

55. The Northern Ireland Housing Council was set up by statute in 1971, at the same time as the Housing Executive, to provide a channel of communication between the Housing Executive and district councils on

housing issues. The Housing Council currently consists of 26 members - one from each district council.

56. It is now proposed that the membership from each of the 11 new Councils should increase from 1 to 2 to enable a wider political representation on the Housing Council.

PART 3

SUPPLEMENTARY

Part 3 – Supplementary

57. The regulations made under the provisions of this Bill will be subject to negative resolution. This means that the regulations are made by the Department and will come into operation unless the Assembly passes a motion to annul them.

Human Rights

58. The Department believes that the proposed legislation is compatible with the Human Rights Act 1998.

Equality

59. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups. A copy of the screening form can be viewed on the Department's website www.dsdni.gov.uk/index/consultations

Regulatory Impact

60. The Department has not conducted a regulatory impact assessment as the proposed legislation does not give rise to any associated costs or savings on business, charities, social economy enterprises or the voluntary sector.

Freedom of Information

61. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read Annex C on the confidentiality of consultations. It gives guidance on the legal position about any information given by you in response to this consultation.

Alternative formats

62. This consultation document and other Departmental publications may be made available in alternative formats upon request.

Consultation

How to respond

63. The consultation period opens on Monday 1 March 2010 and will run for 8 weeks. Responses should be with the Department no later than **Monday 26 April 2010**.

Contact details

64. Postal responses to this consultation should be forwarded to the Department for Social Development at the address below. Faxed or emailed responses will also be accepted.

Post: Bébhinn Ni Bhriain
RPA Bill Team
Urban Regeneration Strategy Directorate
3rd Floor, Lighthouse Building
1 Cromac Place
Gasworks Business Park
Ormeau Road
BELFAST, BT7 2JB

E-mail: rpa@dsdni.gov.uk

Telephone: 028 908 29367

Fax: 028 908 29386

Text phone: 0800 232 1715

List of Consultees

65. A list of those who have received copies of the consultation and those who are being consulted informally is attached at Annex B. If you think that there are any other organisations or individuals who are likely to have an interest in this consultation, please let us know their contact details.

66. Please indicate in your response whether the views you are expressing are your own individual views or those of the organisation you represent.

Summary of responses

67. Following the close of the consultation, Departmental officials will analyse the responses received and publish a response within three months of the closing date for submission of responses.

Annex A

Draft Bill

Regeneration and Housing Bill

CONTENTS

PART 1

REGENERATION

CHAPTER 1

POWERS IN RELATION TO SOCIAL NEED

Powers of councils to address social need

1. Financial assistance to address social need
 2. Conditions attaching to financial assistance under section 1
 3. Power to carry out works for the improvement of the environment
- ###### *Department's power to provide financial assistance*
4. Power of Department to provide financial assistance

CHAPTER 2

DEVELOPMENT POWERS AND OTHER POWERS FOR PLANNING PURPOSES

Development and other powers of councils

5. Development schemes of councils
6. Adoption of development schemes by councils
7. Acquisition of land by councils for planning purposes
8. Disposal of land held by councils for planning purposes
9. Development of land held by councils for planning purposes
10. Powers of council before acquisition of land for planning purposes
11. Extinguishment by council of right of way
12. Power of council to require information

Development schemes made by the Department

13. Development schemes made by the Department

Transfer of assets and liabilities to councils

14. Transfer of assets and liabilities relating to certain schemes to councils
15. Transfer of assets and liabilities relating to retained schemes
16. Transfer to councils of certain land of Department
17. Exceptions from transfers under section 14 and 16

Transitional arrangements: unadopted schemes

18. Unadopted development schemes

Interpretation

19. Interpretation of Chapter 2

CHAPTER 3

LAGANSIDE

20. Transfer to council of certain functions in relation to Laganside

Regeneration and Housing

- 21. Transfer of assets and liabilities to council
- 22. Land excepted from transfer under section 21

CHAPTER 4

GENERAL

- 23. Surveys and studies
- 24. Guidance

PART 2

HOUSING

- 25. Repeal of certain functions of Executive relating to unfitness of housing
- 26. Transfer to councils of functions of Executive relating to unfitness of housing
- 27. Transfer to council of functions relating to houses in multiple occupation
- 28. Functions of councils in relation to energy efficiency
- 29. Constitution of Housing Council
- 30. Interpretation of Part 2

PART 3

SUPPLEMENTARY

- 31. Supplementary, incidental consequential, transitional provision etc.
- 32. Regulations and orders
- 33. Interpretation
- 34. Minor and consequential amendments and repeals
- 35. Commencement
- 36. Short title

SCHEDULES:

- Schedule 1 Powers of [Belfast City] Council in relation to the River Lagan
- Schedule 2 Amendments: Transfer to councils of functions relating to unfitness of housing
- Schedule 3 Amendments: Transfer to councils of functions relating to houses in multiple occupation
- Schedule 4 Minor and consequential amendments
- Schedule 5 Repeals

Regeneration and Housing

A

B I L L

TO

Confer new powers on district councils in relation to regeneration and housing; to amend the Social Needs (Northern Ireland) Order 1986; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

REGENERATION

CHAPTER 1

POWERS IN RELATION TO SOCIAL NEED

Powers of councils to address social need

Financial assistance to address social need

1.—(1) A council may provide financial assistance to any body or person doing, or intending to do, anything falling within subsection (2) which benefits one or more areas of social need in its district.

(2) Financial assistance may be provided under subsection (1) for—

- (a) the promotion, development or regeneration of commercial, industrial or other economic activity;
- (b) the improvement of the environment;
- (c) the provision of housing;
- (d) the provision of social or community facilities;
- (e) the refurbishment or restructuring of buildings;

or for anything not falling within paragraphs (a) to (e) which the council considers will benefit the district.

(3) Financial assistance under this section may include—

Regeneration and Housing

- (a) grants;
- (b) loans;
- (c) guarantees;
- (d) the taking of any interest in property or in a body corporate.

Conditions attaching to financial assistance under section 1

2.—(1) In giving financial assistance under section 1, a council may impose such conditions as it thinks fit, including conditions for repayment in specified circumstances.

(2) Any person who without reasonable excuse fails to comply with any condition subject to which financial assistance was given to that person under section 1 requiring that person to inform the council of any event whereby the financial assistance becomes repayable in whole or in part is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

(3) Subsection (4) applies for the purpose of enabling the council—

- (a) to determine whether any condition subject to which the financial assistance is given is satisfied or is being complied with; or
- (b) whether the financial assistance has become repayable in whole or in part in accordance with any such condition

(4) The council may by notice require any person who has received financial assistance under section 1, and any person acting on behalf of that person, to give to the council such information, or to produce for examination by the council such books, records or other documents, as may be specified in the notice.

(5) Subject to subsection (6), a notice under subsection (4) may require—

- (a) the information to which it relates to be furnished within such time as may be specified in the notice, and
- (b) the books, records or other documents to which it relates to be produced at such time and place as may be so specified.

(6) The time specified in a notice under subsection (4) for giving any information or producing any document shall not be earlier than the end of the period of 28 days beginning with the service of the notice.

(7) Any person who in purported compliance with a notice under subsection (4) knowingly or recklessly makes any statement or produces any document which is false in a material particular is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.

(8) Any person who without reasonable excuse fails to comply with a notice under subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Regeneration and Housing

(9) Any conditions for repayment imposed under subsection (1) shall, if the conditions so provide, be a statutory charge and in the event of any financial assistance under section 1 becoming repayable in circumstances specified in the conditions, the amount of that assistance (as assessed in accordance with the conditions) shall be deemed to be a charge upon any property so specified.

(10) Accordingly in Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (matters required to be registered in the Statutory Charges Register) in paragraph 40 after “Article 4(1) of the Social Need (Northern Ireland) Order 1986” insert “or section 2 of the Regeneration and Housing Act (Northern Ireland) 2010”.

Power to carry out works for the improvement of the environment

3.—(1) A council may carry out works for the improvement of the environment which the council considers will benefit one or more areas of social need in its district.

(2) In the exercise of its powers under this section a council may, with the consent of the Department for Regional Development, carry out works involving the placing of any structure in a road, but shall not so exercise those powers as—

- (a) to obstruct or prevent the passage of vehicles or of the public on foot along the road;
- (b) to obstruct or prevent normal access to premises adjoining the road; or
- (c) to prevent any person from having access to any works of his under, in, on, over, along or across the road.

(3) A council may, with the consent of the Department for Regional Development, sell, let or otherwise dispose of any structure placed by it in a road under this section to any other person.

Department’s power to provide financial assistance

Power of Department to provide financial assistance

4. Article 3 of the Social Need (Northern Ireland) Order 1986 (power of Department to provide financial assistance) is amended as follows.

(2) For paragraph (1) substitute—

“(1) The Department may provide financial assistance to any body or person doing or intending to do anything falling within paragraph (2) which benefits one or more areas of social need”.

(3) In paragraph (2) for “the district” substitute “an area of social need”.

Regeneration and Housing

CHAPTER 2

DEVELOPMENT POWERS AND OTHER POWERS FOR PLANNING
PURPOSES

Development and other powers of councils

Development schemes of councils

5.—(1) Where a council considers it expedient that any area in its district should be developed, redeveloped or improved as a whole the council may prepare a development scheme for the area.

(2) Where the Department considers that—

- (a) it is expedient that any area in the district of a council should be developed, redeveloped, or improved as a whole,
- (b) the development, redevelopment or improvement will be of significance to the whole or a substantial part of Northern Ireland, and
- (c) it is not appropriate or expedient for the development, redevelopment or improvement to be carried out under Part 7 of the Planning Order,

the Department may direct the council to prepare a development scheme for the area.

(3) A development scheme shall—

- (a) define, by reference to a map, the area of the scheme; and
- (b) indicate in general terms the manner in which it is intended that the area should be laid out and the land therein used.

(4) A development scheme must be [in general conformity with] the regional development strategy.

(5) A development scheme prepared by a council has no effect unless adopted by the council in accordance with section 6.

(6) It is the duty of a council to comply with any direction given to it under subsection (2).

Adoption of development schemes by councils

6.—(1) Where it has prepared a development scheme, a council shall submit the scheme to the Department and—

- (a) shall consider any comments notified to the council by the Department or any other Northern Ireland department within the period of 28 days from the date on which the scheme is submitted or such longer period as the Department may direct; and
- (b) may, if it thinks fit, amend the scheme.

(2) The council shall then publish in two successive weeks in one or more newspapers circulating in the locality to which the scheme relates a notice—

- (a) describing the area to which the scheme relates and referring to the preparation of the scheme;
- (b) specifying the place at which copies of the scheme may be inspected at reasonable times; and

Regeneration and Housing

- (c) stating the time (not being less than 28 days from the last of the publications of the notice) during which objections to the scheme may be sent to the council.

(3) If—

- (a) no objections are made to a development scheme; or
- (b) all objections to a development scheme are withdrawn;

the council may, subject to subsection (5), by order adopt the scheme with or without amendment.

(4) If objections made to a development scheme are not withdrawn the council shall, unless it considers them to be solely of a frivolous or vexatious nature—

- (a) cause [a public local inquiry] to be held by the planning appeals commission; and
- (b) consider any objections not withdrawn and the report of that commission;

and may, subject to subsection (5), thereafter by order adopt the scheme with or without amendments.

(5) A council shall not adopt a scheme under subsection (3) or (4) unless the scheme has been submitted to, and approved by, the Department.

(6) A council may at any time prepare amendments to so much of an adopted development scheme as relates to the manner in which the area of the development scheme is to be laid out and the land therein used.

(7) Section 5(5) and subsections (1) to (5) above apply in relation to such amendments to a scheme as they apply in relation to the original scheme.

Acquisition of land by councils for planning purposes

7.—(1) A council may, by agreement or compulsorily, acquire any land in its district where it is satisfied—

- (a) that the land is required in connection with a development scheme;
- (b) that it is expedient in the public interest that the land should be held together with land so required;
- (c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement of another area in its district as a whole; or
- (d) that it is expedient to acquire the land for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(2) Where the council acquires a lesser estate than a fee simple in any land under [Article 98 of the Planning Order], the council may by agreement or compulsorily acquire such estates in the land as it considers appropriate.

