

# **Transfer of Functions Working Group**

## **Initial Report to**

## **Strategic Leadership Board**

10<sup>th</sup> April 2009

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# Strategic Leadership Board

10<sup>th</sup> April 2009

**PURPOSE:** For discussion at SLB Meeting on 10<sup>th</sup> April 2009

**SUMMARY:** Emerging Proposals and Issues from the Transfer of Functions Working Group

**RECOMMENDATION:** Members are asked to:

- i) consider the detailed issues highlighted within the foregoing report and attached appendices and agree to develop a process of further dialogue with key groups, through the Strategic Leadership Board and between the Environment Minister and relevant Departmental Ministerial colleagues;
- ii) seek early negotiations with central government (including DFP) regarding the future funding of transferring functions and to ensure that there is no burden to the ratepayer or differential impact on the district rates at point of transfer;
- iii) consider the specific proposals in regards to marginal changes to the transfer of functions including additional transfer proposals (e.g. both off-street and on-street car-parking to transfer; Living Over the Shops Initiative to transfer) and non-transfer proposals (e.g. particular functions of the public realm aspects of roads; Travelers Transit Sites). These proposals will be subject to ongoing negotiations with Departments and Ministerial consideration;
- iv) note the need for local government to pay particular attention to ongoing central government consultations and strategic reviews which may impact upon the transferring functions including, for example, the Barnett Review and development of the new Tourism Strategic Framework for Action and Enterprise Strategy; and the Reform of Planning Service pending consultation process; and
- v) agree to the retention of the Transfer of Functions Working Group and associated Sub-Groups (where appropriate) to assist elected Members within this process; to work through the issues outlined within this forgoing report and the attached appendices; to identify potential resource consequences and seek political direction as required.

## **1. Background**

- 1.1 The Transferring Functions Working Group (TFWG) was established under the auspices of Policy Development Panel C to provide clarity on the detail of the functions transferring from central to local government; and to consider arrangements for integrating these functions within local government.
- 1.2 The TFWG is chaired by Peter McNaney (Chief Executive of Belfast City Council), with Ian Maye (Director of DoE Local Government Policy Division)) as Vice Chair and membership comprising of senior officers from Local Government and senior officials from the transferring function departments.
- 1.3 There are clearly detailed technical and operational issues surrounding all of the transferring functions including, for example, important issues in relation to the assimilation of new functions with existing local government functions. It was recognised from the

outset that there was an urgent need for engagement between central and local government officials to ensure that there is greater clarity around the functions transferring and appropriate consideration given to the potential consequences for councils of the transfer proposals in relation to issues such as efficiency, resources and liabilities.

- 1.4 Accordingly, a series of Transfer of Functions Technical Sub Groups (e.g DoE Planning; DRD Roads; DETI; DARD; DCAL) had been established and comprised of senior officials from both transferring Departments and local government. Constructive discussions have ensued over the past number of weeks with a view to further defining the scope of the transferring functions; the resources attached; and to identify those issues which need to be addressed or require further clarification prior to transfer.
- 1.5 As part of these discussions consideration was given to potential proposals in regard to marginal changes to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong Local Government; the role of Local Government in supporting place shaping; the need for single point accountability at the local level; ensuring improved customer centric services; and value for money considerations.
- 1.6 Whilst recognising the limited scope for any significant variance from the functions currently being proposed to transfer, local government considers that it is important to highlight from the outset the lack of an over-arching framework and strategic rationale for the proposed transfer of functions to local government.
- 1.7 There is a danger that the current piecemeal approach to the transfer of functions resulting from the RPA process will result in greater confusion for the citizen. A joined- up system of government with clarity of responsibility, alignment of purpose and ensuring that services are delivered by those parts of the system which are best placed to meet the needs of the citizens must be the long term aim. Further discussions will be necessary on the mechanisms that might be available to achieve these aims.

## **2. Format**

- 2.1 In terms of the structure of this report, there are a number of cross-cutting issues which need to be taken into account when considering the transfer of functions proposals as set out in Section 4. A brief overview of the key issues emerging from each Technical Sub Group is outlined within Section 5 below with detailed reports from each of the Transfer of Functions Sub-Groups attached as follows:-
  - DoE Planning Sub Group (Annex 1)
  - DRD Roads Sub Group (Annex 2)
  - DSD Sub Group (Annex 3)
  - DETI Sub Group (Annex 4)
  - DARD Sub Group (Annex 5)
  - DCAL Sub Group (Annex 6)
- 2.2 The detailed reports referred to above help to flesh out the high level list of functions contained within the Ministerial announcement of 31<sup>st</sup> March 2008 and the information contained therein seeks to detail the scope of the functions to transfer; outline the estimated resources to transfer; highlight the key issues which need further consideration; and set out initial proposals as to the next steps required.

### **3. Context**

- 3.1 In considering the transfer of functions to local government it is important to restate the shared commitment of the NI Executive to create 'Strong Local Government' and the associated agreed 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"*.
- 3.2 If this vision is to be realised, there is a need for a common understanding across regional government of the role and purpose of local government e.g. convener and deliverer of services at the local level; leaders and place-shapers of communities; providing local enforcement and accountability etc. The proven track record of local government in service delivery and its ability to make a difference at the local level should be recognised.
- 3.3 The Working Group believes that the principles which should underpin any consideration given to the transfer of functions should be based on the need for single point accountability at the local level; creating improved customer centric services and achieving value for money. Councils should be given the necessary autonomy to address local priorities with central government control limited to key regional issues.
- 3.4 Transferring functions should be those which are required to allow the new Councils to make a difference to both the performance of their areas and the outcomes that matter for citizens. The Group acknowledges the important role of local government as 'Place Shapers' and local government considers that localised issues cannot be addressed easily by central government. Councils should be given a comprehensive portfolio of functions and responsibilities to be discharged in partnership with regional government to enable them to:
  - improve public services;
  - widen both access and choice for local people;
  - improve the quality of peoples lives and the wellbeing of communities;
  - encourage integrated service delivery at the local level; and
  - create attractive, vibrant, prosperous, safe and friendly places to live.
- 3.5 In moving forward, discussions around the transfer of functions should be set with the context of the wider community planning duty to be bestowed to councils and must be considered in tandem with the development of the performance management framework which will underpin the future relationship between central and local government, and the strategic business case to be developed for bidding for necessary resources.

### **4 Strategic Issues**

- 4.1 ***Budget & Resources:*** Issues around resources and budgets are becoming increasingly complex as the process of initial diligence continues to highlight the current shortfalls and uncertainties around the future funding of transferring functions. There is real concern around the insufficiency of funding available to deliver the majority of functions proposed to transfer to local government. There are significant under estimates of the true cost of the current delivery of some of the functions proposed to transfer and, therefore, there is a need for a more thorough due diligence review of resources (both budgets and staffing) to be undertaken in advance of transfer.

There is a need also for early engagement and negotiation with central government and, in particular, DFP regarding the future funding regime for transferring functions and the impact this might have on local rates. This is further exacerbated by the fact that a large number of the proposed functions to transfer will be subject to CSR bidding as part of the new CSR period in 2011. Therefore, it will be important that local government be engaged

in this process as it will become the future statutory owner of the function and be responsible for its delivery.

