

Appendix 1

TRANSFER OF FUNCTIONS FROM CENTRAL TO LOCAL GOVERNMENT

Agenda Item: 4

Summary: The purpose of this submission is to present transfer of function position papers commissioned by the RTCG.

Action Required: For discussion.

BACKGROUND

1. The local government Review of Public Administration (RPA) proposals of the previous Direct Rule administration were reviewed by the Executive and the outcome was announced, on 31st March 2008, by the Minister of the Environment (Arlene Foster). The decisions taken, which are summarised in Annex 1, include the:-
 - establishment of a vision for local government;
 - rationalisation of the current configuration of 26 council areas to create 11 new council areas;
 - transfer of range of functions from central government along with other new or enhanced responsibilities for local government; and
 - development of a new community planning process with a complementary power of well being.
2. The announcement also stressed that the strengthening of local government would be a process not an event and that the Executive is committed to reviewing the functions that are to be delivered by local government 12 months after the new councils are established in May 2011 and on a periodic basis thereafter.
3. At the inaugural meeting of the RTCG, on 25th November 2008, members stressed the importance of ensuring that there is clarity on the detail of the package of functions included in the announcement. It was, therefore, agreed to commission transfer of function position papers from each of the relevant central government Departments for consideration at this meeting.

DETAIL

4. The position papers were requested by the Joint Secretariat on 27th November with the commissioning note embracing the:-

- 6 Departments (i.e. DOE, DCAL, DARD, DRD, DSD and DETI) transferring functions or providing new or enhanced responsibilities for local government;
- 3 Departments (i.e. DHSSPS, DE and DARD) whose Ministers had given commitments to enhance, or consider enhancing, the involvement of local government elected members in the governance arrangements for bodies within their areas of responsibility; and
- OFMDFM which, at the time of the announcement, was considering proposals for the extension of local government responsibilities for civil contingencies and to proposals to place additional duties on councils to produce good relations plans and strategies.

Departments Transferring Functions/New or Enhanced Responsibilities

5. Annex 2 provides a summary of the functions in the Departmental returns along with the current estimates of the total expenditure (i.e.£90million) and staff (i.e. some 1,000) resources likely to transfer.
6. Individual Departmental position papers are attached:-
 - DOE - Planning Service (Annex 3)
 - DOE - NI Environment Agency (Annex 4)
 - DCAL (Annex 5)
 - DARD – Rural Development Division (Annex 6)
 - DRD (Annex 7)
 - DSD (Annex 8)
 - DETI (Annex 9)
7. The position papers from the transferring function Departments help to flesh out the high level list of functions included in the announcement on 31st March. The information provided in each includes: the policy and legislative context within which the function is currently delivered; details of the function; associated responsibilities being retained by central government; estimates of resources likely to transfer; accounts of the next steps required, and issues which Departments wish to discuss further with local government.
8. However, as indicated at the RTCG meeting, it is clear that in a number of areas there is a need for early engagement between central and local government to ensure that there is clarity on the detail of the functions transferring and to consider arrangements for integrating these with functions that are already the responsibility of local government. This is particularly the case with the public realm functions of local roads functions which are set out in Annex 7 along a range of key issues, many of which are essentially technical in nature.
9. Other points highlighted include:-

- the need for Departments and local government to continue to work closely, through all the implementation structures, in addressing all the key finance, asset, capacity building, governance, etc issues;
- need for a particular focus in a number of business areas (e.g. urban regeneration and community development) on the basis on which resources will be divided (e.g. historic focus of work in Belfast and Derry or need compared with historic investment) and staff transfer issues;
- there is some on-going engagement with local government on a number of issues (e.g. in relation to the social economy and the Small Business Support Programme) which need to be captured, formalised and earthed in the agreed structures; and
- importance of the service delivery consultancy assignment not only for the major transferring functions (e.g. local development planning/ development management/enforcement, urban regeneration, public realm aspects of local roads functions, local economic development) but also for other functions (e.g. the Northern Ireland Museums Council and the Rural Development Programme).

Enhanced Elected Member Involvement in Governance

10. The position papers from the Departments, whose Ministers gave a commitment to enhance or consider enhancing the involvement of local government elected members in governance arrangements, are attached:-

- DARD (Annex 10)
- DHSSPS (Annex 11)
- DE (Annex 12)

11. Key points to note are:

- The Minister of Agriculture and Rural Development decided not to transfer the functions of the NI Fishery Harbour Authority to local government but did wish to consider how the Authority could be made more accountable under its current structure. DARD proposes to meet the Chief Executive Designates of the 2 new councils (whose areas include Portavogie, Ardglass and Kilkeel) as soon as they are appointed, along with their respective Transition Management Teams, to consider existing arrangements for consultation and how these might be strengthened.
- In the health sector there will be 4 District Councillors on each of 5 Local Commissioning Groups, which will be committees of the Regional Health and Social Care Board, each with 17 members responsible for commissioning health and social care services, resource management and performance management and improvement for each

of the 5 HSC Trust areas. A commitment has been given that on completion of local government reform the boundaries of the local commissioning groups would be reviewed to ensure appropriate co-terminosity.

- Also in the health sector the Regional Agency for Public Health and Social Well-being (RAPHSW), which will be responsible for health protection, health improvement and development to address existing health inequalities and public health issues for all the people of Northern Ireland, will have 2 non-executive Directors who will be District Councillors. The RAPHSW is also exploring working arrangements and proposals, see Annex 11, with local government and the Local Commissioning Groups. The Patient and Client Council will have 5 non-executive Directors who will also be District Councillors.
- The Minister of Education has decided that the majority of the members of the Board of the Education and Skills Authority (ESA) will be local councillors. In addition local delivery structures are to be aligned to local government, enabling responsiveness to local representatives and co-ordination with community planning. Local managers and delivery units will have freedom to respond to specific circumstances and need. They will be sensitive to, and receive input from, a Committee for that area comprising, amongst others, a number of elected representatives
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- The Minister of Education has heard no telling arguments for the transfer of Youth Services to local government and believes that Youth Services are an important element of the wider education service. Accordingly, the functions discharged by the Youth Council and the Education and Library Boards are to transfer to the ESA on 1 January 2010.

OFMDFM

12. The OFMDFM position paper, in relation to civil contingencies, is attached (Annex 13). It is proposed that the civil contingencies responsibilities of councils be enhanced and to give effect to this it is proposed that 2 new duties should be placed on councils. These are to undertake civil contingencies activities in relation to their own functions and to co-ordinate civil contingencies planning and preparedness activities within their own local area. The proposals are currently being considered by OFMDFM Ministers.
13. An update on OFMDFM proposals, in relation to placing a statutory duty on councils to produce good relations plans and strategies, is attached at Annex 14.

RECOMMENDATION:

14. Members of the RTCG are invited to consider the attached papers which will be discussed at the meeting on 15 December 2008.

RTCG JOINT SECRETARIAT

**SUMMARY OF THE DECISIONS ON FUTURE SHAPE OF LOCAL
GOVERNMENT
31 MARCH 2008**

Environment Minister Arlene Foster spelt out on 31 March details of the future shape of local government. Summary of the decisions announced:

- **Vision:** “A strong, dynamic local government that creates vibrant, healthy, prosperous, safe and sustainable communities that have the needs of all citizens at their core”

- **Community Planning:** The new councils will lead and facilitate a statute-based community planning process: they will act in partnership with private, statutory, voluntary and community sector agencies to respond to the needs and aspirations of local communities, and to allow people to have a say in which their area is developed. Legislative proposals will be brought forward to ensure there is a clear statutory requirement placed on other public bodies (including policing, health and education bodies) to participate and support the community planning process and a clear duty placed on councils to engage with local communities in producing a community plan.

- **Power of well being:** The new councils will have a new statutory power of well being to assist them in delivering community planning. This new power will allow them to take any action, not already the responsibility of another agency, linked with the community plan that will improve the well being of the local community or local area.

- **Governance arrangements:** A range of governance models with appropriate checks and balances will be developed, to ensure effective and inclusive local democracy, to protect the rights of minorities, to prevent discrimination, and to promote equality of opportunity. These will include arrangements to allocate Council Chairs, Deputy Chairs, positions on Council committees and to facilitate cross community

decision making. The new governance arrangements will be embodied in statute.