(3) A council shall not acquire any estate in Crown land under this section unless—

- (a) it is an estate which is for the time being held otherwise than by or on behalf of the Crown; and

Regeneration and Housing

(b) the appropriate authority consents to the acquisition;

and “appropriate authority” and “Crown land” are to be construed in accordance with [Article 118(1) of the Planning Order].

(4) Proceedings for the acquisition of land in connection with a development scheme may be taken concurrently (so far as practicable) with proceedings required by section 6 to be taken in connection with the adoption of the development scheme; but a vesting order vesting any such land in the council shall not be made until the development scheme has been adopted.

(5) In determining whether to make a vesting order on the application of a council, the Department may disregard any objection to the proposed order which, in the opinion of the Department, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

(6) In this Chapter any reference to the acquisition or appropriation of land for planning purposes is a reference to—

- (a) its acquisition under this section; or
- (b) its appropriation under [Section 96 (6) of the Local Government Act (Northern Ireland) 1972] for any purpose mentioned in subsection (1).

Disposal of land held by councils for planning purposes

8.—(1) Where any land acquired or appropriated by a council for planning purposes is for the time being held by that council for those purposes, the council may dispose of the land to such person as may appear to it to be expedient in order to secure—

- (a) the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by the council or by any other person, or
- (b) the erection, construction or carrying out thereon of any buildings or works appearing to the council to be needed for the proper planning of the area in which the land is situated.

(2) On the termination of any tenancy of any premises let by a council under this section, possession of the premises may (without prejudice to any other method of recovery) be recovered by the council in a summary manner under Articles 67 to 74 of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) whatever may be the rent or term of the tenancy.

Development of land held by councils for planning purposes

9.—(1) A council may erect or construct any building or carry out any work on any land to which this section applies.

(2) A council may enter into an agreement with any person for the development of any land to which this section applies.

(3) A council may maintain, repair and generally manage any buildings or works on land to which this section applies.

(4) This section applies to any land which—

Regeneration and Housing

- (a) has been acquired or appropriated by the council for planning purposes; and
 - (b) is for the time being held by it for those purposes.
- (5) The Department may by regulations make provision—
- (a) requiring prescribed details of a proposed exercise by a council of its powers under subsection (1) or (2) to be given to the Department in prescribed cases; and
 - (b) where such notice is required to be given in any case, for prohibiting the exercise by a council of its powers under those subsections in relation to that case until the expiration of such period from the giving of the notice as is prescribed.

Powers of council before acquisition of land for planning purposes

10. Where a council proposes to acquire land compulsorily under section 7, it may, at any time after the date of the publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9) in relation to that land—

- (a) enter into an agreement with any person for securing the disposal of the land (in accordance with section 8) after that land has been acquired for planning purposes;
- (b) exercise the power under subsection (2) of section 9 in relation to the land as if the land were land to which that section applies.

Extinguishment by council of right of way

11.—(1) Where any land acquired or appropriated by a council for planning purposes is for the time being held by that council for those purposes, the council may by order extinguish any public right of way over the land where it is satisfied that the extinguishment of the right of way is necessary for the proper development of the land.

(2) Before making an order under this section, the council shall publish in at least one newspaper circulating in the relevant area a notice—

- (a) stating the general effect of the order;
- (b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person at all reasonable hours during a period of 28 days from the date of publication of the notice; and
- (c) stating that, within that period, any person may by notice to the council object to the making of the order.

(3) Not later than the date on which that notice is so published, the council shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on—

- (a) any statutory undertaker having any cables, mains, pipes, or wires laid along, across, under or over any land over which a right of way is to be extinguished, under the order; and

Regeneration and Housing

- (b) the operator of an electronic communications code network for the purposes of which any electronic communications apparatus is kept installed along, across, under or over any such land.

(4) The council may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.

(5) After considering any objections to the order which are not withdrawn and, where a public local inquiry is held, the report of the planning appeals commission, the council may make the order either without modification or subject to such modifications as it thinks fit.

(6) Where the council makes an order under this section the council shall publish, in the manner specified in subsection (2), a notice—

- (a) stating that the order has been made, and
- (b) naming a place where a copy of the order may be seen at all reasonable hours;

and subsection (3) shall have effect in relation to any such notice as it has effect in relation to a notice under subsection (2).

(7) In this section “the relevant area”, in relation to an order, means the area in which any land to which the order relates is situated.

(8) Where—

- (a) an order is made under this section; and
- (b) immediately before the date on which the order became operative there was, under, in, on, over, along or across the right of way any electronic communications apparatus kept installed for the purposes of an electronic communications code network,

the operator of that network shall have the same powers in respect of that apparatus as if the order had not become operative; but the council shall be entitled to require the alteration of the apparatus.

(9) If the operator of an electronic communications code network—

- (a) removes any electronic communications apparatus in circumstances in which subsection (8) applies; and
- (b) serves a notice on the council notifying the council of the removal,

the operator shall be entitled to recover from the council the expense of providing in substitution for the apparatus and any electronic communications apparatus connected therewith which is rendered useless in consequence of the removal, any electronic communications apparatus in such other place as the operator may require.

(10) Paragraph 1(2) of the electronic communications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsections (8) and (9) as it applies for the purpose of that code.

(11) Paragraph 21 of the electronic communications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any electronic communications apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.

Regeneration and Housing

(12) Expressions used in this section which are defined in paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21) have the meanings given there.

Power of council to require information

12.—(1) The power in subsection (2) is exercisable by a council for the purpose of enabling the council to make an order or issue or serve a notice or other document which it is authorised or required to make, issue or serve by any provision of this Chapter.

(2) The council may by notice in writing require—

- (a) the occupier of any premises, and
- (b) any person who, either directly or indirectly, receives rent in respect of any premises,

to give in writing, within the period mentioned in subsection (3), such information as to the matters mentioned in subsection (4) as may be specified in the notice.

(3) That period is the period of 21 days from the date on which the notice is served, or such longer period as may be specified in the notice or as the council may allow.

(4) The matters referred to in subsection (1) are—

- (a) the nature of the estate in the premises of the person on whom the notice is served;
- (b) the name and address of any other person known to that person as having an estate in the premises.

(5) Any person who, without reasonable excuse, fails to comply with a notice served on that person under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Any person who having been required by a notice under subsection (1) to give any information knowingly makes any misstatement in giving that information is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

Development schemes made by the Department

Development schemes made by the Department

13. For Article 85 of the Planning Order substitute—

“Development schemes

85.—(1) Where the Department considers that—

- (a) it is expedient that any area should be developed, redeveloped, or improved as a whole,
- (b) the development, redevelopment or improvement will be of significance to the whole or a substantial part of Northern Ireland, and

Regeneration and Housing

- (c) it is not appropriate or expedient for the development, redevelopment or improvement to be carried out under Chapter 2 of Part 1 of the Regeneration and Housing Act (Northern Ireland) 2010,

the Department may, after consulting the appropriate district council, prepare a development scheme for the area.

(2) A development scheme shall—

- (a) define, by reference to a map, the area of the scheme; and
- (b) indicate in general terms the manner in which it is intended that the area should be laid out and the land therein used.”.

Transfer of assets and liabilities to councils

Transfer of assets and liabilities relating to certain schemes to councils

14.—(1) This section applies to the assets and liabilities held or incurred by the Department immediately before the commencement of this section for the purposes of, or in connection with, a transferred development scheme.

(2) For the purposes of this section “a transferred development scheme” is any scheme adopted by the Department under Part 7 of the Planning Order before the commencement of this section, other than a development scheme prescribed by regulations made by the Department under section 17(a) (“a retained development scheme”).

(3) The assets and liabilities to which this section applies are transferred to, and by virtue of this section vest in, the relevant council.

(4) The relevant council, in relation to any assets or liabilities held or incurred by the Department for the purposes of a transferred development scheme, is the council for the district in which the area to which the transferred development scheme applies is situated.

(5) A transferred development scheme shall have effect as if adopted by the relevant council under this Chapter.

(6) A retained development scheme shall continue to have effect as if section 13 were omitted from this Chapter.

(7) This section has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the assets or liabilities otherwise than by this section.

(8) But this section does not apply to rights or liabilities under a contract of employment.

(9) A certificate issued by the Department that any assets or liabilities have been transferred to the relevant council under this section shall be conclusive evidence of the transfer.

(10) A transfer under this section does not affect the validity of anything done by, or in relation to, the Department before the commencement of this section.

(11) Anything which—

Regeneration and Housing

- (a) before the commencement of this section was done by, or in relation to, the Department for the purposes of, or otherwise in connection with, anything transferred by this section, and
 - (b) is in effect immediately before the commencement of this section,
- is to be treated as if it had been done by, or in relation to, the relevant council.

(12) There may be continued by, or in relation to, the relevant council anything (including legal proceedings)—

- (a) which relates to anything transferred by this section, and
- (b) which is in the process of being done by, or in relation to, the Department immediately before the commencement of this section.

(13) In any document—

- (a) which relates to anything transferred by this section, and
- (b) which is in effect immediately before the commencement of this section,

any reference to the Department is to be read as a reference to the relevant council.

Transfer of assets and liabilities relating to retained schemes

15.—(1) This section applies to the assets and liabilities held or incurred by the Department for the purposes of, or in connection with, a retained development scheme immediately before the date which is specified by order of the Department in relation to that scheme.

(2) In this section—

- (a) “retained scheme” has the same meaning as in section 14; and
- (b) “the transfer date”, in relation to a retained scheme, means the date specified in relation to that scheme by an order under subsection (1).

(3) On the transfer date the assets and liabilities are transferred to, and by virtue of this section vest in, the relevant council.

(4) The relevant council, in relation to the assets or liabilities held or incurred by the Department for the purposes of a retained development scheme, is the council for the district in which the area to which the retained development scheme applies is situated.

(5) This section has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the assets or liabilities otherwise than by this section.

(6) But this section does not apply to rights or liabilities under a contract of employment.

(7) A certificate issued by the Department that any assets or liabilities have been transferred to the relevant council under this section shall be conclusive evidence of the transfer.

(8) A transfer under this section does not affect the validity of anything done by, or in relation to, the Department before the commencement of this section.

(9) Anything which—

Regeneration and Housing

(a) before the transfer date was done by, or in relation to, the Department for the purposes of, or otherwise in connection with, anything transferred by this section, and

(b) is in effect immediately before the transfer date,

is to be treated as if it had been done by, or in relation to, the relevant council.

(10) There may be continued by, or in relation to, the relevant council anything (including legal proceedings)—

(a) which relates to anything transferred by this section, and

(b) which is in the process of being done by, or in relation to, the Department immediately before the transfer date.

(11) In any document—

(a) which relates to anything transferred by this section, and

(b) which is in effect immediately before the transfer date,

any reference to the Department is to be read as a reference to the relevant council.

Transfer to councils of certain land of Department

16.—(1) This section applies to any land which—

(a) immediately before the commencement of this section is held by the Department otherwise than for the purposes of, or in connection with, a development scheme adopted under Part 7 of the Planning Order, and

(b) was acquired by the Department under Article 87 of the Planning Order, or was appropriated under paragraph (7) of that Article, for the purposes set out in paragraph (1)(c) or (d) of that Article,

other than land, or land of a description, prescribed by regulations under section 17(b).

(2) Any land to which this section applies is transferred to, and by virtue of this section vests in, the council for the district in which the land is situated.

(3) This section has effect in relation to land to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the land otherwise than by this section.

(4) A transfer under this section does not affect the validity of anything done by, or in relation to, the Department before the commencement of this section.

(4) Anything which—

(a) before the commencement of this section was done by the Department for the purposes of, or otherwise in connection with, any land transferred by this section, and

(b) is in effect immediately before the commencement of this section,

is to be treated as done by, or in relation to, the council to which the land is transferred.

(5) There may be continued by, or in relation to, that council anything (including legal proceedings)—

(a) which relates to any land transferred by this section, and

Regeneration and Housing

- (b) which is in the process of being done by, or in relation to, the Department immediately before the commencement of this section.

(6) In any document—

- (a) which relates to any land transferred by this section, and
- (b) which is in effect immediately before the commencement of this section,

any reference to the Department is to be read as a reference to the council to which the land is transferred.