- 4.2 ***Allocation of budget and resources:*** Further deliberation must be given to the means by which budgets and resources are to be disaggregated across the 11 new councils with the transfer of functions post 2011. Appropriate steps will need to be taken to ensure that there is no burden to the ratepayer or differential impact on the district rate at point of transfer. Appropriate funding models will need to be explored further by the Environment Minister, relevant Ministerial colleagues and the DFP.
- 4.3 ***Simplified Governance and Integrated Service Delivery:*** With regard to the transfer of function proposals and associated 'statutory powers', if councils are to effectively deliver community planning and make a positive and lasting improvement to the wellbeing of communities, there must be greater integration/ co-ordination of public services and the targeting of resources at the local level. Consideration should also be given to the potential for closer integration of the transferring functions with other functions currently undertaken by councils. Clearly there are overlaps and connections between key functional areas such as planning, urban and rural development, local economic development, tourism development, community development etc. All efforts need to be taken to ensure service delivery is rationalised and potential synergies secured.
- 4.4 ***Policy Development:*** Notwithstanding the final agreed position in regards to functions proposed to transfer, it is essential that local government continues to shape and influence public service delivery at the local level and has a greater role in informing policy development. A recommended requirement is a statutory based engagement framework between central and local government which is linked to the broader community planning agenda, incorporated within the governance proposals in regards to future central and local government relations and underpinned by the performance framework which is to be developed. Clearly Local Government must be a partner in the development of such a framework
- 4.5 ***Ongoing consultation and engagement:*** It is important to note that there are a number of policy frameworks and programmes under development (e.g. new Northern Ireland Enterprise Strategy, Second Tourism Strategic Framework for Action; Rural Development Programme) and strategic reviews and consultation processes underway (e.g. Barnett Review; reform of the planning service) which are pertinent to discussions in regards to the transfer of functions and will inevitably impact upon the future delivery of such functions. Local government must ensure that it is actively engaged as a key government partner rather than merely a consultee in these processes.
- 4.6 ***Future Service Delivery Models (work of PwC):*** Clearly the work of the Transfer of Functions Working Group and subsequent discussions at the PDP C meeting on 26<sup>th</sup> March 2009, should inform the ongoing work of PricewaterhouseCoopers in exploring future service delivery options. Local government has noted its desire that functions should transfer and be delivered by 11 Councils.

Within the context of promoting strong and responsive local government, it is recommended that all those functions proposed to transfer should be delivered by the new 11 Councils. A series of co-production workshops have been scheduled for early April 2009 to examine options for future service delivery models.

- 4.7 ***General:*** Other cross-cutting issues highlighted as part of the discussions around the transfer of functions included:

- The need for Departments and local government to continue to work closely, through the established implementation structures, to ensure that important finance, assets, capacity building, governance, transfer of staff issues are taken forward as a matter of priority.
- The proposals in regards to marginal changes to the transfer of functions proposals including additional transfer proposals (e.g. reference to all car-parking functions to transfer; Living Over the Shops Initiative); and non-transfer proposals (e.g. particular functions of the public realm aspects of local roads proposed not to transfer) need to be formally considered and political direction sought.
- **Civil Contingencies** - Clarification is required as to the current status of the proposals being considered by OFMdFM for the extension of local government responsibilities for civil contingencies including: i) undertake civil contingencies activities in relation to their own functions; ii) co-ordinate civil contingencies planning and preparedness activities within their local area.

## 5. **Issues emerging from Sub-Groups**

The following section provides a summation of the key issues and recommendations emerging from each of the Transfer of Functions Technical Sub Groups for the consideration of PDP C. The detailed reports prepared by each Sub-Group are appended to this covering report.

### 5.1 **DoE Planning Sub Group** (refer to Annex 1)

- ***Reform of Planning Service Consultation:*** In the absence of significant pertinent information (e.g. access to the pending consultation document on Planning Reform, and the absence of detail in respect of the proposals for retained functions) and the resulting uncertainty around proposals there continues to be a number of outstanding issues which remain unresolved. An informed due diligence exercise with increased disclosure is required.
- ***Full transfer of Operational functions:*** The most appropriate model for future service delivery is full transfer of operational functions to the new councils with only limited reserve powers retained. This would put the planning system closer to the citizen and provide for greater accountability for service delivery. Statutory planning is a critical component in the delivery and influence of the broader community planning agenda and the capacity of councils to make a positive impact on the wellbeing of communities.
- ***Reform and Partnership:*** With the increasing overlap between planning reform and the RPA it needs to be recognised that local government is not merely another stakeholder in the planning reform process but rather a partner who will become the future statutory owner of the function. This necessitates a changed approach and requires ongoing engagement at an operational level.
- ***Role of the Department:*** To enable the new councils to make a difference to both the performance of their areas and deliver effective community planning for communities and citizens, there must be an appropriate balance between the role and oversight of the Department and the local autonomy of councils. Further clarity is required as to the governance arrangements to be put in place which will underpin the future relationship between the Department and local government.
- ***Capacity Building:*** Significant investment is required to meet the needs of both Elected Members and current Planning and Council staff to ensure they can meet the challenges of a new approach to planning, function integration, their revised responsibilities and the new culture which is a prerequisite to the success of the transferred and modernised service. This needs to be taken forward under the auspices of PDP C.
- ***Resources and Budget:*** Issues around resources and budgets are becoming increasingly complex as the process of initial diligence continues to highlight anomalies. It is accepted that there is clearly insufficient funding available to deliver the planning function in its current

form or indeed to deliver the new proposed, more intensive, Development Plan approach. There are significant under estimates of overall true cost of the current process and the level of notional costs associated with the provision of an effective system which need to be addressed.

- ***Assets:*** Additional clarification is required in respect of estates and associated costs for accommodation and IT systems.
- ***Specialist/Technical Advice:*** Access to specialist/professional advice and the future development of the service should be a matter for the new authorities that could, if appropriate, consider their own voluntary models for shared resources or cooperation. The premise should be that such capacity ought to be located and developed within councils and, therefore, the retention of specialist/professional staff within the Department must be proportionate to the duties to be administered.
- ***New Development Plan Approach:*** The proposals for the emphasis should be placed on the potential integration with the Community Planning process, including associated consultations, and strengthening the ability of local authorities in improving the wellbeing of communities. The closer integration with other functions undertaken by councils including Environmental Health, Building Control, Community Safety, Local Economic Development, Urban Regeneration etc would provide increased potential for the success of a "Development Management" rather than Development Control approach through the support of effective local spatial planning.
- ***Areas of Difference:*** It should be noted that there still remain areas where no consensus could be agreed, as part of the Technical Sub Group discussion process. The principal differences were between the Planning Service and local government representatives regarding the scope of the proposed transfer. These relate, in particular, to the retention of specialist staff within the Planning Service and the governance role of the Department vis-a-vis the autonomy of local government to deliver a responsive service to the citizen.