- **Council numbers:** The current 26 council areas will be rationalised to create 11 new council areas. This strikes a balance between reducing some of the diversity between the existing areas in terms of population characteristics and rating wealth and promoting the ability of councils and their communities to identify and interact with each other.
- **Number of councillors:** Belfast will retain an upper limit of around 60 councillors and the remaining councils will have an upper limit of around 40 councillors. The determination of the precise number of councillors will be informed by the report from the independent Local Government Boundaries Commissioner on the number of wards within each new district.
- **Councillors severance scheme:** a councillors severance scheme will be introduced to recognise the contribution of long serving councillors who opt not to stand for re-election.
- **Dual mandate:** legislative proposals will be brought forward to end the “dual mandate” of councillors who are also MPs and/or MLAs.
- **Coterminosity:** New innovative and creative models of service delivery will be developed to promote modern and efficient practice, by grouping councils together for the delivery of significant services, such as planning, regeneration, building control and environmental health. These will work in tandem with other service providers, such as health or education.
- **Performance management and modernisation challenge fund:** Development in partnership with central government, of performance management systems and of proposals for a modernisation challenge fund that will support innovative and efficient practice.

- **Shared services:** Development of regional shared service arrangements to deliver common back office services such as ICT, accounting services, payroll and procurement across all 11 new councils.

TRANSFER TO LOCAL GOVERNMENT:

- **Current expenditure** of functions transferring: £116 million: 25% increase in local government budget.
- **Number of staff** transferring: 1070: almost 12% increase in local government staff.

FUNCTIONS TRANSFERRING:

- **Planning:** local development plan functions and development control and enforcement.
- **Roads:** local public realm responsibilities: Roads Service work in relation to:
 - streetscaping;
 - town and city centre environmental improvements;
 - grass cutting and weed spraying;
 - gully emptying;
 - street lighting;
 - off-street parking;
 - pedestrian permits;
 - maintenance of amenity areas;
 - alley-gating (traffic regulation orders facilitating alley-gating to avoid antisocial behaviour);
 - permitting local events to be held on roads; and
 - salting of footways.

- **Urban regeneration and community development:**
 - 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:**
 - registration of houses in multiple occupation
 - housing unfitness responsibilities, including repair and demolition notices
 - energy conservation at local level
 - responsibility for travellers' transit sites.

- **Economic development** (transfer from Invest NI):
 - Start a Business Programme and Enterprise Shows
 - Youth Entrepreneurship (such as Prince's Trust and Shell Livewire)
 - Social Entrepreneurship
 - Investing for Women
 - Neighbourhood Renewal funding relating to enterprises initiatives.

- **Local Tourism:**
 - 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; and
 - providing advice to developers on tourism policies and related issues.

- Delivery of the EU Rural Development Programme;

- 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; and
- Donaghadee Harbour
- Arrangements will also be developed whereby local government will have a formal input to the decisions in relation to a number of responsibilities that are remaining with central government.
- **Timetable:** the aim is to implement the agreed structural reform package by 2011.
- **Next steps:**
 - appointment of an independent **Local Government Boundaries Commissioner** to draw up the proposed boundaries for the 11 new local government districts. Introduction of a Local Government (Boundaries) Bill to provide for this appointment.

- Establishment of **detailed implementation structures**.
- **Integration of the modernisation work** into the implementation arrangements.
- Development of a robust **cost/benefit model** for this programme.
- **Capacity building** programme for elected members and local government officers.

Link to the DOE page from which the press releases, statement to the Assembly and maps of the new councils can be accessed:

http://www.doeni.gov.uk/index/local_government/minister_foster_announces_decisions_on_local_government_reform.htm

Press Release 13 March 2008:

http://www.doeni.gov.uk/minister_fosters_press_release_review_outcome_-_press_release.pdf

Link to the Press Release, 31 March 2008:

http://www.doeni.gov.uk/announcement_31_march_2008.pdf

Link to the map showing the 11 new council areas:

http://www.doeni.gov.uk/council_numbers_-_map_11b.pdf

Link to the Minister's statement to the Assembly:

http://www.doeni.gov.uk/minister_s_statement_to_the_assembly_-_31_march_2008.pdf

**TRANSFER OF FUNCTIONS
SUMMARY OF RESOURCES (2010 / 2011)**

DEPARTMENT	RESOURCES		
	FUNCTION	£000's	STAFF
DOE	Planning	21,500 ⁽¹⁾	600-650
	Built Heritage	0	0
DCAL	Armagh County Museum	250	6
	Leisure & Rec Sites	50	0
	Local Sports	0	0
	Local Arts	560 ⁽²⁾	0
	NI Museum Council	270	6
DARD	Rural Development	0 ⁽³⁾	0
DRD	Local Roads Public Realm Functions	29,900 ⁽⁴⁾	220 ⁽⁴⁾
	Donaghadee Harbour	137 ⁽⁵⁾	TBC
DSD	Urban Regeneration / Comm. Development	25,000 ⁽⁶⁾	118
	Housing Related Functions	1,000	33

DEPARTMENT	RESOURCES		
	FUNCTION	£000's	STAFF
DETI	Local Economic Development	(7) 10,100	Funding for 8 posts
	Local Tourism	1,330	Funding for 4 posts
OFMDFM	TBC		
DE	NONE	-	-
DEL	NONE	-	-
DFP	NONE	-	-
<u>TOTALS</u>		<u>90,097</u>	<u>995 to 1,045</u>

- (1) This comprises Admin/ DRC expenditure of 19.5 million and other resource expenditure of £2 million. It is estimated that fee income will be £21.5 million.
- (2) This is the current funding allocated but this will change from year to year.
- (3) It is important to stress that some of the £100 million is to be spent on the Rural Development Programme embracing the 2007-2013 period and that Council Joint Committees exercise a governance role (on behalf of DARD) for expenditure incurred in the respective areas.
- (4) These are high level estimates and are to be refined. The total involves Admin expenditure of £6.3 million, £19.6 resource expenditure and £4 million capital expenditure.

- (5) This comprises Admin expenditure of £43,000 and £94,000 expenditure involved in running the harbour.
- (6) This excludes capital expenditure for 2010 / 2011 which is to be established.
- (7) This includes £4.4 million in EU matched funding.

DOE PLANNING SERVICE POSITION PAPER

1 INTRODUCTION

- 1.1 This paper is prepared in response to a request from Local Government Policy Division (dated 27 November), on behalf of the Regional Transition Co-ordinating Group (RTCG), for Planning Service to set out the position on the transfer of functions from Planning Service to local government.

2 POLICY AND LEGISLATIVE CONTEXT

- 2.1 The Northern Ireland planning system operates under the legislative umbrella of the Planning (NI) Order 1972 and the Planning (NI) Order 1991, as amended and extended by the Planning (Amendment) (NI) Order 2003 and the Planning Reform (NI) Order 2006, and related Orders and Regulations. The subordinate legislation currently comprises some 26 statutory rules, many which have been subsequently amended.
- 2.2 The Regional Development Strategy (RDS), formulated by the Department for Regional Development (DRD) in September 2001, contains a spatial development strategy and related strategic planning guidelines that offer a strategic and long-term perspective on the future development of Northern Ireland up to the year 2025. The importance of the RDS to the planning system is underlined by a statutory requirement that all planning policy and development plans made by the Department of the Environment (DOE) must be 'in general conformity' with the Strategy.
- 2.3 Planning Policy Statements (PPSs) sit below the RDS and are prepared by the DOE. These provide operational policy and guidance on a range of planning issues: for example, industrial development, enforcement and the built heritage. They set out the main planning considerations that the Department takes into account in assessing

proposals for the various forms of development across Northern Ireland and inform the preparation of development plans. They are also material to decisions on individual planning appeals.

- 2.4 The planning system is subject to a significant programme of reform and, therefore, the functions transferring and their legislative basis may be different at the point of transfer: for example, a new local development plan system is being proposed which will replace the current area plans.