Exceptions from transfers under section 14 and 16

17. The Department may by regulations provide—

- (a) that section 14 is not to apply to a prescribed development scheme;
- (b) that section 16 is not to apply to prescribed land, or to land of a prescribed description.

Transitional arrangements: unadopted schemes

Unadopted development schemes

18.—(1) The Department may by regulations make provision in relation to any development scheme—

- (a) notice of which has been published under Article 86 of the Planning Order before the commencement of section 14; but
- (b) which has not been adopted under that Article before that date.

(2) Regulations under this section may provide—

- (a) for Part 7 of the Planning Order to continue to have to have effect in relation to the scheme as if section 13 were omitted from this Act;
- (b) for the scheme to be abandoned by the Department; or
- (c) for the scheme to be adopted under this Part by the council for the district in which the area to which the scheme applies is situated.

(3) Regulations under this section may provide for this Chapter or Part 7 of the Planning Order to apply in relation to a scheme mentioned in subsection (1) with such modifications as may be prescribed.

Interpretation

Interpretation of Chapter 2

19.—(1) In this Chapter “the Planning Order” means the Planning (Northern Ireland) Order 1991 (NI 11).

(2) In this Chapter any expression which is defined in Article 2(2) of the Planning Order has the same meaning as in that Order.

(3) In this Chapter any reference to the acquisition or appropriation of land for planning purposes is to be construed in accordance with section 7(6).

Regeneration and Housing

CHAPTER 3

LAGANSIDE

Transfer to council of certain functions in relation to Lagan

20.—(1) The Lagan Development (Northern Ireland) Order 1989 (NI 2) is repealed.

(2) Schedule 1 confers on [Belfast City Council] certain powers formerly exercisable by the Department under that Order in relation to part of the River Lagan.

Transfer of assets and liabilities to council

21.—(1) Except as provided by regulations under section 22, all assets and liabilities to which the Department is entitled or subject immediately before the commencement of this section under the Lagan (Northern Ireland) Order 1989 are transferred to, and by virtue of this subsection vest in, [Belfast City Council] (“the council”).

(2) The transfer has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the assets or liabilities otherwise than by this section.

(3) But the transfer does not apply to rights or liabilities under a contract of employment.

(4) A certificate issued by the Department that any assets or liabilities have been transferred to the council under this section shall be conclusive evidence of the transfer.

(5) The transfer does not affect the validity of anything done by, or in relation to, the Department before the commencement of this section.

(6) Anything which—

(a) before the commencement of this section was done by, or in relation to, the Department for the purposes of or otherwise in connection with, anything transferred by this section, and

(b) is in effect immediately before the commencement of this section,

is to be treated as done by, or in relation to, the council.

(7) Anything (including any legal proceedings) in the process of being done by, or in relation to, the Department immediately before the transfer date may be continued by, or in relation to, the council.

(8) In any document—

(a) which relates to anything transferred by this section, and

(b) which is in effect immediately before the commencement of this section,

any reference to the Department is to be read as a reference to the council.

Land excepted from transfer under section 21

22.—(1) The Department may by regulations provide that section 21 is not to apply to any prescribed land.

Regeneration and Housing

(2) The repeal by this Act of the Laganside Development (Northern Ireland) Order 1989 (NI 2) does not affect the continued operation of the following provisions of that Order in relation to any land prescribed under subsection (1) while that land remains vested in the Department—

- (a) Articles 2 and 3 (interpretation and the designated area);
- (b) Article 23 (disposal of land).

CHAPTER 4

GENERAL

Surveys and studies

23. A council may carry out, or give financial assistance towards the carrying out, of such studies, investigations and research as it considers appropriate in connection with the exercise of its functions under this Part.

Guidance

24.—(1) In exercising any function under this Part a council shall have regard to any guidance issued by the Department in relation to the exercise by councils of that function.

(2) The Department shall consult with councils before issuing any guidance under this section.

PART 2

HOUSING

Repeal of certain functions of Executive relating to unfitness of housing

25. In the Housing (Northern Ireland) Order 1981 (NI 3) the following provisions are repealed—

- (a) Articles 32 to 34 and Schedule 4 (clearance areas and clearance orders);
and
- (b) Chapter 3 of Part 3 (redevelopment orders).

Transfer to councils of functions of Executive relating to unfitness of housing

26.—(1) The functions of the Executive under—

- (a) Articles 35 to 46A of the Housing (Northern Ireland) Order 1981 (demolition orders, closing orders and repair notices), and
- (b) Chapter 5 of Part 3 of the Housing (Northern Ireland) Order 2003 (NI 2) (deferred action notices),

in relation to premises of any description situated in the district of a council are transferred to that council.

(2) Schedule 2 contains amendments to those Orders for giving effect to that transfer.

(3) A transfer of functions under this section does not affect the validity of anything done by, or in relation to, the Executive before the commencement of this section.

Regeneration and Housing

- (4) Anything which—
 - (a) before the commencement of this section was done by, or in relation to, the Executive for the purposes of, or otherwise in connection with, any function transferred to a council by this section, and
 - (b) is in effect immediately before the commencement of this section,is to be treated as if it had been done by, or in relation to, that council.
- (5) There may be continued by, or in relation to, a council anything (including legal proceedings)—
 - (a) which relates to any function transferred by this section to that council, and
 - (b) which is in the process of being done by, or in relation to, the Executive immediately before the commencement of this section.
- (6) In any document—
 - (a) which relates to any function transferred by this section to a council, and
 - (b) which is in effect immediately before the commencement of this section,any reference to the Executive is to be read as a reference to that council.

Transfer to council of functions relating to houses in multiple occupation

27.—(1) The functions of the Executive under Part 4 of the Housing (Northern Ireland) Order 1992 (NI 15) (houses in multiple occupation) in relation to premises of any description situated in the district of a council are transferred to that council.

(2) Schedule 3 contains amendments to that Order for giving effect to that transfer.

(3) A transfer of functions under this section does not affect the validity of anything done by, or in relation to, the Executive before the commencement of this section.

- (4) Anything which—
 - (a) before the commencement of this section was done by, or in relation to, the Executive for the purposes of, or otherwise in connection with, any function transferred to a council by this section, and
 - (b) is in effect immediately before the commencement of this section,is to be treated as if it had been done by, or in relation to, that council.
- (5) There may be continued by, or in relation to, a council anything (including legal proceedings)—
 - (a) which relates to any function transferred by this section to that council, and
 - (b) which is in the process of being done by, or in relation to, the Executive immediately before the commencement of this section.
- (6) In any document—
 - (a) which relates to any function transferred by this section to a council, and
 - (b) which is in effect immediately before the commencement of this section,any reference to the Executive is to be read as a reference to that council.

Regeneration and Housing

Functions of councils in relation to energy efficiency

28.—(1) A council may take such action as it thinks appropriate for the purpose of promoting the efficient use of energy in residential accommodation in its district.

(2) In particular, a council may for that purpose—

- (a) provide financial or other assistance to any body whose functions include the promotion of energy efficiency in residential accommodation;
- (b) provide, or secure the provision of, advice; and
- (c) disseminate, or secure the dissemination of, information.

(3) A council may produce action plans to improve energy efficiency in residential accommodation in its district.

(4) In carrying out its functions under subsections (2) and (3) a council shall have regard to—

- (a) any report published by the Executive under section 2 of the Home Energy Conservation Act 1995 (c. 10); and
- (b) any strategy published by the Department in connection with the exercise of its functions under Article 5 of the Energy Efficiency (Northern Ireland) Order 1999 (NI 3).

(5) A council shall provide the Executive with such information as the Executive may require for the purpose of carrying out its functions as energy conservation authority in Northern Ireland under the Home Energy Conservation Act 1995.

(6) In this section—

“residential accommodation” has the meaning given by section 1 of the Home Energy Conservation Act 1995;

“financial assistance” means grants or loans of such amounts and on such terms and conditions (including, in the case of grants, conditions as to repayment) as may be determined by the council.

Constitution of Housing Council

29. In Schedule 2 to the Housing (Northern Ireland) Order 1981 (Housing Council) in paragraph 1 for sub-paragraphs (1) and (2) substitute—

“(1) Each district council shall appoint 2 of its members to be members of the Council.

(2) Where a person appointed dies or resigns the council which appointed that person may appoint another of its members to fill the vacancy.”

Interpretation of Part 2

30. In this Part “the Executive” means the Northern Ireland Housing Executive.

Regeneration and Housing

PART 3
SUPPLEMENTARY

Supplementary, incidental consequential, transitional provision etc.

- 31.**—(1) The Department may by order make—
- (a) such supplementary, incidental or consequential provision,
 - (b) such transitory, transitional or saving provision,

as it considers appropriate for the general purposes, or any particular purpose, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

(2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).

(3) Nothing in this Act affects the generality of the power conferred by this section.

(4) No order shall be made under this section unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

Regulations and orders

32.—(1) Regulations under this Act shall be subject to negative resolution.

(2) Regulations and orders made by the Department under this Act may contain such incidental, supplementary, transitional and savings provisions as appear to the Department to be necessary or expedient.

Interpretation

33. In this Act—

- “council” means a district council;
- “the Department” means the Department for Social Development;
- “prescribed” means prescribed by regulations;
- “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33).

Minor and consequential amendments and repeals

34.—(1) The statutory provisions set out in Schedule 4 have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 5 are repealed to the extent specified in the second column of that Schedule.

Commencement

35.—(1) Except as provided by subsection (2), this Act comes into operation on such day or days as the Department may by order appoint.

(2) The following provisions come into operation on the day after Royal Assent—

- (a) section 17;
- (b) section 22;

Regeneration and Housing

- (b) sections 31 to 33;
- (c) this section; and
- (d) section 36.

Short title

36. This Act may be cited as the Regeneration and Housing Act (Northern Ireland) 2010.

Regeneration and Housing

SCHEDULES

SCHEDULE 1

POWERS OF [BELFAST CITY] COUNCIL IN RELATION TO THE RIVER
LAGAN

Interpretation

1. In this Schedule—

“the harbour limits” means the limits for the time being of the jurisdiction of the Belfast Harbour Commissioners under the Belfast Harbour Acts and Orders 1847 to 2002;

“the river” means that part of the River Lagan between the Stranmillis Weir and a line five metres down-stream of the seaward extremity of, and parallel to, the Lagan Bridge;

“the Council” means [Belfast City] Council.

Power to execute works in relation to the river

2.—(1) The Council may execute such works in, on, across, over, alongside or adjacent to the river as it considers appropriate for the purposes of—

- (a) improving the quality of water in the river;
- (b) improving the immediate environment of the river;
- (c) promoting the recreational use of the river; or
- (d) facilitating access to the river.

(2) In particular the Council may—

- (a) construct embankments, quays and footpaths alongside, or adjacent to, the river;
- (b) dredge, reclaim land from, and alter or divert the channel of, the river;
- (c) operate, maintain, repair, alter, extend or remove any works executed under this Schedule and any existing works; and
- (d) provide such buildings, amenities, machinery, plant, apparatus and appliances as it considers appropriate in connection with any works executed under this Schedule and any existing works.

(3) In sub-paragraph (2) “existing works” means works in, on, across, over, alongside or adjacent to the river which were executed at any time before the coming into operation of this Schedule under the Laganside (Northern Ireland) Order 1989 (NI 2) or any other statutory provision.

Construction of bridges, weirs, locks and barrages

3.—(1) The Council may construct a bridge over, or weir, lock or barrage across, the river.

Regeneration and Housing

(2) Before executing any works under this paragraph the Council shall take into consideration the reasonable requirements of navigation on the river.

(3) The reference in this paragraph to a bridge include reference to a road, footway or railway over the bridge and to the approaches of any road, footway or railway to the bridge.