## 5.2 **DRD Roads Sub-Group** (refer to Annex 2)

- There is a clear absence of any strategic framework, rationale or business case for the proposed transfer of the 11 fragmented public realm aspects of local roads.
- The transfer proposals offer little scope to develop a strategic approach and integration of local roads management within broader local development planning and urban regeneration functions which are all key levers in improving the wellbeing of communities.
- Generally the functions proposed to transfer are significantly under-resourced and have major public liabilities attached to the function. As the full responsibility for the maintenance of local roads is not proposed to transfer, the management of such liabilities will be very difficult and the sustainability of future funding uncertain. There is also a need for significant capital investment.
- Accordingly, the Sub Group has recommended, for the consideration of PDP C, a number of functions which should not transfer to local government including: the maintenance of amenity areas; salting of footways; grass cutting/weed spraying; gully emptying; and street lighting.
- The Sub Group is of the view that there would be limited added value achieved through the transfer of such functions to local government or any improvement to service provision unless there was significant investment by local government.
- In terms of the proposals to transfer off-street car parking to local government, the Sub Group would advocate the need to transfer both off-street and on-street car parking to local

government as it would be inefficient to split the functions and would detract from service delivery. This would require Ministerial consideration and approval.

- In terms of the proposal to transfer 'pedestrian permits' functions to local government, the Sub Group would propose that this should be subject to the ability of local government to control the entire process including enforcement.
- In terms of the proposal to transfer 'alley gating' function to local government, it is important to note that DRD does not currently provide or fund the provision of alley gates but rather only process the necessary legislative process (e.g. Grant Order) to enable them to be erected. Therefore, the Sub Group would recommend that this function be transferred to local government on the basis that the approval is streamlined and that councils be given statutory responsibility to Grant Orders.
- Given the decision taken not to transfer full responsibility for the maintenance of local roads, there is a need for a more formalised input by councils into the local roads decision making process and a greater role in policy formulation and implementation of all roads related functions at the local level is considered essential. This has been reinforced within the then Environment Minister, Arlene Foster's RPA statement on 31<sup>st</sup> March 2008 which she stated that *"..there will be a formal and direct input by new councils to local roads decision making and an enhanced accountability framework within which the Roads Service relationship with local government will operate. This could take the form of a statutory framework setting out the respective roles and responsibilities of Roads Service and the new councils"*.
- Local government would seek continued discussions with the Department and Minister in regards to the development of an appropriate governance framework (e.g. influencing model) necessary to deliver the ministerial commitment and to ensure there is stronger partnership working between the Roads Service and local government.
- Local government would seek continued discussions with the Department and Minister in regards to the potential future transfer of additional roads related functions to councils.

### 5.3 **DSD Sub-Group** (refer to Annex 3)

- ***Budget and Resources:*** Concern in regard to the future sustainability of funding as the majority of functions to transfer will be subject to CSR bidding in 2011. Therefore, urgent discussions need to ensue between DSD, DFP and local government to quantify the level of resources to be secured for the future delivery of the functions post 2011.
- ***Comprehensive Development Schemes - Transfer point of no return:*** Some master planning and comprehensive development schemes will be under way at the appointed day for the transfer of functions and handover may have to be slightly delayed for management purposes. The Department would propose that a few schemes may have passed the point of no return, e.g. Victoria Square at present, and will not be handed over. The early engagement of councils (e.g. in advance of transfer) in the developmental stages of such schemes would support a more efficient and effective handover of and strengthen the sustainability of such projects.
- ***Capital Projects:*** In considering the development of large scale capital/physical projects, DSD are required to secure and commit the required resources up front which is held in a type of assurance fund. This detracts from the ability of the Department to profile and spread its funding across a range of projects. Consideration will need to be given to the potential implications for councils and to whether an alternative arrangement needs to be put in place.
- ***On-costs:*** 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.

- **Assets:** DSD currently hold very significant working assets including land banks. On the basis that assets follow function the local government sector would assume that ownership of such assets (and associated liabilities) would transfer.

Whilst it has been highlighted that there may be an issue in regards to the timing of transfer of some lands, particularly where there is still a legal process e.g. process of vesting underway, all efforts should be taken to ensure that all lands transfer at point of transfer.

- **Allocation of resources:** The future allocation of budget and resources 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.
- **Living Over the Shop:** Given the potential capacity of the LOTs initiative to support town centre regeneration and neighbourhood regeneration, local government would call for further consideration to be given to the inclusion of this function as part of the transfer proposals.
- **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.
- **Belfast City Centre Regeneration Directorate:** Negotiations between DSD and Belfast City Council on transferring management of Laganside assets to the City Council are currently underway and should be progressed within the context of the potential transfer of the ownership and management of the assets.
- **Connection with DARD:** Greater clarity is required with regard to the respective roles of DSD and DARD and their interconnections to provide an integrated and holistic regeneration programme across Northern Ireland. It is important that the current policy imbalance is addressed in moving forward. This may be an issue which the Environment Minister may wish to raise with his Ministerial colleagues. The transfer of responsibility for both urban and rural regeneration to councils will provide an opportunity to support a more integrated and holistic approach to regeneration to be delivered across Northern Ireland.
- **Travellers Transit Sites:** The Sub Group would put forward, for the consideration of Members, the proposition that the proposed transfer of Travellers' Transit Sites should remain within the NIHE as the regional strategic housing authority and delivered as one package. It should be noted that the transfer of responsibility for all Traveller accommodation to the NIHE resulted from a detailed consultation and EQIA exercise undertaken in 2003. Therefore, further clarification would be required in terms of the policy reasons and rationale for the proposed transfer of Travellers' Transit sites to Local Government.

#### 5.4 **DETI Sub Group** (refer to Annex 4)

- **Relationships and role clarity:** Recognition of the current fragmented nature of the delivery of Local Economic Development and Local Tourism functions and the need for greater role clarity. There needs to be a much more collaborative relationship between central government, non-departmental public bodies and local government in these areas.
- **Barnett Review:** The strategic review currently underway of the future role of Investment Northern Ireland (INI) and its economic development policy is due to complete in the summer of 2009. It will be important that local government use this review process as an

opportunity to have a conversation with the Department and INI in relation to the role of councils in delivering economic development and its connection to the enterprise strategy and associated enterprise and business development and support.

- ***Invest NI Regional Offices:*** Further consideration to be given to the future role of regional offices and their connection locally in supporting the activities of the 11 new Councils.
- ***Local Enterprise Agencies (LEA):*** There are proposals for Enterprise Northern Ireland (ENI) to undertake a review of the LEA network and its future role within the context of both the RPA and the new Northern Ireland Enterprise Strategy. Local government should be engaged as a partner in this review process.
- ***Future of Regional Tourism Partnerships:*** This should be considered within the context of the current and future role of Councils in local tourism development and inform the development of the new NITB 'Strategic Framework for Action' currently underway. Again, local government must be engaged in this process and ensure greater alignment between local priorities and regional policy and programmes.
- ***Proposed marginal changes:*** Subject to negotiations with DETI and other Departments, marginal changes which may be proposed include, but are not limited to the following:
  - i. Integration of micro business support programmes across DETI and DARD and transferred to Local Government in a combined package.
  - ii. Linkages between Neighbourhood Renewal as presently constituted under DSD and initiatives targeted as Neighbourhood Renewal as under DETI.
  - iii. Need for synthesis of local physical regeneration programmes, including environmental improvement schemes, as currently delivered by DSD, DRD, DARD and NIHE with local economic development delivery.
  - iv. Integration of 'Living Over the Shops' (LOTS) schemes, as currently delivered under NIHE, with local economic development delivery.
  - v. Linkages between local delivery of arts and festivals as currently delivered by DCAL with local tourism delivery.