3 FUNCTIONS TRANSFERRING

- 3.1 District councils will be responsible for delivering the following key planning functions:-
- local development planning;
 - development management - determining the vast majority of planning applications (except for a small number of applications which are of regional significance); and
 - enforcement – enforcing against all breaches of planning control, including unauthorised development, breaches of listed building, conservation area, hazardous substances, trees, and advertisement control, and issuing certificates of lawful use or development.
- 3.2 In addition, the following functions will also transfer to district councils:
- processing applications for non-urgent development on Crown land (non-regionally significant applications or applications which do not raise national security issues);
 - entering into planning agreements on district council determined applications;
 - temporary listing of buildings of special architectural or historic interest;
 - non-statutory local listing of buildings of architectural or historic interest;
 - control of demolition or works to listed buildings (following consultation with the Department);

- conservation area designation;
- control of demolition in conservation areas;
- urgent works to preserve listed buildings and buildings in conservation areas;
- determining hazardous substances consent applications;
- applying tree preservation orders;
- determining tree preservation order consent applications;
- preservation of trees in conservation areas;
- control of advertisements;
- review of old minerals permissions (ROMPs);
- issuing completion notices;
- preparing simplified planning zone schemes;
- revoking, modifying or discontinuing planning permissions and consents;
- compensation liabilities arising from district council functions (mainly enforcement, listed buildings control, revocation, modification and discontinuance);
- responding to purchase and blight notices;
- issuing certificates of alternative development value; and
- maintaining a register of applications, consents, notices, certificates etc.

3.3 Councils will also act as consultees on regional plans and policies, including the Regional Development Strategy.

4 FUNCTIONS NOT TRANSFERRING

4.1 The Department will be responsible for:-

- planning legislation, policy and guidance to secure the orderly and consistent development of land and the planning of that development;
- processing regionally significant planning applications (i.e. those which have a critical contribution to make to the economic and social success of Northern Ireland as a whole, or a substantial part of the region, involving complex impacts beyond an individual council area);

- determining applications to demolish listed buildings or buildings in a conservation area where the district council is the applicant;
- determining applications for hazardous substances consent, where the applicant is the district council;
- statutory listing of buildings of special architectural or historic interest (including confirmation of temporary listing by district councils), although, as with councils, the Department will have powers to issue urgent works notices;
- providing grants and loans for the preservation and acquisition of listed buildings;
- providing expert consultation responses to proposals for the demolition or alteration of listed buildings;
- determining applications for Crown or other development where national security issues are raised or urgent works are necessary;
- fee setting, funding and the power to make grants and bursaries; and
- holding public inquiries for any of its planning functions.

4.2 The Department will be responsible for the following oversight roles:-

- performance management of district council planning functions;
- addressing potential conflict of interest issues (i.e. development in which the district council has an interest);
- scrutiny of district council prepared local development plans to ensure they align with central government plans, policies and guidance; and
- scrutiny of simplified planning zone schemes.

4.3 It is also proposed, subject to consultation, that the Department will have the following reserve powers to take action where it believes a district council has failed to discharge its responsibilities or has discharged them in such a way that is contrary to regional policy or the public good, namely the power to:-

- revoke or modify planning permissions or listed building consents, following consultation with the relevant district council;
- discontinue use of land or buildings, or deemed advertising consent;
 - issue completion notices;
 - designate conservation areas;
 - apply tree preservation orders;
 - issue enforcement or stop notices;
 - create or revoke areas of special advertisement control; as well as
 - the power to call in applications for listed building, hazardous substances and conservation area consents and ROMPs; and
 - bring forward or progress a local development plan within a reasonable period of time.

5 RESOURCES LIKELY TO TRANSFER

5.1 The table below highlights the estimated budget transferring to district councils. It should be noted that the fee income figures are estimated only at this stage and that the Admin/DRC figure includes non-fee related activity.

	Agency Budget 2010/11	Estimated Budget Transferring
Admin / DRC	26.7	19.5
Other Resource	4.4	2.0
Depreciation	1.1	-
Capital	0.1	-
Fee Income	-22.5	-21.5

- 5.2 The number of Planning posts currently delivering the functions which will transfer to the new councils is estimated to be in the region of 600 – 650. These posts will transfer with the functions. The total number of staff transferring may be influenced by the decisions taken following the work on service delivery models.

6 NEXT STEPS/KEY ISSUES TO DISCUSS WITH LOCAL GOVERNMENT

- 6.1 The key next steps for Planning Service are to work with local government to implement RPA through the relevant structures. One of the key issues to be determined is the service delivery model(s) for the planning functions, along with all of the associated HR issues. Other issues which also need to be addressed include finance, assets, capacity building, governance and so on.
- 6.2 Transferring functions to local government is a process that will require substantial changes to, and introduction of, new primary and subordinate legislation.

Planning Service

5 December 2008

NIEA POSITION PAPER

1 BACKGROUND

You asked for information under a number of headings while acknowledging that it might be slightly different for this Agency. A key point to make in regard to NIEA is that the functions transferring are closely bound up with the actions and resources transferring from Planning Service. Planning Service already has responsibility for some heritage work (Conservation Areas, other area based designations and the final determination of listed building consent) and it is envisaged that two relatively small NIEA heritage functions transferring (spot listing and local listing) will be incorporated within this resource.

I summarise below the information requested:

POLICY AND LEGISLATIVE CONTEXT

- 2 The issue of Building Preservation Notices was introduced in Article 42A of the The Planning (Amendment) (Northern Ireland) Order 2003. This is entitled '*Temporary listing: building preservation notices*' and allows the department to protect a building as if it were a listed building for six months if it considers that it '*(a) is of special architectural or historic interest; and (b) is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest*'.
- 3 There is no current additional policy context.
- 4 Local listing is the identification of buildings of architectural or historic interest which though of some interest do not possess the special interest to merit statutory protection as a listed building. The designation was formerly referred to as the supplementary list but has

no statutory or policy context. In parts of England the designation has been used by local councils as a material planning consideration in considering planning applications. It is proposed that guidance will be produced for councils as part of the transfer.

FUNCTIONS TRANSFERRING

- 5** Power to issue a Building Preservation Notice. Power to draw up a local list of buildings of architectural and historic interest.

- 6** In addition NIEA is in close liaison with Planning Service in regard to the transfer of the heritage functions which they currently manage. In particular listed building consent and listed building enforcement functions have a close impact upon the efficient delivery of our work.

FUNCTIONS NOT TRANSFERRING

- All functions carried out by NIEA which are not part of the Built Heritage Directorate.
- Historic Monument and Archaeology Functions
- The recording, assessment, consultation and issuing of a statutory list of buildings of special architectural or historic interest.
- Grant aid to Listed Buildings.
- Expert advice on listed building consent applications.
- Expert advice to Government and others on heritage matters.

RESOURCES LIKELY TO TRANSFER

- 7** No resources are transferring.

**NEXT STEPS/KEY ISSUES TO DISCUSS WITH LOCAL
GOVERNMENT**

- 8 The Agency will be liaising with Planning Service to ensure the smooth transfer of these functions as part of the wider package of heritage functions currently managed by Planning Service

Michael D A Coulter

Director

NIEA: Built Heritage

DCAL POSITION PAPER

1 BACKGROUND

DCAL have 5 RPA affected areas to be transferred to Local Government:

- 1) Local water recreation facilities
- 2) Armagh County Museum (ACM)
- 3) Functions of the Northern Ireland Museums Council (NIMC)
- 4) Local Arts
- 5) Local Sports

Under each area, we have highlighted

- Policy and Legislative Context - under which functions are currently delivered
- Functions Transferring
- Functions Not Transferring
- Resources Likely to Transfer
- Next Steps/Key Issues to Discuss With Local Government

2 LEISURE AND RECREATION (LOCAL WATER RECREATION FACILITIES) Policy and Legislative 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

A total of around 21 public water recreation sites / facilities will transfer. These include riverside walks and paths, car parks, slipways and canoe steps. These are currently maintained on DCAL's behalf by Rivers Agency under a Service Level Agreement. The sites fall under three different categories:

- Those owned by DCAL
- Those leased by DCAL

Functions Not Transferring

DCAL will retain responsibility for waterways or abandoned canals of strategic importance for example, the Lagan Navigation.

Resources Likely to Transfer

No DCAL staff will transfer to Local Government under RPA. The transfer includes only the assets and the associated maintenance budget (£50k to £60k per year).