Byelaws as to use of river and certain adjacent land

4.—(1) The Council may make byelaws—

- (a) regulating the use of the river by vessels;
- (b) requiring vessels using the river to be licensed for that purpose by the Council;
- (c) regulating fishing in the river;
- (d) requiring persons fishing in the river to obtain a permit for that purpose from the Council;
- (e) regulating the grant, renewal and revocation of licences under paragraph (b) and permits under paragraph (d), the conditions subject to which such licences and permits are to be granted and prescribing the fees payable in respect of the grant or renewal of such licences or permits;
- (f) regulating the construction, condition, safety and control of vessels which may use the river and the equipment to be carried on such vessels;
- (g) regulating the movement of vessels, and the use of lights, on the river;
- (h) for the levying by the Council of charges in respect of the use of the river or any service or facility provided by the Council on the river or on land adjacent to the river;
- (i) for the removal by the Council of vessels or objects from the river in such circumstances as may be specified in the byelaws, the storage and disposal by the Council of vessels or objects so removed and the recovery by the Council of the costs of removal, storage and disposal;
- (j) regulating the conduct of persons on the river or on land adjacent to the river and vested in the Council;
- (k) prohibiting the erection of any structure in the river or on land mentioned in paragraph (j) without the consent of the Council;
- (l) prohibiting the carrying on of any commercial activity on the river or on any land mentioned in paragraph (j) without the consent of the Council.

(2) Byelaws under this paragraph shall not apply in relation to—

- (a) any part of the river within the harbour limits; or
- (b) any land adjacent to any such part of the river.

(3) In their application to byelaws under this paragraph sections 91 to 94 of the Local Government Act (Northern Ireland) 1972 apply as if for any reference to the Ministry concerned there were substituted a reference to the Department and the Department of Agriculture acting jointly.

(4) The powers to secure the observance of byelaws made under this Schedule which are conferred on an authorised officer of the Council under section 93 of the Local Government Act (Northern Ireland) 1972 include power—

Regeneration and Housing

- (a) to board and inspect any vessel on the river; and
- (b) to require any person suspected of contravening a byelaw to furnish his name and address to the officer.

(5) Section 94 of the Public Health Acts Amendment Act 1907 (c.53) (licensing powers of district council in relation to pleasure vessels and persons in charge thereof) shall not apply in relation to any vessel using the river.

Approval of Department of Agriculture and Rural Development

5.—(1) The Council shall not execute any works under paragraph 2 unless those works have been approved by the Department of Agriculture and Rural Development.

(2) That approval may be given subject to such terms and conditions as that Department thinks fit.

Consultation with the Belfast Harbour Commissioners

6.—(1) It shall be the duty of the Council before—

- (a) executing any works under this Schedule within the harbour limits; or
- (b) exercising any power conferred by this Schedule within the harbour limits,

to consult with the Belfast Harbour Commissioners and to take into account any representations made to the Council by the Commissioners so as to ensure that the execution of those works or the exercise of those powers causes the minimum interference to the property of the Commissioners or to the exercise by the Commissioners of their functions.

(2) Sections 8 to 14 of the Belfast Port and Harbour Conservancy Act 1852 (c. cxxi) (control of works within the harbour limits) shall not apply to the Council or to works executed under this Schedule.

Tidal works

7.—(1) The Council shall not construct, alter or extend any tidal work under this Schedule except with the consent of the Secretary of State concerned with navigation and subject to any conditions imposed by the Secretary of State before the works are begun.

(2) Schedule 3 to the Harbours Act (Northern Ireland) 1970 (c. 1) (conditions relating to tidal works) shall apply in relation to any tidal work constructed, altered or extended by the Council under this Schedule as it applies in relation to any tidal work constructed, altered or extended by a local harbour authority but with the substitution—

- (a) for references to a local harbour authority and the responsible harbour authority of references to the Council;
- (b) for the references to section 11(1) and (2) of that Act of references to sub-paragraph (1) of this paragraph; and
- (c) in paragraph 3(1) for the words “in the harbour of” of the words “constructed by”.

Regeneration and Housing

(3) In this paragraph and in Schedule 3 to the Harbours Act (Northern Ireland) 1970 as applied by sub-paragraph (2) “tidal work” means any work, or part of any work, which is on, under or over any land which is below the level of mean high water springs.

Dredging

8.—(1) Without prejudice to paragraph 7, the Council shall not dredge the river within the harbour limits without the consent of the Belfast Harbour Commissioners.

(2) Any materials taken up or collected in the course of dredging the river shall be the property of the Council and may be used, sold, removed, deposited or otherwise disposed of as the Council may think fit; but the Council shall not deposit any such materials below the level of mean high water springs except in such position as the Secretary of State concerned with navigation may approve and subject to such conditions and restrictions as the Secretary of State may impose.

Temporary interference with river

9. The Council may, for the purpose of or in connection with the execution of any works under this Schedule—

- (a) temporarily alter or interfere with the river and construct or place in the river all such temporary works as it considers necessary or expedient;
- (b) temporarily occupy and use the river;
- (c) temporarily restrict, terminate or otherwise interfere with easements, fishing rights, water rights, navigation rights or other similar rights.

Extinguishment of certain public rights

10.—(1) If the Department considers it necessary or desirable to do so in connection with any works executed under this Schedule, the Department may, on application to it by the Council, make an order extinguishing—

- (a) any public rights over or in relation to such part of the foreshore associated with the river as is specified in the order;
- (b) any public rights of navigation over such part of the river as is specified in the order.

(2) Article 133(1) and (4) of, and Schedule 8 to, the Roads (Northern Ireland) Order 1993 (NI 15) shall apply to an order under sub-paragraph (1) as they apply to an order under Article 6 of that Order.

SCHEDULE 2

AMENDMENTS: TRANSFER TO COUNCILS OF FUNCTIONS RELATING
TO UNFITNESS OF HOUSING

The Housing (Northern Ireland) Order 1981 (NI 3)

1. After Article 34 insert—

Regeneration and Housing

“The council

34A. In this Chapter references to “the council”, in relation to premises of any kind, are references to the district council for the district in which the premises are situated.”.

2.—(1) Subject to sub-paragraph (2), in Articles 35 to 46A for “Executive” (wherever occurring) substitute “council”.

(2) Sub-paragraph (1) does not apply to—

- (a) the second and third places where “Executive” occurs in Article 37(4);
- (b) Article 41A (2) and (3).

3. In Article 35 for paragraph (7) substitute—

“(7) Any expenses incurred by the council under paragraph (6), after giving credit for any amount realised by the sale of materials, may be recovered by it as a debt in the county court from the owner of the building, or, if there is more than one owner, from the owners thereof in such shares as the court may determine to be just and equitable.

(8) Any surplus in the hands of the council shall be paid by it to the owner of the building or, if there is more than one owner, shall be paid as those owners may agree, or may, in default of agreement, be paid into the county court, and may be paid out to the owners by order of the court in such shares as the court may determine to be just and equitable.”.

4. In Article 41A(1)(b) after “it expects” insert “the Executive”.

The Housing (Northern Ireland) Order 1992(NI 15)

5. In Schedule 3 (repair grants) for paragraph 2(3) substitute—

“(3) The Executive may dispense with the condition in paragraph (1) if—

- (a) the council for the district in which the dwelling house is situated informs the Executive that in the council’s opinion the dwelling-house may be demolished within the period of 5 years from the date on which the Executive received the application for the repairs grant; or
- (b) that council informs the Executive that, notwithstanding that the relevant works are completed, the dwelling-house will, within that period become unfit for human habitation and the Executive is of the opinion that the dwelling-house will, at the expiration of that period, be incapable of being rendered fit at reasonable expense.”

The Housing (Northern Ireland) Order 2003 (NI 2)

6. For Article 30 (fitness for human habitation) substitute—

“Fitness for human habitation

30.—(1) This Article applies where in connection with the exercise of any function of the Executive under this Part it falls to be determined whether any dwelling or house is fit for human habitation.

Regeneration and Housing

(2) That question is to be determined by the council for the district in which the dwelling or house is situated (“the appropriate council”); and Article 46 of the Order of 1981 (fitness for human habitation) applies for the purposes of this Part as it applies for the purposes of that Order.

(3) The appropriate council must—

- (a) make any determination required by paragraph (2);
- (b) notify the Executive of any determination so made; and
- (c) if the determination is to the effect that a dwelling or house is unfit for human habitation, notify the Executive of the works which in the opinion of the council would need to be completed to render the dwelling or house fit for human habitation.

(4) In deciding for the purposes of this Part whether it is satisfied that the carrying out of the relevant works is the most satisfactory course of action in any case where the dwelling or house concerned is unfit for human habitation, the Executive shall have regard to—

- (a) the works notified to the Executive under paragraph (3)(c); and
- (b) any guidance given to it by the Department.

(5) Without prejudice to the matters in respect of which the Department may give guidance under paragraph (4), it may, in particular, give guidance in respect of financial and social considerations to be taken into account by the Executive.

(6) Where the Department proposes to give guidance under paragraph (4), or to revise guidance already given, it shall lay a draft of the proposed guidance or alterations before the Assembly and—

- (a) the Department shall not give the guidance or revise the guidance until after the expiration of the statutory period; and
- (b) if within that period the Assembly resolves that the guidance or alterations be withdrawn the Department shall not proceed with the proposed guidance or alterations (but without prejudice to the laying of a further draft).”.

6.—(1) Article 44 is amended as follows.

(2) Omit paragraph (4).

(3) In paragraph (5) for the words before sub-paragraph (a) substitute—

“If the premises to which an application for a renovation grant relates are not fit for human habitation, the Executive shall not approve the application unless it is satisfied—”.

7. In Article 55 for paragraph (4) substitute—

“(4) Where the Executive proposes to approve an application for a disabled facilities grant, then in deciding whether it is reasonable and practicable to carry out the relevant works it shall take into account—

- (a) in the case of an application in respect of works to a dwelling, whether the dwelling is fit for human habitation; and

Regeneration and Housing

(b) in the case of a common parts application, whether the building meets the requirements in Article 46(2) of the Order of 1981.

8.—(1) Article 59 is amended as follows.

(2) For paragraph (4) substitute—

“(4) Paragraph (5) applies if, where the Executive proposes to approve an application for an HMO grant, the house to which the application relates—

(a) is not fit for human habitation; or

(b) does not meet the requirements in Article 80(2) of the Order of 1992.”.

(3) In paragraph (5) omit the words from the beginning to “those requirements”.

9. In Article 110 before the definition of “deferred action notice” insert—

“ “the council”, in relation to premises of any kind, means the district council for the district in which the premises are situated;”.

10. In Articles 111 to 117—

(a) for “Executive” (wherever occurring) substitute “council”; and

(b) for “Executive’s” (wherever occurring) substitute “council’s”.

11. In Article 114 (2) omit the words from “For this purpose” to the end.

The Private Tenancies (Northern Ireland) Order 2006 (NI 10)

12. Omit Article 21.

SCHEDULE 3

AMENDMENTS: TRANSFER TO COUNCILS OF FUNCTIONS RELATING TO HOUSES IN MULTIPLE OCCUPATION

The Housing (Northern Ireland) Order 1992 (NI 15)

1.—(1) In Part 4 and Schedule 4—

(a) for “Executive” (wherever occurring) substitute “council”;

(b) for “Executive’s” (wherever occurring) substitute “council’s”.

(2) In Article 75A before the definition of “occupancy direction” insert—

“ “the council”, in relation to premises of any kind, means the district council for the district in which the premises are situated;”.

(3) In Article 75B(3) omit “need not be for the whole of Northern Ireland and”.

(4) In Article 75C(5) for sub-paragraphs (a) and (b) substitute “, but the order may specify cases in which no fee is payable”.

(5) In Article 75M(6) for the words from “in Northern Ireland” to the end substitute “in the district of the council”.

(6) In Article 86 for paragraphs (2) and (3) substitute—

Regeneration and Housing

“(2) Subject to paragraphs (3) and (3A), section 98 of the Local Government Act (Northern Ireland) 1972 (c.9) (powers of entry) shall apply to entry for the purposes of exercising any functions conferred on a council by or under this Part, and without prejudice to the generality of the forgoing shall apply in particular to entry for the purposes of—

(a) ascertaining whether any function conferred on the council by or under this Part should be exercised; and

(b) ascertaining whether there has been any contravention of this Part.

(3) In its application to entry for the purpose mentioned in paragraph (2)(b), section 98 shall apply with the omission of subsection (2).

(3A) In its application to entry for any purpose, subsections (3) and (4) of section 98 shall apply as if for the references to level 3 and level 2 on the standard scale there were substituted references to level 4 on that scale.”.

(7) At the end of Part 4 insert—

“Duty to promote awareness of rights and duties under this Part

87A.—(1) It is the duty of a council to take such action as it thinks appropriate in relation to its district to promote an awareness of the rights and duties arising under this Part among those persons who are affected or likely to be affected by the provisions of this Part.