#### 5.5 **DARD Sub Group** (refer to Annex 5)

- ***Transfer of Functions:*** It is not proposed that the N.I. Rural Development Programme 2007-2013 would transfer to Councils under the current proposals. The core elements of the programme including the economic and vocational training elements of Axis 1 have been contracted out until 2013.

While Local Government would have preferred to see these economic elements transferred to District Councils to better integrate with broader economic development services, the Department has stated that this can only be considered whenever a new Rural Development Programme is being developed post 2013. Local government would seek a continued conversation with DARD in relation to the preparation for the potential development of a Rural Development Programme post 2013 and the role of councils in its delivery.

Whilst it is proposed that Councils will become a delivery body for Axis 3 (improving the quality of life in rural areas and diversifying the rural economy) of the Rural Development Programme, DARD will retain the policy and budgetary function. DARD are committed to

amend legislation so that Axis 3 delivery at the local level is compliant with new council structures post 2011.

- ***Need for integration:*** The fragmented nature of the RPA proposals leave a lack of integration between the role of DARD in Rural Development and the various new and existing functions of the Council post 2011 (e.g. Urban Development, Local Economic Development, Community Development; Local Development Planning etc). Similarly Rural Tourism and Rural Business Support cannot be delivered in isolation of the tourism and business networks at a District and Regional level. It will be important that DARD work with local government and other transferring function departments to establish role clarity and support better integration of service delivery.
- ***Community Development Programme:*** To date, DARD has been using the Rural Community Network and Sub Regional Networks to deliver their community development programme but this has sometimes been in isolation of the work of councils and DSD in this area. Recent funding problems with the Networks emphasise the need for these groups to be connected to Councils who have a long term plan for community development in their District. The current proposals in regard to the delivery of a Rural Anti-Poverty Strategy and Social Exclusion are not connected to Council priorities; with Local Government consultation only conducted in the later stages of development. Anti Poverty Strategies need to be co-ordinated across all communities within Council areas and the role of DARD and Local Government in this area post 2011 needs to be further reviewed.
- ***NI Fishery Harbour Authority:*** Whilst it is proposed that the functions of the NI Fishery Harbour Authority will not transfer to councils, the Minister has given a commitment to investigate how an increased role for local government within the existing arrangements can be achieved. A further conversation is required to determine how this enhanced role can be developed.
- ***Forestry Service:*** The Forest Service is currently developing a strategy for social use and recreation within forests and is currently reviewing its legislation to enable it to enter partnerships with Local Government and other agencies to develop the potential of the Forestry estate for tourism, recreational and other purposes.

#### 5.6 **DCAL Sub Group** (refer to Annex 6)

- ***Armagh County Museum:*** Proposed to transfer to local government, however, its transfer will be subject to an agreement being put in place between the National Museums Northern Ireland and Armagh City, Banbridge and Craigavon District Council Transition Committee.
- ***Functions of the NI Museum Council:*** Whilst these are proposed to transfer to local government it is deemed to be inappropriate to decentralise (breakup) across the new 11 council areas. The future delivery of this function will be given further consideration as part of the PwC consultancy work on 'Options for Local Government Service Delivery'.
- ***Local Water Recreation facilities:*** Further clarification is required in regards to a breakdown of the schedule of relevant sites and associated maintenance budgets across the 11 council areas and this will be taken forward through constructive dialogue between the Department and the transition committees for the new 11 council areas.
- ***Local sports:*** Whilst the Ministerial announcement of 31<sup>st</sup> March 2008 had stated that responsibility for local sports would transfer to councils, there is no transfer of function directly from DCAL. A number of Government Departments and bodies such as SportsNI

deliver local sports related initiatives. Accordingly, local government would seek further engagement in regards to the potential to enhance its future role in the delivery of local sports related activities.

- **Local Arts:** Further clarification is required from the Department, with input from local government, to clarify the scope this function, the associated funding and how the agreed budget is to be split across the 11 councils.

## 6.0 Conclusion and Recommendations

6.1 As previously stated at the recent PDP C meeting on the 19<sup>th</sup> March 2009, it is clear that there remains significant uncertainties with respect to some of the functions proposed to transfer with insufficient information available for local government to make informed decisions in regards to the extent to which the proposed transfer is fair and equitable in terms of future delivery requirements and expectations. The work undertaken to date has identified a number of significant issues, answered some key questions but identified a number of areas that will require further work to address. It is clear that the initial discussions around the transfer of functions should only be the beginning of an ongoing and evolving process between central and local government over the next 12-18months.

6.2 Members will also wish to note that the Executive Sub Committee on Local Government Reform is to be reconvened and would provide a forum through which a number of the outstanding issues can be progressed.

### 6.3 It is therefore recommended that Members:

- i) consider the detailed issues highlighted within the foregoing report and attached appendices and agree to seek a process of further conversation with key groups, through the Strategic Leadership Board and between the Environment Minister and relevant Departmental Ministerial colleagues;
- ii) seek early negotiations with central government (including DFP) regarding the future funding of transferring functions and to ensure that there is no burden to the ratepayer or differential impact on the district rates at point of transfer
- iii) consider the specific proposals in regards to marginal changes to the transfer of functions including additional transfer proposals (e.g. both off-street and on-street car-parking to transfer; Living Over the Shops Initiative to transfer) and non-transfer proposals (e.g. particular functions of the public realm aspects of roads; Travellers Transit Sites). These proposals will be subject to ongoing negotiations with Departments and Ministerial consideration;
- iv) note the need for local government to pay particular attention to ongoing central government consultations and strategic reviews which may impact upon the transferring functions including, for example, the Barnett Review and development of the new Tourism Strategic Framework for Action and Enterprise Strategy; and the Reform of Planning Service pending consultation process; and
- v) agree to the retention of the Transfer of Functions Working Group and associated Sub-Groups (where appropriate) to assist elected Members within this process; to work through the issues outlined within this forgoing report and the attached appendices; to identify potential resource consequences and seek political direction as required.

**Planning Transfer of Functions  
Technical Sub-Group**

**Report  
to**

**Policy Development Panel C**

**26<sup>th</sup> March 2009**

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# Executive Summary

The following section provides a brief overview of the key issues which has been highlighted by the RPA Planning Technical Sub-Group as part of their consideration of the technical and operational implications associated with the transfer of Planning Functions from Central to Local Government. Further detail is contained within the main body of the report and two appendices.

## Strategic Issues

- A) **Full transfer of Operational functions:** the most appropriate model for future service delivery is full transfer of operational functions to the new Councils with only limited reserve powers retained. This would put the planning system closer to the citizen and provide for greater accountability for service delivery. Statutory planning is a critical component in the delivery and influence of the broader community planning agenda and the capacity of councils to make a positive impact on the wellbeing of communities.
- B) **Reform and Partnership:** with the increasing overlap between planning reform and the RPA it needs to be recognised that local government is not merely another stakeholder in the planning reform process but rather a partner who will become the future statutory owner of the function. This necessitates a changed approach and requires ongoing engagement at an operational level.
- C) **Performance and Oversight:** there are concerns in respect of the proposed measures to be applied or incorporated into the different processes including greater scrutiny/oversight by the Department and the introduction of additional independent assessments. The existing Councils have performance monitoring arrangements across their range of functions and services.