Next Steps/Key Issues to Discuss With Local Government

DOE's Reorganisation Bill (scheduled for Royal Assent in March 2011) will include a **general provision**, which will enable the transfer of the sites.

Based on our legal advice this legislation will **only** transfer sites where we have clear ownership or leased arrangements. DCAL currently maintains a number of sites with no clear ownership. We are continuing to encourage existing Local Authorities to undertake future responsibility for these sites by agreement.

3 ARMAGH COUNTY MUSEUM (ACM)

ACM is managed by the National Museums Northern Ireland (NMNI), under the **Museums and Galleries (NI) Order 1998**.

Functions Transferring

All functions of the ACM to transfer from NMNI to the new Armagh and Bann District Council by 2011.

Resources Likely to Transfer

ACM (staff, assets, collections and liabilities). The associated direct costs for running ACM will also transfer (£250k).

Next Steps/Key Issues to Discuss With Local Government

Legislation

DOE's Reorganisation Bill (scheduled for Royal Assent in March 2011) will include a provision, which will enable the transfer of ACM to the relevant council.

NMNI and the relevant Transitional Committee, once established (Armagh and Bann District Council TC) to draw up an agreement which details the transfer arrangements.

The ACM staff will transfer under TUPE. They are currently members of the PCSPS.

4 NORTHERN IRELAND MUSEUMS COUNCIL (NIMC)

The NIMC is a company with charitable status that was established under Ministerial order in 1993. The Council is principally funded by DCAL, (£279k / annum) although it also receives some income from its membership, comprising local authorities as well as a number of independent bodies.

Functions Transferring

NIMC provides a range of functions to local museums on a regional basis. These include; advice and training, assistance with accreditation and awards of small grants.

It is envisaged that all of these functions will transfer. However, they should continue to be delivered at a regional level. It would not be practical or cost effective to devolve to individual councils.

Resources Likely to Transfer

The budget of £270k per annum will transfer. (NIMC have only 6 staff with specialist expertise and DCAL would like to see these staff transfer into any new regional structures servicing local authorities).

Next Steps/Key Issues to Discuss With Local Government

DCAL need to participate in the regional / sub regional working group to help make the decisions on how the functions will transfer and would like the functions of NIMC to be included in DOE's Options for Local Government Service Delivery Consultancy.

5 LOCAL ARTS

Functions Transferring

Funding for Local Arts and Culture Projects.

Resources Likely to Transfer

£560k (current amount of the Arts Council Budget allocated to local arts and culture projects) to transfer. The funding awarded to organizations for local arts and culture projects varies year on year.

Next Steps/Key Issues to Discuss With Local Government

DCAL is currently considering policy options for the mechanics of the funding transfer to local government.

6 LOCAL SPORTS

Functions Transferring

There is no transfer of function. The objective is that local sports will become integrated into the new local authority community planning process. SportsNI are already liaising with existing local authorities on community sport programmes.

Resources Likely to Transfer

No actual transfer of money

Next Steps/Key Issues to Discuss With Local Government

Sports Northern Ireland (SNI) have been engaging with CLOA (chief Leisure Officers association) regarding this issue.

**DARD POSITION PAPER
(RURAL DEVELOPMENT PROGRAMME)**

1. POLICY AND LEGISLATIVE CONTEXT

- 1.1 The Rural Development Programme 2007-2013 is part financed by the European Agricultural Fund for Rural Development (EAFRD), and the Department of Agriculture and Rural Development (DARD).
- 1.2 It aims to improve the quality of life in rural areas by supporting a wide range of projects which include diversification, business creation, tourism, basic services, village renewal, conservation and upgrading the rural heritage.
- 1.3 Axis 3 of the programme contains the following measures:
- 3.1: Diversification into non-agricultural activities
 - 3.2: Business creation and development
 - 3.3: Encouragement of tourism activities
 - 3.4: Basic services for the economy and rural population
 - 3.5: Village renewal and development
 - 3.6: Conservation and upgrading of the rural heritage
- 1.4 The function in relation to rural development lies with DARD under section 4 of the Agriculture (Miscellaneous Provisions) (NI) Order 1994 which provides that DARD may, with the approval of DFP, make grants for the purposes of encouraging rural development. While district councils have existing powers in relation to the promotion of economic development of their districts, as per Article 8 of the Local Government (Miscellaneous Provisions) (NI) Order 2002, this is insufficient to address rural development functions in their entirety as provided for under the NI Rural Development Programme 2007-13. Consequently, district councils do not have the power to deal with rural development, through existing council joint committees.

- 1.5 Council Regulation (EC) No. 1698/2005 stipulates a bottom-up “Leader approach” towards local delivery of the Programme. This has necessitated the formation of Local Action Groups (LAGs), for which governance and administration is provided on a coterminous basis by district council joint committees. Local knowledge and commitment offered by locally elected people and appropriate local voluntary and community groups within the LAG composition and framework helps to provide effective delivery of the programme, and ensures that priority needs in local areas are being met. In addition to governance values, the joint Council Committee/LAG approach minimises duplication of administration and offers economies of scale in delivery.
- 1.6 Local Councils, working in 7 cluster groupings under the auspices of Joint Committees/ Bodies Corporate and in tandem with respective Local Action Groups, are well placed to deliver Axis 3 of the programme. Although the local structures for delivery of Axis 3 of the RDP are not coterminous with the 11 Council model agreed under the RPA, it was not feasible to await the outcome of the RPA as Programme expenditure was scheduled to commence in 2007. Using the seven-cluster model in the run-up to 2011 should not prejudice the new arrangements.
- 1.7 The work of the Joint Committees/LAGs will complement other Council and EU programmes such as Local Economic Development and Interreg. Joint Committees are made up equally of Councillors and Social Partner representatives and are responsible for ensuring that local funding is distributed in a fair and equitable manner so that it will enhance the rural economy and improve the quality of life of rural dwellers in their areas.
- 1.8 Approx £100million of the funding through Axis 3 will be delivered at community level with Local Action Groups developing tailored strategies and programmes for their area.

- 1.9 Joint Committees/Bodies Corporate are being formed under powers granted under section 19(9) of the Local Government Act (Northern Ireland) 1972. The appropriate regulations will be made before end of December/early January.

2. FUNCTIONS TRANSFERRING

DARD is not transferring any function on Rural Development to councils. We will retain the policy and budgetary functions for rural development, but will seek to continue to use councils (currently through 7 Council Joint Committees/Bodies Corporate) as 'delivery bodies' for Axis 3 of the Rural Development Programme 2007-2013.

3 RESOURCES LIKELY TO TRANSFER

- 3.1 None as such. However some £100m is being spent on Axis 3 of the RDP 2007-13, where Council Joint Committees will play a governance role (on behalf of DARD) for expenditure incurred in their areas. Councils will be able to spend up to 20% of the total allocated for their area on administration costs associated with the delivery of the local programme.
- 3.2 This work will be undertaken by a lead council on behalf of each Joint Committee and will include responsibility for employment of staff.

4 NEXT STEPS/KEY ISSUES TO DISCUSS WITH LOCAL GOVERNMENT

- 4.1 Implementation of the RPA will not change the position in terms of function responsibility. What will need to change at that point however will be the Council Structures for delivery of Axis 3, where the named Bodies Corporate in our regulations will cease legally whenever the current 26 district councils become null and void.

- 4.2 Fundamental to our considerations in advance of that is learning about the structures that are likely to be put in place towards the delivery of functions and responsibilities on a cluster/regional basis whenever the new Councils are formed. This will enable us to make informed decisions as to how best to deliver Axis 3 of the RDP between 2011 and 2013, and indeed beyond that in terms of subsequent rural development programmes.
- 4.3 Options would include delivery of rural development responsibilities by each of the 11 Councils separately, or under revised cluster arrangements determined under the 11 Council framework.

David Barr
Rural Development Division
DARD.

4 December 2008.

**DRD POSITION PAPER
(ROADS SERVICE)**

REVIEW OF PUBLIC ADMINISTRATION - TRANSFER OF FUNCTIONS

Thank you for your memo of 27 November in which you request a position paper from each of the transferring Departments. I welcome the opportunity for detailed engagement with local government and I look forward to the appropriate working group being established as a matter of urgency.