(2) Actions taken by a council under this Article must be approved by the Department.

(3) A council must comply with any directions given to it by the Department as to the exercise of its duty under this Article.”.

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

The Housing (Northern Ireland) Order 1981 (NI 3)

1. In Article 46A(1) (guidance) for “41 or 47” substitute “or 41”.

The Planning Blight (Northern Ireland) Order 1981 (NI 16)

2.—(1) Article 3 (application of the Order) is amended as follows.

(2) In paragraph (1)(j) after “Article 86 of the Planning Order” insert “or section 6 of the Regeneration and Housing Act (Northern Ireland) 2010”.

(3) After paragraph (3) insert—

“(3A) In paragraph (1)(j) the reference to a development scheme adopted under section 6 of the Regeneration and Housing Act (Northern Ireland) 2010 includes a reference to—

(a) a development scheme notice of which has been published under section 6(2) of that Act;

(b) amendments to that scheme notice of which have been published by virtue of section 6(7) of that Act.”.

Regeneration and Housing

(4) In paragraph (4) for “or (3)” substitute “, (3) or (3A)” and omit “by the Department”.

The Planning (Northern Ireland) Order 1991 (NI 11)

3.—(1) In Article 9(2)(f) (incorporation in development plans) after “Article 86” insert “or section 6 of the Regeneration and Housing Act (Northern Ireland) 2010”.

(2) Omit Article 88 (compensation where unfit houses acquired).

The Licensing (Northern Ireland) Order 1996 (NI 22)

4.—(1) In Article 10(2) (preliminary approval of sites)—

- (a) omit from the beginning to “II of”; and
- (b) for the words from “, where the sites are” to the end substitute “the meeting of expenses.”.

(2) In Schedule 3 (approval of sites) omit—

- (a) in paragraph 1, the definitions of “proposed redevelopment area” and “development area”;
- (b) paragraph 2(2); and
- (c) Part 2.

SCHEDULE 5

REPEALS

Short Title	Extent of repeal
The Land Registration Act (Northern Ireland) 1970 (c.18)	In Schedule 11, paragraph 37(a) and (d).
The Rent (Northern Ireland) Order 1978 (NI 20)	In Article 8(7A) the words from “as if for any reference” to the end.
The Housing (Northern Ireland) Order 1981 (NI 3)	In Article 2(2) the definitions of “clearance area” and “exclusion order”. Articles 32 to 34. In Article 36(1) the words “paragraph 7 of Schedule 4 or, as the case may be,” and “clearance order or”. In Article 36(3) the words “clearance or”. In Article 45 the words “clearance or”. In Article 46A(1) “32,”. In Article 46A(1)(g) and (h). Chapter 3 of Part 3. In Article 62(5) the words “re-development area or” and “a re-development scheme approved under Chapter III or”. In Article 89(2) the words “clearance order”. In Article 90(2) the words “III or”.

Regeneration and Housing

Short Title	Extent of repeal
The Planning Blight (Northern Ireland) Order 1981 (NI 6)	In Article 91(1), (2), (3) and (5) the words “clearance order”. In Article 92(1) the words “clearance order”. Article 98. In Article 101(1) the words “clearance order”. Article 161(1)(a) and (d). Schedule 4. In Article 3(4) the words “by the Department”.
The Housing (Northern Ireland) Order 1988 (NI 23)	Article 26.
The Laganside Development (Northern Ireland) Order 1989 (NI 2)	The whole Order.
The Planning (Northern Ireland) Order 1991 (NI 1)	Article 88.
The Housing (Northern Ireland) Order 1992 (NI 15)	Article 45(2)(d). Article 69(1)(a). In Article 75B(3) the words “need not be for the whole of Northern Ireland and”. In Schedule 6, paragraphs 4 and 9.
The Licensing (Northern Ireland) Order 1996 (NI 22)	In Article 10(2), the words from the beginning to “II of”. In Schedule 3— (a) in paragraph 1, the definitions of “proposed redevelopment area” and “development area”; (b) paragraph 2(2); and (c) Part 2.
The Housing (Northern Ireland) Order 2003 (NI 2)	In Article 114(2) the words from “For this purpose” to the end.
The Private Tenancies (Northern Ireland) Order 2006 (NI 10)	Article 17(2). Article 21.

Annex B

List of Consultees

Annex B

List of Consultees

Active Community Unit, Home Office Advice Services Alliance Age Concern (NI) Help the Aged (NI) a2b (Access to Benefits) An Munia Tober Archbishop of Armagh and Primate of All Ireland Armagh Travellers Support Group Association of Chief Officers of Voluntary Organisations Association of Independent Advice Centres Autism NI (PAPA) Barnardos Belfast Healthy Cities Baha'i Office for Northern Ireland Belfast Jewish Community Belfast Unemployment Resource Centre Bishop of Down & Connor Belfast Partnership Boards The Blind Centre (NI) British Deaf Association NI Dyslexia Association Bryson Charitable Group Business in the Community Cara-friend CARE in Northern Ireland Carers Northern Ireland The Cedar Foundation Centre for Voluntary Action Studies, University of Ulster "Challenge" Chartered Institute of Housing Child Poverty Action Group Children in Northern Ireland (CiNI) Children's Law Centre Chinese Chamber of Commerce Chinese Welfare Association Chrysalis Women's Centre Citizens Advice Clerk to the Committee of the Centre Coalition on Sexual Orientation Coiste na n-iarchimi Committee on the Administration of Justice Community Development and Health Network (NI) Community Foundation for Northern Ireland	The Community Relations Council Community Relations Training/Learning Consortium Community Places Concordia Confederation of British Industry Confederation of Community Groups Co-operation Ireland CORI NI Office Council for the Homeless (Northern Ireland) Counteract COUNCILS Craigavon Traveller's Support Committee Cruse Bereavement Care (NI) Democratic Dialogue Departmental Solicitor's Office Derry Well Woman Disability Action District Councils Down and Connor Family Ministry Commission Down's Syndrome Association East Belfast Community Development Agency Education and Library Boards Employers' Forum on Disability Equality Coalition Equality Commission Economic Research Institute of Northern Ireland Falls Community Council Falls Women's Centre Family Planning Association NI Fermanagh Women's Network First Division Association First Key (NI) Foyle Friend Foyle Friend Women's Group Foyle Women's Information Network Foyle Women's Aid Gay and Lesbian Youth NI GEMS Northern Ireland Limited General Consumer Council Gingerbread NI The Guide Dogs for the Blind Association Health and Social Services Boards Housing Rights Service Indian Community Centre Information Commissioner's Office
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<p>Invest (NI) Irish Congress of Trade Unions Knights of Columbanus The Law Centre (NI) The Law Society of NI The Community and Leisure Services Section Lesbian Line Library, Parliament Buildings The Local Government Staff Commission for Northern Ireland (LGSC) Magherafelt Women's Group Members of the Northern Ireland Assembly Men's Action Network (MAN) Mencap Methodist Church in Ireland Mid-Ulster Women's Network Multi-Cultural Resource Centre National Association of Pension Funds National Children's Bureau NI Newry and Mourne Senior Citizen's Consortium Newry and Mourne Women Ltd Newtownabbey Senior Citizen's Forum Neighbourhood Partnerships NI African Cultural Centre NI Anti-Poverty Network NI Commissioner for Children and Young People NI Federation of Housing Associations NI Islamic Centre NIACRO NICVA NIGRA (NI Gay Rights Association) Northern Ireland Association for Mental Health Northern Ireland Committee, Irish Congress of Trade Unions Northern Ireland Council for Ethnic Minorities Northern Ireland Government Departments Northern Ireland Housing Council Northern Ireland Housing Executive NI Human Rights Commission (NIHRC) NIPSA NI Statistics & Research Agency (NISRA) Northern Ireland Tenants Action Project NI Union of Supported Employment NI Volunteer Development Agency NI Women's Aid Federation NI Women's European Platform (NIWEP) NSPCC North West Community Network</p>	<p>North West Forum of People with Disabilities NUS/USI Northern Ireland Student Centre Northern Ireland MPs and MEPs Northern Ireland Political Parties Northern Ireland Spokespersons in House of Lords and House of Commons NIO Human Rights and Equality Unit OFREG Omagh Women's Area Network Parents Advice Centre PlayBoard POBAL Polish Association NI Presbyterian Church in Ireland PSNI The Rainbow Project Relate NI Rent Officer for Northern Ireland Royal National Institute for the Blind Royal National Institute for the Deaf Rural Community Network Rural Development Council Rural Support Sai Pak Chinese Community Association Save the Children Sense NI Shelter (Northern Ireland) Sikh Cultural Centre Simon Community (Northern Ireland) Social Economy Agency STEP (South Tyrone Empowerment Project) South West Belfast Community Forum Sperrin Lakeland Senior Citizens' Consortium Staff Commission for Education and Library Boards Training for Women Network Ltd Traveller Movement Northern Ireland Ulster Architectural Heritage Society Ulster People's College Ulster Scots Heritage Council ULTACH Trust UNISON Volunteer Development Agency West Belfast Economic Forum Women into Politics The Women's Centre Women's Forum Northern Ireland Women's Information Group Women's Resource and Development Agency Women's Support Network Workers Educational Association Youth Council for NI</p>
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Annex C

**Confidentiality &
Data Protection**

Annex C

(i) Confidentiality & Data Protection

- i. The Department will publish its response following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Any automatic confidentiality disclaimer generated by your IT system will be taken to apply only to information in your response for which confidentiality has been specifically requested. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation. The Department will handle any personal data you provide appropriately in accordance with the Data Protection Act 1998.
- ii. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.
- iii. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:
 - *the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;*

- *the Department should not agree to hold information received from third parties “in confidence” which is not confidential in nature; and*
 - *acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner”.*
- iv.** For further information about confidentiality of responses please contact the Information Commissioner’s Office or see the website at www.informationcommissioner.gov.uk. For further information about this particular consultation please contact the consulting Branch as above.

Notes

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Consultation on the Draft Regeneration and Housing Bill

Belfast City Council Draft Response

1.0 INTRODUCTION

- 1.1. Belfast City Council welcomes the opportunity to respond to the draft Regeneration and Housing Bill. This is a timely and much needed piece of legislation, which represents the first real positive step in enabling the transfer of additional functions to councils and in creating strong and responsive local government. The draft Bill will enhance local government service delivery and the ability of the Council to make a real and lasting difference at the local level and, therefore, is strongly welcomed.
- 1.2. The Council seeks, through this response, to further enhance the effectiveness of this legislation for the benefit of its local people and for councils' residents across Northern Ireland.
- 1.3. The Council's response is structured as follows. First, the Council addresses a number of key strategic themes that arise, in a number of provisions, throughout the Bill. Second, the Council responds to the specific provisions of the Bill as relevant.

2.0 GENERAL COMMENTS

- 2.1 **Legislative Process:** While the Council fully welcomes the Bill and the enhanced responsibilities it confers on councils, it is conscious that much of the detail around the outworking of this legislation will be set out within the subsequent subordinate legislation (i.e. regulations) of which there is no detail at the moment. The Council would therefore advocate the need for the Department to consult with all interested parties (including the Council) in the drafting phase of any subordinate legislation related to the draft Bill. This would enable the Council (and all councils) to assist the Department in drafting even more effective regulations for the benefit of local people.
- 2.2 Due consideration will also need to be given to the inter-relationship and operability between this Bill (and its component parts) and other RPA related legislation (e.g. Local Government Reorganisation Bill) and their component parts e.g. transfer schemes.
- 2.3 **Relationship between central and local government:** While the Council recognises the role of the Department and Minister in setting the regional policy framework within which the functions will be administered, it would recommend that local government should be afforded the necessary level of autonomy and flexibility to deliver such functions at the local level.
- 2.4 The Council would be of the view that over-intervention by the Department would reduce the degree of freedom afforded to local authorities and would contradict the aspiration of the RPA to create a 'strong, dynamic and responsive local government sector'.