The proposals for a binding report by the Department at the end of the local development planning process that would have involved significant consultation and engagement has the potential to undermine the process and the legitimacy of the councils as both the development planning and Community Planning authorities. There are also risks that making the process dependent on advice from external agencies through legislative requirements could, in the absence of clear accountability and penalties, introduce potential for delays in the proposed system

- D) **Capacity Building** – significant investment is required to meet the needs of both Elected Members and current Planning and Council staff to ensure they can meet the challenges of a new approach to planning, function integration, their revised responsibilities and the new culture which is a prerequisite to the success of the transferred and modernised service. This needs to be taken forward under the auspices of PDP C.
- E) **Outstanding Issues:** in the absence of significant pertinent information (e.g. access to the pending consultation document on Planning Reform, and the absence of detail in respect of the proposals for retained functions) and the consequent uncertainty around proposals there remain a number of outstanding issues or difference in position. An informed due diligence exercise with increased disclosure is required.

## Operational Issues

1. **Role of the centre:** To enable the new councils to make a difference to both the performance of their areas and deliver effective community planning for communities and citizens, they should be given the necessary autonomy to address local priorities with a minimal central government intervention. Caution should be exercised in the approach taken to the introduction of the governance arrangements by the Department, which should not be considered to 'parallel' the powers for the new councils. Any governance arrangement should be for the purposes of redressing deficiencies in the system rather than being exercised as an automatic intervention. There needs to be greater clarity for the citizen in respect of planning as a process and accountability.
2. **Specialist/Technical Advice:** access to specialist/professional advice and the future development of the service should be a matter for the new authorities that could, if appropriate, consider their own voluntary models for shared resources or cooperation. The premise should be that such capacity should be located and developed within councils and, therefore, the retention of specialist/professional staff within the Department must be proportionate to the duties to be administered.
3. **New Development Plan Approach:** the proposals for the emphasis should be placed on the potential integration with the Community Planning process, including associated consultations, and strengthening the ability of local authorities in improving the wellbeing of communities. The closer integration with other functions undertaken by councils including Environmental Health, Building Control, Community Safety, Local Economic Development, Urban Regeneration etc would provide increased potential for the success of a "Development Management" rather than Development Control approach through the support of effective local spatial planning.
4. **Resources and Budget:** issues around resources and budgets are becoming increasingly complex as the process of initial diligence continues to highlight anomalies. It is accepted that there is clearly insufficient funding available to deliver the planning function in its current form or indeed to deliver the new proposed more intensive Development Plan approach. There are significant under estimates of the true cost of the current process and the level of notional costs associated with the provision of an effective system which need to be addressed.
5. **Assets:** additional clarification is required in respect of estates and associated costs for accommodation and IT systems.
6. **Areas of Difference:** it should be noted that there still remain areas where no consensus could be agreed, as part of the Technical Sub-Group discussion process. The principal differences were between the Planning Service and local government representatives regarding the scope of the proposed transfer. These relate, in particular, to the retention of specialist staff within the Planning Service and the governance role of the Department vis-a-vis the autonomy of local government to deliver a responsive service to the citizen.



# Main Report

## 1.0 Context

1.1 **Summary:** The purpose of this report from the Planning Transfer of Functions Technical Sub-Group is to clarify details of functions transferring to local government from Department of Environment (DoE) Planning Service, and where appropriate, making recommendations on marginal changes to the proposed functions transferring.

1.2 **Action:** The Transfer of Functions Working Group was tasked to:

- discuss and agree the detail of the report; and
- include, as appropriate, key issues and emerging recommendations within its overall Transfer of Functions report to be submitted for the consideration by Policy Development Panel C (PDP C).

## 2.0 Introduction

2.1 The Transfer of Functions Planning Technical Sub-Group in turn was tasked with reporting to the main Transferring Functions Working Group on the following areas:

- provide clarity on the detail of transferring functions including policy background, current operational delivery mechanisms and current resource allocation;
- seek agreement on responsibility for future delivery of functions;
- identify potential policy issues in regards to the transfer of functions; and
- recommend marginal changes to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong local government, the role of Local Government in supporting place shaping, the need for single point accountability at the local level, ensuring improved customer orientated services and value for money considerations.

## 3.0 Background

3.1 The transfer of planning functions to local government this must be set within the context of the agreed vision set out by the Northern Ireland Executive for 'Strong Local Government'...

*"Our vision for local government is therefore one 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. Central to the vision is the provision of high quality, efficient services that respond to the needs of people and continuously improve over time".*

In Arlene Foster's statement to the Assembly on 31<sup>st</sup> March 2008 outlining the future shape of local government, the Planning function was identified as transferring from DOE Planning Service to local councils.

The then Minister also stated that *“it was recognised and accepted that, if local government is to realise the potential of our shared vision and take on the role of leader and shaper of communities, it requires **direct responsibility** for a family of services. In order for the new Councils to fulfil this role in place shaping they will have responsibility for **local development plan functions, development control and enforcement** with responsibility for regional spatial planning remaining with central government but subject to further discussions with the Minister for Regional Development in discharging this function.”*

- 3.2 **Strategic Leadership Board (SLB).** The Strategic Leadership Board meeting in November 2008 approved paper no. SLB 57/2008 containing the following statements relevant to the transfer of the Planning function:

*“It is vital that each new council receives, on the reorganisation date, an appropriate number of employees (whether from central government, existing councils or other bodies) with the right expertise to enable continuity of public services delivery to the highest standard”.....“Local Government restructuring, together with the transfer of central government functions, will result in a requirement for new arrangements for the allocation and redistribution of these resources. It was previously agreed that the transition to the new arrangements should not increase the overall rate burden, simply as a consequence of transferring functions under reorganisation.”*

The SLB also received a paper jointly prepared by DoE and Northern Ireland Local Government Association (NILGA) that stated:

**“Generally the Department will not interfere in the jurisdiction of a district council unless it is necessary to do so where issues of exceptional significance or controversy or of more than local importance are raised.”**

- 3.3 **Policy Development Panel C.** PDP C has the responsibility for overseeing the policy development in regards to the transfer of functions to local government including Planning. The Panel meeting of 21<sup>st</sup> November received a paper prepared jointly by DoE and NILGA. This paper, which focussed on modernisation of the planning service and not the transfer of functions, stated:

*“The proposed reforms are intended to improve the efficiency and effectiveness of the planning system and ensure it provides transparency in decision making and gives confidence to its users...They are also intended to ensure that the functions being transferred to local government as part of the RPA changes are fit for purpose”*

- 3.4 **Emerging Proposals (Planning Service).** It is important to state from the outset that whilst the Sub-Group has had an opportunity to review the Emerging Proposals document prepared by the DOE Planning Service, the release of a detailed consultation document is pending and the Sub-Group had no opportunity to view or comment on the detail of this report.

The Sub-Group's deliberations and subsequent recommendations are therefore grounded in the restricted information available from the Emerging Proposals document. Given the incomplete information and short period of time available for the consideration of this critical issue the Sub-Group would wish to emphasise that the views set out in this report may require modification in the light of the contents of the as yet unavailable consultation document from Planning Service.