Our position in relation to the public realm aspects of local roads transferring to local councils in 2011 is attached at Appendix A.

Some of the detailed issues which require further clarification are attached at Appendix B, and will help inform initial discussions with local government officials.

I have also attached, at Appendix C, details relating to the transfer of Donaghadee Harbour. This function will transfer from the Department for Regional Development's Ports and Public Transport Division.

Barry Jordan

APPENDIX A**BACKGROUND**

- 1 Minister Foster's statement to the Assembly on 31 March 2008 confirmed that:
 - Responsibility for the public realm aspects of local roads functions would transfer to local government;
 - RS would implement structural arrangements to facilitate coterminosity with new council boundaries; and
 - There would be formal and direct input by new councils to local roads decision making.

2 FUNCTIONS TRANSFERRING

- 2.1 The functions transferring from RS to new councils were outlined in Minister Foster's announcement of 31 March 2008. The Minister advised that local roads public realm functions covering the following would transfer:

- Off-street car parking
- Pedestrian permits
- Permitting local events to be held on roads
- Salting of footways
- Street lighting
- Streetscaping
- Town and City environmental projects
- Alley-gating
- Grass cutting and weed spraying
- Gully emptying
- Maintenance of amenity areas

- 2.2 It should be noted that some of the above functions are funded and delivered directly by Roads Service. A number of functions are delivered in partnership with DSD, whereby Roads Service only provides professional input to the decision-making process in relation

to streetscaping and town and city environmental projects. In these situations, Roads Service is not funded to deliver the service.

- 2.3 In relation to permitting local events to be held on roads, Roads Service works closely with DCAL and local councils on the delivery of major sporting initiatives such as the North West 200.

3 POLICY AND LEGISLATIVE CONTEXT

- 3.1 The 11 public realm functions transferring are currently delivered within the following legislative framework:

Legislative Framework	Function Being Transferred	Comments
The Roads (NI) Order 1993	<ol style="list-style-type: none"> 1. Town & city centre environmental improvement projects 2. Grass cutting and weed spraying 3. Gully emptying 4. Street lighting 5. Maintenance of amenity areas 6. Salting of footways 	1. Delivered in conjunction with DSD
The Road Traffic Regulation (NI) Order 1997	<ol style="list-style-type: none"> 1. Town & city centre environmental improvement projects 2. Off-street parking 3. Alley-gating 	1. Delivered in conjunction with DSD
The Streetworks (NI) Order 1995	<ul style="list-style-type: none"> ▪ Street lighting 	
The Planning (NI) Order 1991	<ul style="list-style-type: none"> ▪ Pedestrian permits 	
The Roads (Miscellaneous Provisions) Bill	<ul style="list-style-type: none"> ▪ Permitting local events to be held on roads. 	<ul style="list-style-type: none"> ▪ Delivered in conjunction with DCAL ▪ Miscellaneous Provisions Bill issued on 04 December 2008 for a 13-week consultation period.

3.2 Our current timetable for the development of primary legislation to transfer our local roads public realm functions suggests that, in order to ensure a smooth transfer of functions in May 2011, detailed proposals covering the functions transferring must be agreed by the end of January 2009. This timescale allows for a full period of statutory consultation.

3.3 In order to achieve this deadline engagement with local council officials, at the earliest opportunity, is essential.

4 RESOURCES LIKELY TO TRANSFER

4.1 Initial analysis, but subject to the final agreed definitions of the functions to transfer show that the following resources could transfer in 2011:

- Around 220 staff, made up of industrial, non-industrial and professional disciplines;
- £6.3M Admin i.e. staff salary costs;
- £19.6M Resource i.e. programme costs; and
- £4M capital

4.2 These remain high-level estimates, based on the information currently available on transferring functions.

5 NEXT STEPS/KEY ISSUES TO DISCUSS WITH LOCAL GOVERNMENT

5.1 Early engagement between central and local government officials to discuss and resolve transfer issues is crucial to the achievement of our already pressurised legislative timetable.

- 5.2 A Roads Service “issues log” is attached at Annex B which will help to illustrate some of the issues that require clarification.

APPENDIX B

General

Log No	Issue	Comment
G1	Definition of public realm functions on the “local” road network	
G2	Need to further review and confirm staff numbers, budgets and other assets to transfer.	Subject to further definition and agreement of function.

Street lighting

Log No	Issue	Comment
SL1	Definition of the extent of function.	Design, provision and maintenance of all street lighting on local roads.
SL2	Need to consider future arrangements for the design, provision, adoption and maintenance of street lighting on Private Streets.	Private Streets Order & Construction Regulations may need amendment. Transfer of existing maintenance & supply contracts. Carbon Reduction Commitment scheme Loss of economies of scale – insufficient staff to cover 11 councils
SL3	Management and maintenance of underground cable network.	Current network serves local and strategic roads along with illuminated signs and bollards.
SL4	Need to develop a protocol for dealing with PL claims where SL is alleged as a contributory factor	Current allegations include:- <ul style="list-style-type: none"> • Failure to inspect and maintain • Inadequacy of lighting levels • Failure to provide lighting SL Response to NIHE claims Response to NIE/BT ref cable damage
SL5	Development of Council inspection and repair procedures.	Roads Service inspections done on overtime.
SL6	Councils to become “Utility”s for the purposes of the Streetworks Order	Transfer will create 11 new utilities. Legislation needs amendment to make councils subject to street works regulations.
SL7	Is street lighting a suitable function for managing on a shared service basis? If so who would manage the function in future ?	Could Roads Service buy services from a Shared Service Centre for the Strategic Network?

SL8	RS is a flags protocol partner. Councils are not signed up to the protocol.	Await review of protocol.
SL9	Live working arrangements with NIE	Will NIE extend same agreement to Councils?
SL10	Transfer of "Roadlite" IT system for management of SL	Can Roadlite transfer to Councils?

Street-scaping

Log No	Issue	Comment
SS1	Need to review and confirm the description of the street-scaping function.	
SS2	Need to consult with DSD reference their existing powers/responsibility	RS met with DSD 20 Nov

Off-street car parking

Log No	Issue	Comment
OSCP1	Need to review and confirm the description of the off-street car parking function.	
OSCP 2	Need to review and confirm budget, asset value and lost income figures.	
OSCP3	Single contracts with NCP and SPUR solutions for parking and enforcement. Need to examine the implications of this and available options in transferring off-street car parking.	Contracts due for renewal in 2010 and 2012 respectively. RS will continue to require on-street enforcement.
OSCP4	Impact of wider Transportation policies	Need to consider covenants reference future use/retention as car parks? Tariffs?

Pedestrian Permits

Log No	Issue	Comment
PP1	Need to review and confirm the description of the pedestrian permit function.	Planning Order 1991 Article 100-103 relevant legislation.

Local Events on Roads

Log No	Issue	Comment
LER1	Need to review and confirm the description of this function.	Miscellaneous Provisions Bill will cover all relevant events and expected to be operational early 2011. Special provision will be included to cover road races. DCAL involvement in future.

Salting of Footways

Log No	Issue	Comment
SOF 1	Need to review and confirm the description of this function.	The title of this function should be amended, as “salting” is too narrow a description – suggest “clearance of snow & ice from footways. Review current 2004 Agreement template.

Town and City Centre Environmental Improvements

Log No	Issue	Comment
TCCEI 1	Need to review and confirm the description of this function.	Combine with “Streetscaping” function.
TCCEI2	Hedge cutting notices .	Should powers to issue notices be extended to Councils.

Alley Gateing

Log No	Issue	Comment
AG1	Need to review and confirm the description of this function.	Alley-gating facilitated through Traffic Regulation Order. Transfer legislation will need to define “Alley” and include provision for consultation with Roads Service.

Grass Cutting/ Weed spraying

Log No	Issue	Comment
GCWS1	Need to review and confirm the description of this function.	
GCWS2	Seasonal nature of this work	RS industrials engaged in GCWS in summer perform other non-transferring duties in winter.
GCWS3	Need to develop a protocol for dealing with PL claims where visibility is alleged as a contributory factor	
GCSW4	Need to consider responsibility for dealing with noxious weeds.	
GCSW5	Hedge cutting notices	Should powers to issue notices be extended to Councils?