- 2.5 In particular the Council seeks clarification as to the Departments intentions in regards to: retaining a 'regional policy' role; input into projects which are of 'regional significance'; 'oversee' particular projects; have the power to 'approve' development schemes; and 'direct' councils with regards to specific initiatives.
- 2.6 Role clarity between central and local government in relation to the policy and operational aspects of the functions covered by this Bill will be important so as to provide the necessary clarity and assurances to relevant stakeholders impacted upon by the functions covered by the Bill. Any ambiguity may leave councils and the Department open to potential future challenge
- 2.7 **Regional Significance:** Given the role of Belfast in the regional economy it could be considered that any significant developments within the city are likely to have regional implications with the result that the proposals could be taken out of the Councils remit and retained by the Department under the current provisions of the Bill. The Council would request further detail from the Department on the classification of 'regional significant projects' and the role of the Council in progressing these.
- 2.8 **Transfer of Assets and Liabilities:** The Council would be concerned that provisions exist within the Bill which enable the Department to make regulations specifying exemptions to the transfer of assets and liabilities to councils in relation to both development schemes and Laganside. This could have significant financial implications for the Council if the Department were to transfer high-cost liabilities yet retain high value assets.
- 2.9 The Council seeks to be fully and formally consulted in relation to the detailed breakdown of the precise nature of functions, assets, and liabilities that will transfer to councils in relation to the functions transferring under both Parts 1 and 2 of the draft Bill.
- 2.10 **Laganside:** The Council would be concerned about the ability of the Department (within the provisions of the Bill) to exempt a number of undeveloped sites from statutory transfer to the Council, but instead transfer them on a non-statutory basis with specific conditions attached (as referred to at para 33, page 16 of consultation document). The Council would seek further detail in regards to the Departments intentions in regards to this issue and the nature of any conditions to be attached to undeveloped sites. Given the direct relevance to and impact upon the Council, it would seek formal engagement with the Department at an early stage.
- 2.11 **Resources:** In advance of any transfer of functions there needs to be a full due diligence assessment undertaken to ensure that the level of resources are adequate to provide the council with the capacity to deliver the functions effectively.
- 2.12 Clearly there remain issues of detail which still need to be addressed when the associated subordinate legislation is being drafted. The Council looks forward to working closely with the Department in the development of any accompanying regulations which are to emerge from the Bill.

Detailed comments on the Draft Regeneration and Housing Bill – clause by clause

Reference	Explanatory Memorandum overview	Belfast City Council Comments
Part 1: Regeneration		
Chapter 1 – Powers in relation to Social Need		
<p>Clauses 1 and 2</p>	<p>Financial assistance to address social need; Conditions attaching to financial assistance</p> <p>A council will be able to provide financial assistance to third parties which it considers will benefit (directly or indirectly) areas of social need in its district.</p> <p>A list of examples of the types of activities which a council may fund is given but this list is not prescriptive and councils will have wide discretion about what they decide to fund.</p> <p>Financial assistance may take the form of grants, loans, guarantees or the taking of any interest in property or in a body corporate. A council will be able to attach such conditions as it thinks fit to the provision of financial assistance and failure to comply with certain conditions may be an offence.</p> <p>For the purposes of determining whether a condition has been complied with or whether financial assistance has become repayable a council may by notice require a person to give information or produce books, records or other documents. Failure to comply with such a notice or providing false information in response to such a notice may be an offence.</p>	<ul style="list-style-type: none"> ▪ The Council welcomes clauses 1 and 2 given their potential to enable councils to address issues of social need at a local level. ▪ The Council further welcomes the “wide discretion” given to it within the Bill to provide financial assistance to third parties it considers will benefit areas of social need. The Council also welcomes that the list of third parties to which it can give financial assistance will not be prescriptive (clause 1 (2)). ▪ The Council would seek notification of the programmes and initiatives (and associated funding) which are currently being operated by the Department so as to inform the necessary transitional / handover arrangements. ▪ The Council welcomes the conditions attached to financial assistance under section 2 (1). These conditions are useful in that they appear to enable the Council to claw back / enact profit-share arrangements in relation to property which receives financial assistance.

Reference	Explanatory Memorandum overview	Belfast City Council Comments
		<ul style="list-style-type: none"> The Council would seek further clarification from the Department on the future relationship between central and local government in terms of the establishment of regional policy and how this may affect the delivery of the powers set out within clauses 1 and 2.
Clause 3	<p>Power to carry out works for the improvement of the environment</p> <p>Clause 3 allows a council to carry out works for the improvement of the environment which it considers will benefit an area of social need in its district. Certain works require the consent of the Department for Regional Development.</p>	<ul style="list-style-type: none"> The Council welcomes this provision which provides councils with the power to carry out works for the improvement of the environment in areas of social need. The Council believes that such provisions will strengthen the ability of councils to deal with dilapidated buildings.
Clause 4	<p>Power of Department to provide financial assistance</p> <p>Clause 4 amends Article 3 of the Social Need (Northern Ireland) Order 1986 by removing reference to districts in defining the focus of the Department's financial assistance. This more clearly reflects the role the Department will have in supporting regional level activity, for example community and voluntary sector organisations providing services across Northern Ireland.</p>	<ul style="list-style-type: none"> The Council welcomes the removal of the reference to "districts" in redefining the focus of the Department's financial assistance to that of supporting regional level activity. However, the Council would seek assurances that this would not undermine councils' access to funding.
Chapter 2 – Development Powers and other Powers for Planning Purposes		
Clauses 5 and 6	<p>Development schemes of councils; adoption of development schemes by councils</p> <p>These clauses give councils powers to prepare and adopt statutory 'development schemes' which, once adopted, form part of the local development plan. Development schemes have been used on occasion by the Department to pursue large-scale regeneration projects such as Victoria Square in Belfast.</p>	<ul style="list-style-type: none"> The Council welcomes the proposed extended role of councils in relation to the preparation and delivery of development schemes. The process as outlined in the draft Clause appears to involve the potential for significant time delay in the approval process because a council is under a duty to submit the scheme to the department for comment (6(1)(a)) and also for approval 6(5). The Council seeks clarification as to the connection the Draft Bill

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>Clause 5 allows a council to prepare a development scheme for an area in its district which it considers should be developed, redeveloped or improved as a whole. Development schemes must be defined by a map and set out in general terms the intentions for land use and layout.</p> <p>The Department will be able to direct a council to prepare a development scheme where it considers that the regeneration of an area is required and likely to be of regional significance and the council is best placed to take this forward. This provision is related to clause 9 and the ability of the Department to make regulations requiring councils to provide information in relation to certain types of development proposals. (See paragraph 22)</p> <p>Clause 6 specifies the procedure for consulting on development schemes and considering objections. Councils will be required to consult with the Department for Social Development in the preparation of development schemes and will also have to publicly advertise its draft schemes.</p> <p>Any relevant objections to a draft scheme which cannot be resolved must be considered by the planning appeals commission at public local inquiry. A development scheme cannot be formally adopted by a council without the approval of the Department.</p> <p>The Department will expect councils to demonstrate that they have worked with the Northern Ireland Housing Executive when developing scheme proposals which involve social or affordable housing.</p>	<p>has with broader legislative frameworks (in particular the Planning (NI) Order 1991).</p> <ul style="list-style-type: none"> ▪ The Council would suggest that the definition of what is regionally significant should not rest with DSD alone but should be linked to the Regional Development Strategy or Regional Transport Strategy or other overarching plans ▪ The Council would have concerns that given the role of Belfast in the regional economy it could be considered that any significant proposal for the city would have regional implications and significance with the result that the proposals would be taken out of the Council's remit and retained with the Department. ▪ It is the Council's view that any Departmental veto should only be exercised in highly exceptional circumstances, and that these circumstances should be made clear. ▪ The Council would advocate the need for prior and appropriate consultation and engagement with relevant council prior to the Department exercising its power of direction ▪ The Council would seek assurances that there will be a detailed analysis of the financial provisions and financial mechanisms that will enable this extended role of councils. ▪ The Council welcomes the harmonisation of planning and regeneration within the Council. There is, however, uncertainty in respect of the situations where the planning power could be exercised by the Regional rather than local planning authority. There is also a significant change in that the Council sponsored

Reference	Explanatory Memorandum overview	Belfast City Council Comments
		<p>schemes will be subject to the approval of the Department(s).</p> <ul style="list-style-type: none"> ▪ The Council would note that there is no mechanism within the Bill allowing for the Council to challenge the Department's decision in relation to a Development Scheme. ▪ The Council feel that there may be a duplication of potential responsibilities, between the undefined regional level and council. This could be the source of uncertainty and challenge when the different potential agencies pursue implementation or the application of the new powers. ▪ Consideration should be given to excluding the need for a public enquiry where the objection or objections are considered to be de minimis.
Clause 7	<p>Acquisition of land by councils for planning purposes</p> <p>A council will be able to acquire land, by agreement or compulsorily, for certain planning purposes. A council cannot compulsorily acquire Crown Land, for example former military sites held by the Office of the First Minister and the deputy First Minister for regeneration under the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003.</p> <p>The procedure for acquisition of land by vesting order is set out in Schedule 6 of the Local Government Act (Northern Ireland) 1972. Councils must apply to the Department to make a vesting order if they wish to compulsorily acquire land.</p> <p>Proceedings for the acquisition of land in connection with a development scheme and proceedings in connection with the adoption of a development scheme can be taken concurrently up to a point but a vesting order cannot be</p>	<ul style="list-style-type: none"> ▪ The Council welcomes the extension to councils of the power to acquire land for planning purposes as this will greatly facilitate physical regeneration projects and the delivery of development schemes. ▪ The Council note that 7 (2), vesting is permitted if a council acquires a lesser estate than a fee simple in any land. It would be useful as part of site assembly, to expand this to include vesting to amalgamate sites acquired by agreement to create a single clean title.

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>made until the development scheme has been adopted.</p> <p>A council will be able to acquire land “in the interests of the proper planning of an area” if they are satisfied that the purpose for which they want to acquire the land is in keeping with an extant local development plan.</p>	
Clause 8	<p>Disposal of land held by councils for planning purposes</p> <p>A council will be able to dispose of land which it holds for planning purposes in order to secure the best use of land or buildings or to secure the erection or construction of buildings or carrying out of works which the council considers are needed for the proper planning of the area in which the land is situated.</p>	<ul style="list-style-type: none"> ▪ It is the Council's position that Clause 8 of the Bill should expressly permit the Council to retain any funds from the sale of such property falling under this section, for the purpose of potentially reinvesting this money in regeneration schemes. ▪ The Council would note that at Para 90 (3) of the Planning Order NI 1991 states that Clause 6 of Section 5 of the Stormont Regulation & Government Property Act (NI) shall not apply for the disposal of any land under this Article. Clause 6 says that any moneys received by a Department in respect of any transaction carried out by such Department shall be paid to the Exchequer of Northern Ireland. Similar provision should be made in the draft Bill in respect of councils. ▪ Clause 8 as drafted may require screening to ensure compatibility with Article 1 Protocol 1 of the Human Rights Act 1998.
Clause 9	<p>Development of land by councils for planning purposes</p> <p>A council will be able to develop land which it holds for planning purposes by erecting or constructing buildings or carrying out works or entering into agreements with any person for the development of land. A council will also be able to maintain, repair and generally manage buildings or works on land which is being held for development</p>	<ul style="list-style-type: none"> ▪ The Council welcomes the extension of the role of councils to develop land for planning purposes. ▪ The Council would have concerns regarding the Department's oversight role and the potential restrictions on the Council's ability to develop and deliver proposals. The Council would also note that the debate around the undefined retained planning powers started with the concept that there would be very few situations where this would be exercised and became enshrined in a more

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>purposes.</p> <p>The Department will have the power to make regulations which would:</p> <ol style="list-style-type: none"> 1) require councils to provide the Department with specific information about their plans to develop land in particular circumstances and; 2) enable the Department to delay the council from using its development powers in those circumstances for a specified period of time. The detail of these regulations will be developed and consulted upon separately. <p>The purpose of the regulations will be to ensure that the Department is kept informed of any proposed development which is likely to be of significance to the whole or a substantial part of Northern Ireland.</p> <p>It is intended that these regulations will be used to inform the Department's decision about whether to direct a council to prepare a development scheme under clause 5.</p>	<p>formalised tiered approach covering an increased number of eventualities.</p> <ul style="list-style-type: none"> ▪ The retained regional planning function for applications also introduces an element of uncertainty as to whether the Council will have the ability to manage the interrelated aspects of more complex regeneration proposals as the DoE may consider the proposals to fall within the regional tier of applications for consideration by the <i>Regional Planning</i> body. ▪ The Council note that Clause 9 enables the Department to make regulations to require councils to provide information on plans to develop land and to make regulations enabling the Department to delay the Council from using its development powers for a specified period of time. The Council would therefore advocate the need for the Department to consult with all interested parties (including the Council) in the drafting phase of any subordinate legislation related to the draft Bill.
Clause 10	<p>Powers of council before acquisition of land for planning purposes</p> <p>A council will be able to enter into agreements for the development or disposal of land which it intends to acquire compulsorily, at any time after it has published notice of the application for a vesting order.</p>	<ul style="list-style-type: none"> ▪ The Council has no comments on this Clause.
Clause 11	<p>Extinguishment by council of right of way</p> <p>A council will be able to extinguish by order public right of way over land which it holds for planning purposes if it considers that this is necessary for the proper development</p>	<ul style="list-style-type: none"> ▪ The Council welcomes Clause 11 insofar as it is a key provision in enabling development to take place.