**The Sub-Group wished to express their concern that they were tasked with formulating a view based on incomplete information in a very short period of time.**

### **3.5 PWC Paper (Assessment of the Options for Local Government Service Delivery)**

The Sub-Group were also given access to the completed response from Planning Service to the PWC request for information including restricted information relating to elements of current staff structures and budget projections for 2010/11. This information was compiled by Planning Service as part of its submission to the PWC consultancy work on Future Service Delivery Options.

The above documents informed the process of consideration in respect of the views formed and subsequent recommendations arising in this report.

## **4.0 Strategic Issues**

### **4.1 (A) Full Transfer of Operational Functions**

*The most appropriate model for future service delivery is full transfer of operational functions to the new Councils with only limited reserve powers retained. This would put the planning system closer to the citizen and provide for greater accountability for service delivery. Statutory planning is a critical component in the delivery and influence of the broader community planning agenda and the capacity of councils to make a positive impact on the wellbeing of communities*

The DoE and Department for Regional Development (DRD) currently deliver regional planning, local development planning, development management and enforcement from centralised departments, 6 Divisional Planning Units and 2 sub offices across the Province. The functions undertaken include:

- Regional Strategic Planning.
- Development Planning.
- Policy Development.
- Specialist Professional Services.
- Processing of strategic applications and a range of specialist applications.
- Enforcement (in relation to specialist applications).
- Specialist advice and guidance on landscape architecture issues and design.
- Policy and legislation.
- Reform and RPA programme management.
- Performance management.

- Audit

The majority of functions are currently delivered by Planning Service, an agency of the DoE, while aspects of policy development lie with the DoE Planning and Environmental Policy Group and the Regional Development Strategy is the responsibility of the DRD.

Planning Service has proposed that development planning, development management and those elements of enforcement undertaken by the 6 Divisional Planning Units and sub offices transfer to the new 11 Council structure along with all of the BMAP function and approx 50% of the currently centralised operational functions of DOE.

Following consideration of the range of reference information referred to and the *Emerging Proposals* from Planning Service, the Sub-Group takes the view that the overarching principle should be that operational functions transfer in their entirety, except where compelling operational issues justify alternative solutions.

In line with the concept of subsidiarity, every effort should be made by all parties to minimise the degree of governance exercised from the centre, and any services proposed to be retained by Central Government should be supported by a detailed business case.

The Sub-Group believes that the significance of the potential for planning to contribute to place shaping, the environment, the socio/economic growth of new districts and the foundation for strong local democracy cannot be overstated. The Planning function being delivered at a local level will make a greater contribution than the isolated transfer of other functions notwithstanding their individual significance. The integration of what is currently a set of disparate services or functions with the range of existing council services alongside the planning functions will generate the necessary synergy to make significant difference to the lives of the citizens and enable Councils to address local priorities.

The transfer of planning powers to Councils and their integration and alignment with wider urban regeneration, local economic development, roads and community planning powers would give councils greater capacity to impact upon the quality of life within an area. Accordingly, the transfer of planning functions must be comprehensive in order to maximise the potential benefits in terms of a more responsive and integrated service delivery at the local level. Adequate resources (both financial and intellectual capital) must transfer with functions so as to ensure that service continuity is both maintained and improved.

**This fundamental premise of full transfer of operational services is the driver for the recommendations arising from the deliberations of the Sub-Group and informs the comments regarding the transfer proposals from Planning Service.**

#### 4.2 (B) Reform and Partnership

*With the increasing overlap between planning reform and the RPA it needs to be recognised that local government is not merely another stakeholder in the planning reform process but rather a partner who will become the future statutory owner of the function. This necessitates a changed approach and requires ongoing engagement at an operational level.*

The Sub-Group is concerned that, in general there is a lack of communication throughout the RPA process to date and more specifically in relation to the detailed proposals regarding Planning Service. The level of detail has been limited to date and has restrained the degree of consideration to be given

The Sub-Group is also concerned that Local Government sector is not considered to be a key stakeholder in the proposals for the transformation of Planning Service as it is only being given the opportunity to respond to the proposed consultation paper during a period of general consultation. This engagement at the same time as other consultees does not provide the opportunity to reach an agreed consensus with Planning Service prior to a consultation exercise for a reformed function that will be the statutory responsibility of local government.

**The Sub-Group maintain that as Local Government will deliver the service in the future that they should be partnering Planning Service in the development of agreed proposals for consultation and wish to express their concern about whether there is genuine dialogue to take place or is it a case that they are being presented with a fait accompli in respect of the transfer of functions?**

#### 4.3 (C) Performance and Oversight

*There are concerns in respect of the proposed measures to be applied or incorporated into the different processes including greater scrutiny/ oversight by the Department and the introduction of additional independent assessments. The existing Councils have performance monitoring arrangements across their range of functions and services.*

**Independent Examination** – In considering the Emerging Proposals put forward by the Planning Service, the Sub-Group is concerned to note that two Independent Examinations are proposed within the process i.e. one which examines the Draft Local Area Plan and one for Site specific policies and proposals.

The Sub-Group fully endorse the need for the Independent Examination of the Draft Plan and consider this crucial to the development of a widely accepted Plan for a specific Council area.

On the basis that there is no significant amendment to the Plan in terms of land use or any of the social, economic or environmental conditions within the Plan, the Sub-Group take the view that Local Government should have the authority to proceed with implementation of the Plan as approved by the Independent Examiner.

It is also their view that review of the Plan will be a continuous process, and that only where significant deviation is proposed or new/amended legislative requirements result in a fundamental change to the approved plan should reference be made to independent scrutiny of the revision to the Plan.

**Targets** - The Sub-Group has been advised that the preparation and independent examination of a Local Area Plan should take 2 years with a further 18 months for the production and independent examination of site specific policies and proposals.

The Sub-Group is concerned that this timeframe is untested, will require substantial additional resources and the responsibility for the failure to meet agreed timescales will be deemed to be the responsibility of the new councils.

Whilst it is appreciated that the new process for development planning may result in shorter timescales, in the absence of any evidence to support the assumption, the Sub-Group would be reluctant to accept the revised target until the new process has been tested and proven to achieve the required results.

Planning Service has indicated a willingness to engage in the preparatory stages of the new plans and to offer expertise and skills where possible. The Sub-Group whilst welcoming this proposal are concerned that the frontloading of the process will prove to be resource intensive and beyond the existing capacity for delivery across the new 11 council structure. Further details are therefore required in respect of the support proposed by Planning Service.

**The Sub-Group is concerned that Local Government could be placed in a position where it fails to deliver a local planning service due to factors outside its control and therefore more detailed discussions with Planning Service in respect of adequate timescale and resources is required.**

**Performance Measurement** – Local Government has been at the forefront of performance management and monitoring for some years. The Sub-Group is mindful of the current range of performance indices, monitoring and examination by both internal and Local Government Audit. The Sub-Group is also mindful of the raft of performance indicators that developed in other jurisdictions and the current movement to Outcome measurement.

The Sub-Group and Planning Service believe that central agreement is required as to the extent and format of high level overarching performance measurement which will minimise the risk of being overburdened by central government information requirements whilst retaining the need to report on progress and value for money in the new dispensation.

Planning Service are proposing that a Statutory Planning Audit process is undertaken by Central Government. Local Government are of the view that audit should be part of the governance arrangements agreed by PDP B and should be undertaken by a body independent of both local government and central government.