Gully Emptying

Log No	Issue	Comment
GE1	Need to review and confirm the description of the gully-emptying function.	Drainage systems include gullies, outlets, manholes and pipes. Need to clarify responsibilities.
GE2	Need to develop a protocol for dealing with PL flooding claims.	
GE3	Inter Agency Flooding Liaison Group	Consider current initiatives on Generic Flood Plans. Current/Future Council involvement.

Maintenance of Amenity Areas

Log No	Issue	Comment
MAA1	Need to review and confirm the description of this function and location of amenity areas.	
MAA3	Hedge cutting notices.	Should powers to issue notices be extended to Councils?

**DRD
(TRANSFER OF DONAGHADEE HARBOUR)**

1 POLICY AND LEGISLATIVE CONTEXT

- 1.1 The legislative framework for the harbour at Donaghadee dates from the 19th century. The harbour was established as a public trust port under the Donaghadee Harbour Act 1820, which authorised the formation of a Board of Commissioners to undertake the development and maintenance of the harbour. The Commissioners' powers are contained in the Donaghadee Harbour Act 1820 and the Harbours Act (Northern Ireland) 1970.
- 1.2 In 1920 the power to appoint Commissioners transferred from the Lord Lieutenant of Ireland to the Ministry of Transport and is now exercised by the Department for Regional Development. The Commissioners are made up of Civil Servants working in the Department for Regional Development's Ports and Public Transport Division. The day to day running of the harbour is carried out by the Harbour Master and his assistant with overall management carried out by Ports and Public Transport staff.

2 FUNCTIONS TRANSFERRING

The Harbour includes the north and south pier, harbourmasters office, outbuildings and a yard. There is currently a tractor, two boats and various pieces of equipment of little value.

3 FUNCTIONS NOT TRANSFERRING

There is a lighthouse and a light keeper's house which both belong to the Commissioner of Irish Lights.

4 RESOURCES LIKELY TO TRANSFER

An Admin resource of approximately £43,000 will transfer at 2010/11 estimates. A resource of approximately £94,000 will transfer at 2010/11 prices. This resource will cover ongoing day to day expenses for running the harbour.

5 NEXT STEPS/KEY ISSUES TO DISCUSS WITH LOCAL GOVERNMENT

- 5.1 The Donaghadee (Harbour area) Order (Northern Ireland) 2008 was passed by the Assembly. This Order sets the limits of the Harbour, although it did not impact on the ownership or operation of the Harbour.

- 5.2 An Order is to be drafted that will transfer the undertaking at Donaghadee to the appropriate local council.

DSD POSITION PAPER

OVERVIEW

1. Three areas of operational delivery are transferring directly from DSD with a further area from the Northern Ireland Housing Executive. Further work is required to fully articulate and refine issues around the transferring functions and in particular the resourcing of the transferring functions – some of these issues are outwith the control of DSD.

POLICY AND LEGISLATIVE CONTEXT

2. The current DSD functions are provided under the powers provided primarily by the Social Needs Order 1986 and Planning Order 1991. The Housing related functions are primarily provided by Housing Order 1981. A programme of work is underway to articulate a new policy environment which will accommodate the post RPA context.
3. In relation to legislation it is assumed that one DSD bill will be required to make the change. The detail of this will however be dependant upon the wording of DoE legislation in relation to the provisions for and scope of the community planning remit of new Councils and the associated power of wellbeing.

FUNCTIONS TRANSFERRING

4. The three DSD core functions are:
 - work in tackling urban deprivation;
 - work in town and city centre regeneration; and
 - local community development support.

5. The NIHE area consists of four parcels of work relating to - housing in multiple occupancy, housing unfitness, Travellers transit sites and local energy conservation.
6. The first two DSD categories are the most significant in terms of impact and transferring resource.
7. The first category includes Neighbourhood Renewal, the principal DSD programme for tackling urban deprivation which targets 250,000 people – 60% in Belfast, 20% in North West and 20% across other regional towns and cities. This programme has a substantial number of DSD staff involved in front line delivery.
8. The second category relates to work around re-vitalising town and city centres. This is currently done in four ways – through creation of masterplans and development schemes which allow the exercise of DSD powers, through site assembly for developments using powers, by investment in major public realm schemes as part of a wider regeneration plan and, finally, through provision of direct grant to the private sector to try to tackle areas of market failure.

FUNCTIONS NOT TRANSFERRING

9. Other work areas of DSD and NIHE are not impacted. Policy responsibility for the functions being transferred will remain with the DSD Minister as will policy and delivery of urban regeneration projects deemed by the Minister to be of regional significance. There will also be a retained oversight and monitoring role, the extent of which will depend largely on the funding regime associated with the transferred operational functions in the new Councils.

RESOURCES LIKELY TO TRANSFER

10. DSD indicated in early 2007 that some 200 staff, as opposed to whole time equivalent funded posts, would be affected by the transfer and a programme of some £70 million. These figures related to the total number of individuals employed in the DSD Regional Development Office, Belfast Regeneration Office and North West Development Office. The programme budget quoted is an historic figure. It varies considerably from year to year and can be very volatile – especially in relation to capital spend.

11. Further work needs to be completed before an accurate picture post 2011 can be arrived at. DSD's position at this time including the key issues under consideration are as follows:
 - In relation to staff the projected figure for funded posts in affected areas at March 2011 is 154 (RDO, BRO and NWDO). Initial work, based on an assumed grant relationship with new Councils, indicates that funding for some 118 posts would move and 36 would be retained.

 - DSD has not finalised the position in relation to the impact on staffing elsewhere in the organisation which will depend on Minister's view in relation to defining projects of regional significance.

 - For NIHE some 33 funded posts are set to transfer with some 5 retained in the affected area.

 - In relation to transferring programme spend, 2011 is the start of a new CSR period and clarity is required from DFP in terms of the likely settlement. This will be significant in relation to resource type spend which amounts to some £25 million for DSD and a further £1 million for NIHE.

- The capital position for urban regeneration changes markedly from year to year and is complicated by a requirement on DSD to generate receipts from site sales to fund other development. Much work needs to be done with DFP to bottom out a clear and transparent way for the funding to transfer to new Councils. Consideration will also have to be given to other potential funding mechanisms such as an Urban Development Fund.
- Work also needs to be completed with DFP in relation to what on-costs will be realisable and available for transfer to new Councils or conversely which will need additional budget provision, e.g.
 - i. NICS self-insures – existing councils do not;
 - ii. DSD benefits from mostly free legal advice – councils do not;
 - iii. DSD staff have access to a range of non hard charged HR, Finance and IT services;
 - iv. Significant numbers of existing DSD staff are in shared Government owned buildings;
 - v. NICS pension scheme is non-contributory – the local Council scheme is not.
- Some of these issues also relate to the transferring NIHE functions and staff.

NEXT STEPS/KEY ISSUES

12. Clearly there is considerable further work to be done in relation to resources. Work also needs to be carried out as to how transferring functions will be brigaded with existing and new roles in the new Councils – the consultancy assignment in relation to specialist and shared services will be helpful in this regard.

13. Another issue which will need discussion is the basis on which resources will be divided among the new Councils – a simple 11 way split; allocation to reflect the historic focus of work in Belfast and Derry; or on need compared with historic investment? The overall funding regime for new Councils, both in the short and long term will be important in determining this.

14. Finally, there is the issue of DSD staff. These staff have by happenstance ended up in their current roles and many had the expectation of moving on to different jobs in the NICS. There will be equity issues to be considered in relation to transferring staff to new Councils. There may also be practical difficulties due to the fact that the majority of front line staff are currently committed to delivering programmes in Belfast and Londonderry. In relation to associated support staff we will also need to discuss with Councils whether their preference is for the transfer to them of staff and the resource to pay for them or just the resource, given that Councils may have sufficient existing staff available post merger.

DSD Project Office

9 December 2009

DETI POSITION PAPER

1. INTRODUCTION

- 1.1 The position the Department has taken throughout the review has been to ensure that changes are made which reflect the policy intention of the RPA to strengthen local government while retaining effective regional bodies which will achieve efficient and effective service delivery.
- 1.2 DETI will transfer, from Invest NI and the Northern Ireland Tourist Board, a number of important local economic development functions (primarily start-up activities relating to locally focused businesses) and local tourism functions (eg local marketing and local product development) to the new local councils.