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>of the land.</p> <p>A council will have to publicise its intentions and serve notice on any affected statutory undertakers and electronic communications operators, for example NIE or Northern Ireland Water. Councils may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.</p> <p>Sub-sections 7-11 contain a number of safeguards for operators of electronic communications networks in the event of an extinguishment order being made.</p>	
Clause 12	<p>Power of council to require information</p> <p>A council will be able to issue a notice requiring the occupier of any premises or a person receiving rent for any premises to provide certain information to enable the council to make an order or issue or serve notice. Failure to comply with such a notice or providing false information in response to such a notice may be an offence.</p>	<ul style="list-style-type: none"> The Council welcomes Clause 12 as it will assist councils in determining ownership of buildings/properties.
Clause 13	<p>Development schemes made by the Department</p> <p>Clause 13 amends Article 85 of the Planning Order by restricting the ability of the Department to make development schemes. In order for the Department to make a development scheme it must be satisfied that the development, redevelopment or improvement of an area will be of regional significance and that the relevant district council is not best placed to carry this out.</p>	<ul style="list-style-type: none"> Given the role of Belfast in the regional economy it could be considered that any significant developments within the city are likely to have regional implications with the result that they could be retained by the Department under the current provisions of the Bill. The Council would request further detail from the Department on the classification of 'regional significant projects' and the role of the Council in progressing these.
Clauses 14 to 17	<p>Transfer of assets and liabilities to councils</p> <p>The Bill provides for the transfer of assets and liabilities held</p>	<ul style="list-style-type: none"> The Council notes that Clause 14 makes provisions for the automatic vesting of assets and liabilities held by the Department

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>or incurred by the Department for planning purposes to the appropriate district council. The Department will also be able to make regulations specifying exceptions to the transfer.</p>	<p>for the purposes of, or in connection with, a transferred development scheme.</p> <ul style="list-style-type: none"> ▪ The Council would recommend that Clause 14 gives a further provision to the Department, at the request of the relevant council, to enter into special arrangements for the purpose of underwriting any onerous liabilities or potential liabilities which might affect the transferred asset. ▪ The draft bill, at Clause 17, allows the Department, by way of regulation to exclude assets & liabilities/schemes from transfer to councils. This could have significant financial implications for the Council if the Department were to transfer high cost liabilities yet retain high value assets.
Clause 18	<p>Unadopted development schemes</p> <p>The Department will be able to make regulations specifying transitional arrangements for an unadopted development scheme in the event that it is in the process of making a development scheme when the Bill is enacted.</p>	<ul style="list-style-type: none"> ▪ The Council would advocate the need for the Department to consult with all interested parties (including the Council) in the drafting phase of any subordinate legislation related to the draft Bill.
Clause 19	<p>Interpretation of Chapter 2</p>	<ul style="list-style-type: none"> ▪ The Council would recommend that within this Chapter, the phrase 'The Department' refers to the Department of Social Development. ▪ There is potential for confusion given that all of the Articles within the Planning Order NI 1991 were originally within the remit of the Department of the Environment but since devolution certain Articles have become the responsibility of the Department for Regional Development and the Department for Social Development.

Reference	Explanatory Memorandum overview	Belfast City Council Comments
Clause 20	<p>Transfer to council of certain functions in relation to Laganside</p> <p>Clause 20 provides for the repeal of the Laganside Order and Schedule 1 sets out the powers which Belfast City Council will be able to exercise in relation to part of the River Lagan.</p> <p>These powers will enable the Council to safeguard the legacy of the work done by the Laganside Corporation and include:</p> <p><i>the power to execute works to facilitate access to the river or promote recreational use; power to construct bridges and weirs; power to make byelaws regulating e.g. fishing or the use of the river by vessels.</i></p>	<ul style="list-style-type: none"> ▪ The Council note that there may be significant financial and operational implications arising from the transfer of resources, revenue and operational maintenance from the Department to Belfast City Council ▪ The Council would advocate the need for a full due diligence assessment of assets, liabilities and functions ▪ In advance of any transfer the Council would recommend that there be detailed scoping exercise undertaken in relation to the necessary transition arrangements / range of services and resources needed to maintain Laganside operations
Clauses 21 and 22	<p>Transfer of assets and liabilities to council</p> <p>The Bill provides for the transfer of Laganside assets and liabilities to Belfast City Council. The Department will also be able to make regulations specifying exceptions to the transfer. The Department may wish to exempt a number of undeveloped sites from statutory transfer under this Bill and instead transfer them on a non-statutory basis to the Council with specific conditions attached.</p>	<ul style="list-style-type: none"> ▪ The Council would have concerns in regards to the ability of the Department to exclude undeveloped sites from statutory transfer to the Council but rather to transfer them on a non-statutory basis with conditions attached. The Council would welcome the opportunity to engage with the Department in relation to this matter and the drafting of any associated criteria. ▪ Clause 21(3) states that “the transfer does not apply to rights or liabilities under a contract of employment”. Clarification is required in regards to the potential implications of this Clause in terms of the transfer of staff alongside the function. ▪ With respect to Clause 22(1) the Council notes that the Department may, by regulations, provide that section 21 (including the automatic vesting of assets and liabilities to Council) is not to apply to prescribed land. The Council would advocate the need for the Department to consult with all interested parties (including

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p style="text-align: center; font-size: 48px; opacity: 0.3; font-weight: normal;">DRAFT</p>	<p>the Council) in the drafting phase of any subordinate legislation related to the draft Bill.</p> <ul style="list-style-type: none"> ▪ The Council would note that the majority of Lagan side assets, including the River Lagan & Weir, have very significant revenue and capital financial implications, the future cost of which may be very difficult to quantify, particularly for major capital renewal or repair works that may be required. The Council would therefore advocate that the transfer to BCC of <i>all</i> assets & liabilities (including development sites) would be appropriate in the context of meeting future expenditure requirements. ▪ In relation to paragraph 5 (1) of Schedule 1 the requirement of the Council to have the consent of DARD in respect of undertaking those works specified in paragraph 2(1) and (2) would appear to be unnecessarily onerous in respect of certain activities accept for those matters directly affecting environmental issues and water quality (which the Council would recognise are clearly within the remit of DARD).
<p>Clause 23</p>	<p>Surveys and Studies</p> <p>A council will be able to conduct or fund studies, investigations or research related to the exercise of its functions under Part 1 of the Bill e.g. social need in its district; development or redevelopment of its area etc.</p>	<ul style="list-style-type: none"> ▪ The Council has no comments on this Clause.
<p>Clause 24</p>	<p>Guidance</p> <p>Following consultation with councils the Department will be able to issue guidance in relation to regeneration. For example, if a council is taking forward a regeneration scheme which involves an element of social or affordable housing, the Department will require councils to work with the Northern Ireland Housing</p>	<ul style="list-style-type: none"> ▪ The Council welcomes the stipulation within Clause 24 that guidance will only issue following consultation with councils. ▪ The Council would recommend that in line with good practice, that there be pre-developmental consultation in respect of all

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>Executive in developing its proposals, in the same way in which the Department has traditionally done.</p> <p>This is in recognition of the NIHE's role as Northern Ireland's strategic housing authority.</p>	<p>guidance, whether regulatory or otherwise, which relates to council activity and procedure.</p>
Part 2 – Housing		
<p>Clauses 25 and 26</p>	<p>Housing unfitness</p> <p>The Housing Executive currently has a statutory obligation to identify and address unfitness in both social and private housing. To do this, it employs a number of methods to tackle the problem, including repair, closing, deferred action and demolition notices for individual properties, access to private sector grants in appropriate cases and the declaration of clearance and redevelopment areas.</p> <p>Councils currently have more limited powers for dealing with unfit housing in the private rented sector. These are set out in the Private Tenancies (Northern Ireland) Order 2006.</p> <p>Clauses 26 and Schedule 2 set out the proposals for transferring the statutory obligation to identify and address unfitness in all housing to councils. Councils will also be given a range of powers to deal with unfit housing, including the ability to serve repair, closing, deferred action and demolition notices for individual properties.</p> <p>These powers will be complemented by a number of the new regeneration powers available to councils under Part 1 of the Bill, particularly the powers to prepare and deliver development schemes to improve a whole area.</p> <p>A number of development schemes are likely to include a housing element. For this reason, the Housing Executive's powers to declare clearance and redevelopment areas, which are similar to those available to councils to undertake development schemes, are being repealed rather than</p>	<ul style="list-style-type: none"> ▪ The Council welcomes the powers of the Bill insofar as powers are transferred to Councils in respect of housing unfitness. ▪ Traditionally the Housing Executive has relied on district council staff to provide the evidence for unfitness. In addition, powers under the Private Tenancies (NI) Order 2006 allow district councils to deal with unfitness specifically in the private rented sector. It would appear that the extension of powers, under the Bill, for Councils to intervene generally in respect of unfit dwellings is a formalisation of this important regulatory function. ▪ The Council would suggest that there may be merit in the consideration of a more general provision in relation to the ability to secure the improvement of property that would be considered detrimental to the environmental amenity of regeneration areas by virtue of its condition. This could supplement the current powers or responsibility to take action where properties are in a dangerous or unfit condition.

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>transferred. Clause 25 sets out the detail of the provisions being repealed.</p> <p>The Housing Executive will continue to retain responsibility for the delivery of private sector grants.</p>	
Clause 27	<p>Houses in multiple occupation</p> <p>Houses in Multiple Occupation (HMOs) are one part of the private rented sector, providing accommodation to individuals without a close family relationship, such as students, young professionals and migrant workers.</p> <p>For over nearly twenty years, Government policy on HMOs has focused on improving the standard of accommodation and the way in which this is managed. To date, the Housing Executive has been responsible for regulating HMOs, including the management of a registration scheme which operates in areas with higher concentrations of HMOs.</p> <p>As HMOs tend to be concentrated in areas with large numbers of students and migrant workers, some councils will have a more significant role than others. Councils can, if they wish, work in partnership with one another in the regulation of HMOs, using powers available to them under the Local Government (Northern Ireland) Act 1972. This may be a particularly attractive option for those councils with lower numbers of HMO properties.</p>	<ul style="list-style-type: none"> ▪ Belfast City Council welcomes the proposals in the Bill for the transfer of this function from the NIHE to district councils. ▪ In considering the transferring of this function, due consideration will need to be given to ensure that staffing and financial allocation is commensurate with the number of HMOs in each council area to ensure that councils have the capacity to deliver this function effectively. ▪ The Council would welcome early dialogue, and where relevant full and formal consultation as to detailed breakdown of resources and funding, with the Department and NIHE as the specific provisions in this area are taken forward. ▪ The Council would also highlight the potential synergies with this function and existing regulatory enforcement activity undertaken by the Council in particular those currently with responsibilities in relation housing and building control.
Clause 28	<p>Energy efficiency</p> <p>Under the Home Energy Conservation Act 1995 the Housing Executive was designated as Northern Ireland's sole Home Energy Conservation Authority. The Act requires the Housing Executive to develop a strategy to significantly improve the energy efficiency of the entire housing stock and to submit annual progress reports thereafter.</p>	<ul style="list-style-type: none"> ▪ The Council welcomes the proposal to provide councils with powers to promote domestic energy efficiency as an element in the drive to address fuel poverty. ▪ The Council understands that an option for a national Fuel Stamps Scheme will be included as a proposal for consideration in a DSD public consultation in the current Fuel Poverty Strategy due out in