**Consideration of the introduction of performance requirements and associated legislative and reporting mechanisms need to be taken forward by PDP B.**

#### **4.4 (D) Capacity Building**

*Significant investment is required to meet the needs of both Elected Members and current Planning and Council staff to ensure they can meet the challenges of a new approach to planning, function integration, their revised responsibilities and the new culture which is a prerequisite to the success of the transferred and modernised service. This needs to be taken forward under the auspices of PDP C*

Significant investment is required to meet the needs of both Elected Members and current Planning and Council staff to ensure they can meet the challenges of a new approach to planning, their revised responsibilities and the new culture which is a prerequisite to the success of the transferred and modernised service.

**Urgent discussions are required to identify these needs, identify and agree funding streams and to commence the implementation of capacity building programmes under the auspices of the Capacity Building Group of PDP C.**

## **5.0 Operational Issues**

### **5.1 (1) Role of the Centre**

*To enable the new councils to make a difference to both the performance of their areas and deliver effective community planning for communities and citizens, they should be given the necessary autonomy to address local priorities with as minimal central government intervention. Caution should be exercised in the approach to the introduction of 'reserve' powers by the Department, which should not be considered to 'parallel' the powers for the new councils. Any governance arrangements should be for the purposes of redressing deficiencies in the system rather than being exercised as an automatic intervention. There needs to be greater clarity for the citizen in respect of planning as a process and accountability.*

The Planning Service proposes to retain a range of central services in order to deliver central government functions. The Sub-Group take the view that many of these are operational in nature and should rightly be based at Council level. Further work is required to delineate the precise nature of these functions and to quantify the necessary resources associated with their delivery.

Where the size of these teams is insufficient to allocate across the 11 new Councils, it is suggested that Councils can avail of these services either on a call-off basis or by way of a service level agreement with the Council in which the resource resides or otherwise.

The issue of subsidiarity suggests that this should be locally delivered rather than a shared service. In the event that Councils wish to share functions or collaborate they should consider such arrangements and decisions locally based on shared objectives. The emphasis on this centrally administered shared services approach will make the move to more integrated and locally responsive delivery more difficult to achieve. The approach also fails to take account of the potential for integration with or support from related functions within the new councils.

**Further discussion and, if appropriate, a strong business case needs to be prepared to support any proposals for the retention of the central Environmental Unit, Minerals and Enforcement, Landscape Architects, ROMPS, Design and the remaining support staff.**

**5.1.1 Staff Allocation** –As the volume of the planning workload varies across the Divisional Planning Units, a methodology for the distribution of the agreed level of staffing across each of the Council areas needs to be established to ensure equity and afford the opportunity for each Council to fulfil its planning function effectively. This in turn will require a period of transition to allow staff to become conversant with the approach, systems and procedure, and for the culture of the new organisation to develop. This may also require a period during which a re-balancing of staff can occur where numbers and workload so require.

**Issues relating to the transfer and management of staff during the RPA process will become increasingly sensitive and complex and require significant input from the PDP C Staffing Sub-Group.**

The Sub-Group is concerned that any potential shortfall of staff to the agreed complement or restriction on the level of specialist/technical staff to transfer will adversely impact on the ability of the new councils to deliver services at existing levels let alone any enhanced level of service.

**This has the potential to breach the agreed principle that there will be no additional cost to the ratepayers by the transfer of functions and requires further detailed discussion with Planning Service and DoE.**

**5.1.2 Governance** – The Department also proposed that it would retain *Reserve Powers*, where a council has failed to take action but that these powers would be used selectively and sparingly in exceptional circumstances, controversy or when issues of more than local significance are raised and normally only after consultation has taken place with the relevant council.

The Sub-Group expressed strong concern at the need for the retention of these powers which appear to be intended as a Ministerial veto on occasions where Local Government failed to act, was not felt to be acting appropriately or correctly or acted *Ultra Vires*. Even though historically these have been employed very sparingly in other jurisdictions the Sub-Group felt that such a dual system over-complicated a system for transferring powers and should be reconsidered.



**The Sub-Group appreciate that proposals for Departmental intervention will be specified in detail in the pending Consultation paper however it is considered that the principles of subsidiarity and local autonomy are key to the creation of strong, democratic local government and it is recommended that the SLB and Central Government seek to agree the specific circumstances when the power could be applied.**

## 5.2 (2) Specialist/Technical Advice

*Access to specialist/professional advice and the future development of the service should be a matter for the new authorities that could, if appropriate, consider their own voluntary models for shared resources or cooperation. The premise should be that such capacity should be located and developed within councils and, therefore, the retention of specialist/professional staff within the Department must be proportionate to the duties to be administered.*

The Sub-Group is also of the view, whilst acknowledging that some of the work of the Environmental Unit, Minerals and Enforcement, Landscape Architecture, ROMPS and Design teams relate to the processing of strategic applications, that in the absence of a strong business case such functions and technical expertise should transfer to Councils and could be offered on a consultancy basis back to the centre.

The Sub-Group also need further clarification on the function and resources currently within DRD associated with the Regional Development Strategy and also the N.I. Environment Agency, particularly in relation to what appear to be operational strategic planning matters detail areas of responsibility such as demolition or work to listed buildings etc. It is recommended that direct discussions need to take place with both DRD and NIEA on these issues and the relationships post RPA.

Planning Service agree that further clarification on the role, function and numbers of staff to be retained by DOE central Planning is required, and that currently they are in the process of quantifying this. Planning Service are also of the view that the transfer of the planning function cannot take place without consideration of integration with other functions at Council level and would therefore welcome the opportunity to engage in a joint co-design process with a group representing Local Government to work through the detail of the role, function, structure and numbers of the Planning function both at policy and operational level.

**The Sub-Group welcome this approach and advise that the composition of the co-design group be agreed and that a meeting is convened as a matter of urgency in order to delineate the division between transferring staff numbers and those proposed to be retained by Planning Service centrally.**

There is also an urgent requirement to determine structural arrangement options, based on function, for the new Councils so that gaps at various levels can be identified, additional costs calculated and agreement reached to the source of funding to meet these needs. **This is for PDP C to consider.**

5.2.1 **Structure** – current structural arrangements in Planning Service do not equate with an 11 Council arrangement. There are potential gaps at senior levels within the service should it migrate unchanged to Local Government; the service is divided into Development Planning, Development Control and Enforcement which may not align to the new service requirements and revised functions within the new councils that, due to the affinity of their roles with Planning, may serve the needs of the local communities more appropriately following integration.

In terms of processing applications vis-à-vis the number of staff to transfer to local government, it is important to recognize that the information provided by Planning Service states that less than 1% of applications would be determined centrally through call-in arrangements due to their scale/ impact (50- 80 have been suggested during consultations). Equally it is recognized that there will be a small number of applications which may have a significant regional, social and economical impacts and that these may need Departmental input

Planning Service has advised that there are operational reasons for retention of staff at the centre to fulfil functions that will remain or develop post transfer e.g. strategic project teams, specialist functions and that some posts will redeploy across the wider Civil Service as the nature of their role changes. The Sub-Group is of the view that a comprehensive review is undertaken of the staff complement and intellectual intelligence in order that the full resources are considered and the position in relation to the proposed retention of posts can be clarified.