2. POLICY AND LEGISLATIVE CONTEXT – under which the activities are currently delivered

- 2.1 DETI recognises that Local Councils already make an important contribution to local economic development and the Department has focused on those economic development and tourism issues which could be delivered more appropriately at a local level. The rationale behind this is that by providing local councils with a stronger role in relation to local economic development, councils will be better placed to address the particular needs of their respective areas.
- 2.2 Local Government Local Economic Development (LED) functions are currently provided for in the Local Government (Miscellaneous Provisions) NI Order 2002, Article 8, which empowers District Councils to promote the economic development of their district. The powers contained within Article 8 are quite broad-brush, and, based on DSO advice, it is accepted that Councils currently have the powers to

undertake any local economic development activity being transferred from Invest NI.

- 2.3 Local Government Tourism functions are provided for in Part V of the 1992 Tourism (NI) Order. There was initial concern that local councils may be deficient with regard to powers to provide financial assistance to tourist accommodation projects. However, DSO advised that, based on the broad scope of the powers contained in Article 8 of the Local Government (Miscellaneous Provisions) NI Order 2002, District Councils could, subject to conditions, make payments for the provision and/or improvement of tourist accommodation.
- 2.4 We are seeking to ensure that the legislation governing Local Government LED functions can be either accommodated within the new Local Government Reorganisation Bill or left in situ within the 2002 Order.

3. ACTIVITIES TRANSFERRING

- 3.1 The specific elements in relation to **Local Economic Development** are:

Start a Business Programme (SABP) and Enterprise Shows.

- The full SABp and Enterprise Show budget will transfer as the programme is clearly focused on supporting those starting businesses which operate primarily within the local market. Following a comprehensive evaluation of the SABp, a revised and restructured programme will be launched in January 2009 and it is this version which will be inherited by the Councils.

- Importantly Councils have been fully consulted as part of the evaluation and also have been engaged in the shaping of the new programme.

Youth Entrepreneurship

- There are currently two Invest NI funded programmes aimed at the promotion of entrepreneurship to young people aged 16-30 - the Prince's Trust and Advantage NI (previously known as Shell Livewire). (It should be noted that the current contracts for these two programmes are due to expire in March 2010).

Investing in Women.

- This programme specifically targets female entrepreneurship and seeks to increase the number of women starting a business or developing an existing business. The re-designed Start a Business programme will now become the main vehicle for Investing in Women activity with specific outreach activities and programme content tailored to the female market

Social Economy.

- The only Invest NI activity in this area is the Social Entrepreneurship Programme which is entirely suitable for transfer. The current programme is coming to an end and a new one is currently being developed in consultation with Councils. This is due to launch towards the end of the year.

Neighbourhood Renewal.

- Funding of £1.8m has been included within Invest NI's baseline to continue funding enterprise initiatives within Neighbourhood Renewal Areas. Delivery of this Neighbourhood Renewal activity is currently out to tender as part of the re-designed Start a Business Programme. The new programme will launch in January 2009.

Local Tourism

It is widely accepted that the tourism sector in Northern Ireland is significantly underdeveloped. NI as a tourism destination is a very small place competing in an aggressive market in increasingly difficult economic circumstances world-wide, and therefore it is important to ensure that a streamlined approach is taken in policy and delivery terms. This is particularly important as responsibility for tourism is already split amongst NITB, TIL, and the Councils.

Many Councils already have a number of flourishing tourism functions – and added to the resources which will transfer directly from NITB, local authorities should have a key role to play in tourism post RPA implementation.

NITB are finalising some work requested by the DETI Minister on how best to deliver regional/local tourism post RPA which will provide greater detail on the activities that will transfer to local councils and on the key implementation issues to be addressed. The main activities to transfer from NITB will remain as Product Development, Visitor Servicing and Planning Advice. Support for smaller scale Tourist Accommodation will transfer from Invest NI.

4. ACTIVITIES NOT TRANSFERRING

- 4.1 DETI will continue to be responsible for high level economic policy making in the areas of Enterprise, Innovation, Tourism and Energy. This will include the new Enterprise Strategy, Innovation Policy including the Regional Innovation Strategy Action Plan, the new Tourism Strategic Framework for Action and the Strategic Energy Framework.
- 4.2 The Enterprise Strategy will be published during 2009/10 and will be a transitional strategy aimed at putting in place a more coherent approach to enterprise support. With the proposed transfer of local economic development functions to local authorities under RPA, it will be important that a strategy is in place to ease the transition.
- 4.3 Councils are aware of the work to develop the Enterprise Strategy. Officials involved in the drafting process briefed council economic development officers at meetings between council regional groups (e.g. SEED) and DETI to discuss local economic development plans under the European Competitiveness Programme 2017-13.
- 4.4 As part of the ongoing work to develop the Enterprise Strategy, DETI and Invest NI hosted a series of regional workshops in June across Northern Ireland with stakeholders involved in enterprise support, including local authorities. The workshops proved to be very successful and the information gathered, together with that obtained from the audits of central government and non-central government support to enterprise, will be used in the drafting the Enterprise Strategy.

Invest NI

- 4.5 As outlined in the section 3 above, important elements of the current enterprise portfolio will transfer from Invest NI to local government. The remaining Invest NI budget is made up of “regional programmes” delivered to companies across Northern Ireland. This includes major programmes such as Selective Financial Assistance (SFA), Business Improvement Training, and Invest NI’s R&D/innovation programmes. These programmes are largely demand-led, focused on those companies which contribute most to the regional and national economy and do not lend themselves to sub-regional allocations. Specifically in relation to innovation, there are important expertise and synergy issues with DEL and the Universities and it would be considered inefficient to transfer these responsibilities.
- 4.6 The post RPA position would maintain broad consistency with the approach taken by other UK RDAs in terms of central versus local government responsibility

NITB

- 4.7 Activities which remain with NITB are those which would benefit from remaining as a central responsibility and are areas where a pan NI approach is seen as necessary to help the region develop its full potential as a tourism destination. These include certification and classification of accommodation; grant administration and Strategic Product Development, including Signature Projects and business tourism.
- 4.8 NITB focuses its attention on promoting the region as a whole within the island of Ireland and on developing tourism products which are of regional and strategic significance. NITB will continue to have responsibility for NI wide marketing campaigns, the promotion of NI as a venue for major sporting and other prestigious events (when it takes

on some of the functions formerly discharged by the NI Events Company) and the management and development of the five Signature Projects.

5. AGREED RESOURCES TO TRANSFER

- 5.1 The activities transferring represent a programme budget of £5.7million plus £4.4m in EU matched funding and funding for 8 posts in respect of local economic development and a programme budget of £1.33million and funding for 4 posts in respect of local tourism.

6. NEXT STEPS/KEY IMPLEMENTATION ISSUES TO DISCUSS WITH LOCAL GOVERNMENT

- Preventing duplication of effort and ensuring more effective and efficient cooperation on economic development issues in the context of the new Enterprise Strategy.
- The timescale for transfer (assumed to be May 2011) will be critical as a number of transferring programmes will change over the coming years (some of which are due expire at the end of March 2010) and decisions will need to be made in a co-ordinated manner to ensure effective future delivery.
- On a number of issues, for example, the social economy and the Small Business Support Programme (the revised SABP), Invest NI are already engaging with Councils. Such on-going engagements will need to be captured, formalised and earthed in the agreed structures.

DARD POSITION PAPER
(THE NORTHERN IRELAND FISHERY HARBOUR AUTHORITY)

CURRENT POSITION

- 1 The Minister for Agriculture and Rural Development decided not to transfer the functions of the Northern Ireland Fishery Harbour Authority to local government but did wish to consider how the Authority could be more locally accountable under its current structure.

NEXT STEPS

- 2 Once the Chief Executive Designates have been appointed it is proposed that DARD meets with the two new Councils whose areas include Portavogie, Ardglass and Kilkeel. The purpose of the meeting will be to discuss existing arrangements for consultation with local councils on fishery harbour matters and how these might be strengthened in the future.