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	<p>The Energy Efficiency (Northern Ireland) Order 1999 also gave the Department for Social Development powers to promote energy efficiency in residential accommodation. The Department has used these powers to establish the Warm Homes Scheme and develop a strategy for tackling fuel poverty in Northern Ireland. Fuel poverty is defined as where a household has to spend more than 10% of its income on fuel to maintain an acceptable level of warmth in the home.</p> <p>A number of councils have already undertaken a range of actions on energy efficiency and fuel poverty. The Bill formalises this position and provides all councils with powers to promote domestic energy efficiency in their districts. The proposals include powers to deliver advice and information, provide funding or other assistance and produce action plans to improve domestic energy efficiency.</p> <p>To ensure coherence with existing activity, councils will be required to take account of work undertaken by the Housing Executive and the Department and provide information to the Housing Executive for the purpose of carrying out its functions as Home Energy Conservation Authority.</p>	<p>the spring of this year.</p> <ul style="list-style-type: none"> ▪ In order to facilitate this type of support to the fuel poor however the Department may wish to consider a more explicit inclusion in the draft Bill that would ensure that Councils have a clear vires for such schemes by specifically empowering them to support schemes that are designed to assist the management of heating costs in residential accommodation. ▪ The administration of this function would have significant resource implications for councils. The Council would welcome full and formal consultation in relation to the nature and extent of resource provision. ▪ The Council observes that there is an existing synergy with functions it currently holds with building control having a regulatory function in relation to building regulations and responsibility for energy performance certificates. A certain level of expertise already exists in Councils in respect of this function.
Clause 29	<p>Housing Council</p> <p>The Northern Ireland Housing Council was set up by statute in 1971, at the same time as the Housing Executive, to provide a channel of communication between the Housing Executive and district councils on housing issues. The Housing Council currently consists of 26 members - one from each district council.</p> <p>It is now proposed that the membership from each of the 11 new Councils should increase from 1 to 2 to enable a wider</p>	<ul style="list-style-type: none"> ▪ The Council accepts that the Housing Council will provide an advisory and consultative role to the Department and to the Housing Executive in respect of housing matters generally. The Council therefore welcomes the proposals in the draft Bill to permit each district council to appoint two of its members to be members of the Housing Council.

Reference	Explanatory Memorandum overview	Belfast City Council Comments
	political representation on the Housing Council.	
Clause 30	Interpretation of Part 2	<ul style="list-style-type: none"> ▪ The Council has no comments in relation to this Clause.
Part 3 – Supplementary		
Clauses 31 to 36	<p>The regulations made under the provisions of this Bill will be subject to negative resolution.</p> <p>This means that the regulations are made by the Department and will come into operation unless the Assembly passes a motion to annul them.</p>	<ul style="list-style-type: none"> ▪ The Council notes that Clause 32 stipulates that Regulations made under the Act relating to issues such as transitional arrangements will be subject to negative resolution. ▪ The Council would therefore stress the importance of the Department engaging with the district councils prior to the making of any Regulations. Prior consultation should ensure consistency with any new arrangements for the delivery of services, such as the regulation of HMOs, where district councils have already agreed the optimal delivery methods.

DRAFT

Report to:	Strategic Policy and Resources (Transition) Committee
Subject:	Local Government (Disqualifications) (Amendment) Bill
Date:	15 April 2010
Reporting Officer:	Ciaran Quigley, Director of Legal Services
Contact Officer:	Kevin Heaney, RPA Project Coordinator (ext. 6202)

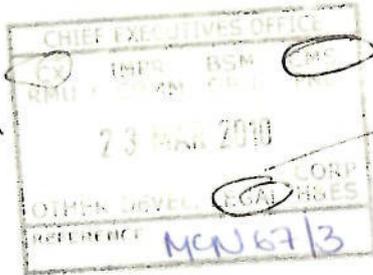
1.0	<u>Relevant Background Information</u>
1.1	The Council has recently received correspondence, dated 19 th March 2010, from the Committee for the Environment seeking views on a draft Local Government (Disqualifications) (Amendment) Bill.
1.2	Originating as a Private Member's Bill, the draft Local Government (Disqualifications) (Amendment) Bill has made it into the Committee Stage and, therefore, going through the legislative making process within the NI Assembly.
1.3	The sole purpose of the Bill is to amend the Local Government Act (Northern Ireland) 1972, to make provisions to disqualify elected Members of the Northern Ireland Assembly (i.e. MLAs) from holding office as councillors.
2.0	<u>Key Issues</u>
2.1	Section 4 (1) of the Local Government Act (Northern Ireland) 1972 currently prescribes a range of circumstances when a person is disqualified from being elected as a councillor. The Bill will extend the 1972 Act to preclude MLAs from being, or being elected, as a councillor.
2.2	It had always been understood that the ability to address the issue of dual mandates (also know as 'double-jobbing') would be progressed as part of pending RPA legislation i.e. Local Government (Reorganisation) Bill.
2.3	It would appear that the Committee for the Environment is now in the process of pre-empting the Reorganisation Bill by introducing the Local Government (Disqualifications) (Amendment) Bill. It given Royal Assent, it would be the intention that the Bill would be brought into operation on the day of the next district council election, which is expected to take place in May 2011.
2.4	The Bill addresses a political issue and in excess of 140 individuals and organisations, including political parties, have been consulted. Comments received were strongly in favour of the proposal. It is recommended that the Committee agrees not to offer any objection to the introduction of the Bill.
3.0	<u>Resource Implications</u>
3.1	There are no financial or Human Resource implications contained within this report.

4.0	<u>Recommendations</u>
	To agree that no objection be offered to the introduction of the Local Government (Disqualification) (Amendment) Bill.

5.0	<u>Appendices</u>
	Appendix 1: Correspondence received from the Committee for the Environment
	Appendix 2: Draft Bill and Explanatory Memorandum

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CMS /uan
CQ

— [Signature]
reports
JPK

19 March 2010

Dear Sir/Madam

Local Government (Disqualification) (Amendment) Bill

The Committee for the Environment has commenced Committee Stage of the above Bill.

The Committee would welcome your views on the proposed Bill and requests that you submit written evidence by e-mail to doecommittee@niassembly.gov.uk or by post to the address above.

Written submissions should be structured to address specific clauses of the Bill. Information regarding the Bill can be obtained from the Assembly's website --

http://www.niassembly.gov.uk/legislation/primary/2009/niabill7_09.htm

I would be grateful for a reply by **Friday 16 April 2010**.

Yours sincerely

Sean McCann
Assistant Clerk

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Appendix 2: DRAFT BILL



**LOCAL GOVERNMENT (DISQUALIFICATION)
(AMENDMENT) BILL**

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared for Ms Dawn Purvis MLA in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The member's objective is to reduce the practice of individuals holding more than one elected office at a time, an issue sometimes referred to as 'multiple mandates'.

4. The question of 'multiple mandates' has been debated by the Assembly on a number of occasions, including on 10 March 2009 which focused on dual mandates between the Northern Ireland Assembly and the UK Parliament. More recently, on 23 November 2009, the Assembly resolved:

"That this Assembly notes the recommendations of the Committee on Standards in Public Life, 'Supporting Parliament, Safeguarding the Taxpayer'; calls on all political parties within the Assembly and Parliament to commit to an end to "double-jobbing", including private sector employment, ideally by the time of the scheduled election in May 2011 or, failing that, by 2015 at the latest; and further calls on the First Minister and deputy First Minister to convey the opinion of the Assembly on this matter to the Prime Minister and the Leader of the Opposition."

5. The Assembly & Executive Review Committee (AERC) Committee has also considered the subject and retains it as an issue for consideration on their forward work programme for 2009/10.

6. The Assembly does not have the authority to legislate to disqualify its members from being members of the UK Parliament.

7. The sole purpose of the bill is to amend the Local Government Act (Northern Ireland) 1972, Section 4, to disqualify elected members of the Assembly from holding office as councillors. Penalties for violating this restriction would remain as stated in the current legislation.

CONSULTATION

8. In excess of 140 individuals and organisations were consulted on the proposals including political parties, community and voluntary organisations, the Environment Minister as well as the Environment Committee and the Assembly and Executive Review Committee. A number of discussions and follow-up meetings were held with key stakeholders.

9. There was strong support for the proposal. Of 16 substantive responses received, only two respondents raised objections. All other respondents offered a variety of opinions and arguments in favour of ending dual mandates.

OPTIONS CONSIDERED

10. One option considered was to disqualify councillors from holding office as members of the Assembly but this would involve legislating on a reserved matter requiring the consent of the Secretary of State.

11. The option selected involves legislating in the area of local government which is not subject to such a requirement.

12. A further option considered was the possibility of amending the Electoral Law Act (Northern Ireland) 1962 to change the way vacancies are filled on local councils in such a way as to mirror the new system in place for filling vacancies in the Assembly by virtue of the Northern Ireland Assembly (Elections) (Amendment) Order which came into force on 10 February 2009.

13. Under the new Assembly system, a vacancy is filled by a new member being appointed by the nominating officer of the party to which the departing member belonged.

14. Applying such a system to councils was proposed to facilitate implementation of the present bill and enhance support for the remaining provisions by reducing the number of by-elections that would arise should elected representatives wish to vacate a position.

15. This option could not be pursued as the matter of elections is 'excepted' and the Assembly is not competent to legislate on excepted matters as set out in Schedule 2 of the Northern Ireland Act 1998. It is noted, however, that the Secretary of State has just completed a public consultation on the subject, which closed on 10 January 2010.

OVERVIEW

16. The Bill has 3 clauses.

17. Section 4 of the 1972 Act deals with disqualifications. Clause 1 inserts an additional disqualification after section 4(1)(e) to preclude members of the Northern Ireland Assembly from being, or being elected, a councillor.

18. The second clause states that the Act will come into force on the day of the next district council general election, which is expected to take place in May 2011.

COST IMPLICATION OF THE PROPOSALS

19. Enacting this legislation will have no significant financial implications.

EQUALITY AND HUMAN RIGHTS IMPLICATIONS OF THE PROPOSALS

20. The provisions of the Bill are compatible with the provisions of the Human Rights Act 1998.

21. The provisions are believed to be consistent with equality of opportunity.

LEGISLATIVE COMPETENCE

22. The member in charge of the bill, Ms Dawn Purvis MLA, had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Local Government (Disqualification) (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”



Local Government (Disqualification) (Amendment) Bill

[AS INTRODUCED]

CONTENTS

1. Disqualification
2. Commencement
3. Short Title

A

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TO

Amend the Local Government Act (Northern Ireland) 1972 to disqualify members of the Northern Ireland Assembly from being elected, or being, a councillor.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Disqualification

1. In section 4(1) (disqualifications for being elected, or being, a councillor) of the Local Government Act (Northern Ireland) 1972 (c. 9), after paragraph (e) add—

“(f) that person is a member of the Northern Ireland Assembly.”.

Commencement

2. The provisions of this Act come into operation on the day of the first district council general elections to take place after Royal Assent.

Short Title

3. This Act may be cited as the Local Government (Disqualification) (Amendment) Act (Northern Ireland) 2009.

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Belfast City Council

Report to:	Strategic Policy and Resources Committee
Subject:	Committee Meeting, 7th May, 2010
Date:	15th April, 2010
Reporting Officer:	Mr. L. Steele, Head of Committee and Members' Services
Contact Officer:	Mr. J. Hanna, Senior Committee Administrator (extension 6313)

Relevant Background Information

The Committee will be aware that Polling Day for the Westminster Parliamentary Elections is scheduled to take place on 6th May, with the count commencing immediately after the close of Poll at 10.00 p.m.

Members will be aware also that the Committee is due to meet on Friday, 7th May, which is the day after the Polling Day and the Count.

Key Issues

It is recognised that many of the Members will be involved in assisting their Parties' nominated candidates in the Election and therefore might not be available to attend the Committee meeting on 7th May. Accordingly, it is proposed that the aforementioned meeting be cancelled and that the business be dealt with at the next meeting scheduled to be held on 21st May.

Resource Implications

None associated with this report.

Recommendations

Given the time commitment of Members, it is recommended that the meeting scheduled to be held on 7th May be cancelled.

Decision Tracking

Officer responsible: Mr. Jim Hanna

Action to be confirmed by: 23rd April

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