DHSSPS POSITION PAPER (HEALTH SECTOR GOVERNANCE)

DHSSPS UPDATE

1 The Health and Social Care (Reform) Bill has passed its Further Consideration stage and, subject to the Final Stage in the Assembly, scheduled for 12 January 2009, 4 new Health and Social Care (HSC) bodies will be created from 1 April 2009, namely:

- Regional Health and Social Care Board (RHSCB)
- Regional Agency for Public Health and Social Well-being (RAPHSW)
- Patient and Client Council (PCC)
- Regional Business Services Organisation (RBSO)

RHSCB

2 There will be 4 District Councillors on each of 5 Local Commissioning Groups, which will be committees of the RHSCB each with 17 members responsible for commissioning health and social care services, resource management and performance management and improvement for each of the 5 HSC Trust areas. A commitment has been given that on completion of local government reform the boundaries of the local commissioning groups would be reviewed to ensure appropriate co-terminosity.

RAPHSW

3 The RAPHSW will be responsible for health protection, health improvement and development to address existing health inequalities and public health issues for all the people of Northern Ireland and will have 2 non-executive Directors who will be District Councillors.

- 4 The RAPHSW is also exploring joint working arrangements between local government, the RAPHSW and the RHSCB's Local Commissioning Groups. Wider discussions are required with local government and other existing partners to develop these proposals further and establish practical ways to realise joint working during the reform period. The Partnerships would include all of the sectors which contribute to improved health and social well-being and would be key to ensuring that the plans of the partner organisations align in ways that bring benefits over and above what can be achieved through the individual efforts of each organisation. The joint working arrangements would therefore need to have strong links into the proposed community planning responsibilities of Councils and the commissioning responsibilities of Local Commissioning Groups of the RHSCB.

PCC

- 5 The PCC will be a fully independent corporate body that will provide a strong voice for patients, clients and carers and represent the interests of the public in health and social care matters. It will have 5 non-executive Directors who will be District Councillors.

DE POSITION PAPER

1. POSITION WITH LEGISLATION

In Education the first of 2 bills that will reform and modernise the education system was introduced to the Northern Ireland Assembly on 25 November. It is envisaged that the first bill, which will establish a single Education and Skills Authority (ESA) on 1 January 2010, will be on the statute books before the 2009 summer recess. The new ESA will be accountable to the Minister of Education and the Assembly.

It is envisaged that the second bill will be introduced to the Assembly by June 2009 with the aim that it would be on the statute books by 1 January 2010, if possible (and no later than 1 April 2010). The scope of the second bill encompasses:-

- The introduction of an area-based planning process for the education estate;
- The removal of ownership of publicly-owned (controlled) schools from the ESA (thus avoiding any potential conflict of interest with ESA's role in the planning of schools); and
- The establishment of an Education Advisory Forum (EAF) to provide a new and more effective mechanism through DE and DEL can commission and receive advice.

2. LOCAL DEMOCRATIC ACCOUNTABILITY AND MEMBERSHIP OF ESA

The original proposal was that the Board of ESA would have between 8 and 12 members, with no positions reserved for local elected representatives. After further consideration the Education Minister

recognises the importance of local democratic accountability for key public services such as education and has decided that the majority of members of the ESA should be local councillors.

ESA will be a single but decentralised organisation with local delivery structures aligned to local government enabling responsiveness to local representatives and co-ordination with community planning. Local managers and delivery units will have freedom to respond to specific circumstances and need. They will be sensitive to, and receive input from, a Committee for that area comprising, amongst others, a number of elected representatives. Provisions for the establishment of such committees have already been included in the Education Bill.

YOUTH SERVICES

Following the outcome of the review of the RPA for Local Government, and discussions with Minister Foster and NILGA on the future of youth services, the Minister for Education indicated that she was willing to listen to arguments for the transfer of Youth Services to local governments. She has heard no telling arguments and believes that Youth Services are an important element of the wider education service. As such the functions currently discharged by the Youth Council and the five Education and Library Boards will transfer to the ESA on 1 January 2010.

OFMDFM POSITION PAPER (CIVIL CONTINGENCIES)

The position in relation to civil contingencies is as follows.

The RPA report 'Better Government for NI' noted that civil contingencies functions for District Councils should be enhanced. To give effect to this, it is proposed that 2 new mandatory duties should be placed on District Councils. The duties do not constitute any transfer of responsibility or function from central government. Rather they are aimed at strengthening local civil contingencies activities where District Councils would be required to:

- undertake civil contingencies activities in relation to their own functions;
- co-ordinate civil contingencies planning and preparedness activities within their local area.

It had originally been proposed that these duties would be included in the legislation to implement the RPA. However, given the desire to strengthen local civil contingencies on a shorter timeframe, CCPB has been working with DOE to identify an earlier piece of local government legislation that could be used instead. Current proposals are that these duties be included in a Local Government Bill being taken forward by DOE in advance of the RPA.

This matter is subject to Ministerial approval where currently proposals are with OFMDFM Ministers for consideration.

**OFMDFM POSITION PAPER
(COMMUNITY RELATIONS)**

1 POLICY AND LEGISLATIVE CONTEXT – (Under which functions are currently delivered)

- The Community Relations (Amendment) (Northern Ireland) Order 1975 provides our funding powers.
- The Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (No 481) Schedule 5 lists all those Orders transferred to OFMDFM and it includes the Community Relations Order as transferred from DFP to OFMDFM.
- Two specific good relations duties currently apply to District Councils. First **Section 75 (2)** of the Northern Ireland Act 1998. The specific provisions under Sc 75 are:

75. - (1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity-

- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) between men and women generally;
- (c) between persons with a disability and persons without; and
- (d) between persons with dependants and persons without.

- (2) Without prejudice to its obligations under subsection (1), **a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.**

the Race Relations (Northern Ireland) Order 1997 places a statutory duty on district councils to make appropriate arrangements with a view to securing that its various functions are carried out with due regard to the need -

(a) to eliminate unlawful **racial** discrimination; and

(b) to promote equality of opportunity, and good relations, between persons of different **racial groups**.

The Order places duties on the Equality Commission for Northern Ireland to -

(a) to work towards the elimination of discrimination;

(b) to promote equality of opportunity, and good relations, between persons of different **racial groups** generally; and

(c) to keep under review the working of this Order and, when it is so required by the Department or otherwise thinks it necessary, draw up and submit to the Department proposals for amending this Order.

The policy context is the PFG cross-cutting theme of ‘building a shared and better future for all’. Whilst the Executive have taken the opportunity to review the existing good relations policy of “A Shared Future”, detailed proposals for a Programme for Cohesion, Sharing & Integration are at an advanced stage and once Ministerial approval is given it should be subject to a full consultation exercise. The main thrust of the refreshed good relations policy is the delivery of good relations locally through Councils to achieve local solutions.

2 FUNCTIONS TRANSFERRING

District Councils already produce Good Relations Strategies and Action Plans to tackle sectarianism and racism in their areas. Their plans are funded by OFMDFM. In the course of the RPA consultation process it was the view that the development of these plans should be placed in

the context of community planning processes which are undertaken by District Councils.

Consideration should be given to the inclusion of specific clauses creating a statutory duty for District Councils to produce good relations plans. There is currently no statutory duty basis for the development of these plans. It should also be noted that the proposed new duty will not replace the good relations duty which currently exists for District Councils under Section 75(2) of the NI Act 1998. Rather the proposed new duty would underpin the existing statutory responsibility.

The Community Relations Council is a Limited Company with charitable status which receives funding from OFMDFM. Under the new arrangements the role and status of CRC will be reviewed. (Position to be confirmed)

3 RESOURCES

- Funding provided to Councils under the District Councils Community Relations Programme is currently in FY 08/09 £2.5m although this amount should increase significantly over the course of the current CSR period.
- The funding also covers Good Relations Officers posts and that equates currently to approximately 34 WTE posts.

4 NEXT STEPS / KEY ISSUES TO DISCUSS WITH LOCAL GOVERNMENT

- Legislation / supporting statutory guidance.
- Complementarity of the good relations/community relations clauses.
- Governance / Financial tools/mechanisms.
- Building capacity throughout existing and new Council structures to deliver cohesion, sharing and integration.
- Role of OFMDFM with new Council Clusters.