**There is a basic issue behind the development and application of specialist knowledge that needs to be addressed. The approach to whether specialist advice for complex or large applications should be developed as an in-house capacity or commissioned externally should be a decision for the future Councils either individually or working in partnership.**

### 5.3 (3) New Development Plan Process

*The proposals for the emphasis should be placed on the potential integration with the Community Planning process, including associated consultations, and strengthening the ability of local authorities in improving the wellbeing of communities. The closer integration with other functions undertaken by councils including Environmental Health, Building Control, Community Safety, Local Economic Development, Urban Regeneration etc would provide increased potential for the success of a “Development Management” rather than Development Control approach through the support of a effective local spatial planning.*

5.3.1 **Programme Management** – The Sub-Group takes the view that the application of programme management techniques is good practice and is employed in many facets of Council’s work at present. The outline proposal in the Emerging Proposals document does not give sufficient detail as to the processes proposed although Planning Service

have advised that this is essentially a refinement of existing practice, however the impact at local level is indeterminate at present.

**As this has the potential to be an additional requirement to the current processes applied by the Planning Service, the Sub-Group would wish to have sight of Planning Service's requirements to assess the implications in terms of accountability, responsibility and impact on resources.**

**5.3.2 Consultation** – The Sub-Group supports the principle of consultation as being central to the creation of a widely accepted Local Area Plan. The Sub-Group also believe that this will be a common requirement across most of Council's activities and will be especially critical to the Community Planning process. The Sub-Group therefore consider that a comprehensive, integrated approach to establishing need, views and opinions is their preferred approach. This integrated approach, serving the needs of a wide range of functions is likely to be undertaken by a corporate Strategy, Research and Development function within the new Council arrangement.

**Planning Service agree that discussions need to take place and agreement reached on the consultation that needs to take place within a Community Planning context to ensure that it is area wide and encompass the elements essential to the creation of a Local Development Plan. If however consultation is to be planning specific then the Sub-Group would highlight the need for this to be reflected in legislation.**

**5.3.3 Sustainability Appraisal** – The Sub-Group understand the statutory requirement, fully support the need for a Sustainability Appraisal in the Draft Development Plan and that it is essentially a formalisation of existing practice.

The Sub-Group however take the view that this may have the potential to add to the current planning process and **may have additional structural, workload and resource implications that need to be identified and agreed between Planning Service and local government.**

#### **5.4 (4) Resources and Budget**

*Issues around resources and budgets are becoming increasingly complex as the process of initial diligence continues to highlight anomalies. It is accepted that there is clearly insufficient funding available to deliver the planning function in its current form or indeed to deliver the new proposed more intensive Development Plan approach. There are significant under estimates of the true cost of the current process and the level of notional costs associated with the provision of an effective system which need to be addressed.*

**5.4.1 Resources** - In the transition paper, in total in 2008, there is a complement of 666 posts declared as the total complement of staff affected to some degree by the transfer proposals. This comprises 437 Professional and Technical posts and 229 Administrative grade posts.

The Planning Service Corporate Plan and Annual Report suggest staff figures for the Service of around 850. This **figure diverges significantly from the transfer totals** and would appear to suggest a significant number of staff are to be retained at the centre. As outlined above there is little detail on their function and role or the underlying rationale for why the staff could not be transferred.

The totals outlined in the PWC submission by Planning Service suggest that the numbers **in post** are **630** identified as **398.5** P&T and **231.5** Admin grades. This represents a shortfall of **36** posts in relation to the declared complement i.e. **38.5** P&T staff short and **2.5** over complement of Admin staff. The total number of **posts** suggested to transfer to Councils is separately shown as **600**. This comprises of **376.5** P&T and **223.5** Admin staff.

**Emerging Proposals** - In respect of the Emerging Proposals from Planning Service, it should be highlighted that the proposals increasingly combine both Transition Reform and Transformation RPA issues. The initial Outline Business Case clearly recommended that Transition should take place by 2011 with the process to be followed by Transformation/ Modernisation over a period of some years following 2011.

The Sub-Group is aware of the need, in this instance, to embrace both aspects during the transition period but wish to point out that this dual approach will give rise to many additional issues in terms of organisation, leadership, operational issues, performance and monitoring, and that of all the transferring functions, planning is not only a key driver, but also a key outcome in the Community Planning process.

Whilst Planning Service acknowledges this complexity they are currently not in a position to determine the combined cost impact of transition and modernisation, without the benefit of a detailed funding analysis.

**Clarity around this issue is key to ensuring Local Government can deliver services to the required standard, within the agreed timescales and at no extra cost to the ratepayer. Resolution needs to be completed at the earliest opportunity.**

**It must also be emphasised that joint working and close co-operation between Local Government and DOE Planning Service will be a hallmark well beyond 2011 if success is to be achieved.**

5.4.2 **Budgets.** Planning Service has produced an outline budget for 2010/11. The information provided to the Sub-Group (Planning Service PWC response) suggests a cost for the service of £32m from which almost £10m is being retained centrally. The Annual Report for 2007/08 details a total expenditure of £42m (excluding any notional costs associated with Council consultations). There are a significant number of detailed questions to be raised regarding source, calculations, apportionment, projections, income and cash flow.

There is also a range of issues regarding Operating costs, Notional costs, Fixed Assets and Contract Costs. These issues also need to be placed in the context of a forecasted

downturn in application fees (a substantial portion of the income attributable to the existing service).

The Sub-Group are particularly concerned that there appears to be inconsistencies between the draft budget proposals submitted to PWC for 2010/11 and the 2007/08 Annual Report and Accounts.

**5.4.3 Costs and Charges** - A key area that has emerged through discussions with Planning Service is that of cross- charging for consultation by other government Departments and Agencies. This is currently treated as a notional cost as it is impracticable for government departments to cross-charge each other. This will change considerably when the function transfers to Local Government and either a mechanism for the actual transfer of funds and associate level of budget is agreed or a Memorandum of Understanding is agreed and signed off to cater for the cost of consultation. **This is clearly a matter for the PDP C Finance Group to resolve.**

Further clarification is also required in respect of estates and accommodation assets and costs and the funding arrangements to cater for the legal costs that will arise from the preparation and examination of Local Area Plans (and subsequently any legal challenges to the independent examination and site specific proposals).

Much of the above is dependent on the finally agreed service delivery model; however, Planning Service intend to engaged consultants to assess the costs of the proposed reform of the planning system including an assessment of the funding implications of RPA in the context of an agreed service delivery model. Local Government equally would expect the assignment to more clearly define each cost centre in order to support an adequate transfer of funds for the agreed service delivery model. As the future custodians of the service, Planning Service should engage with Local Government to agree terms of reference for the use of consultants that meet both our needs

The whole area of budget needs specific attention not only to ensure an adequate level of funding transfers with the current functions, but also to ensure that future expenditure levels are recognised and planned for now to ensure that the principle of no additional cost to the ratepayer due to the transfer is incurred.

**These issues need to be addressed as a matter of urgency so that an agreed level of funding to accommodate the transition period, the transfer and the future development of the function as envisaged in the consultation paper can be established to allow the transfer to proceed to meet the 2011 deadline. This will require the intervention of the Finance and Estates Sub-Group of PDP C.**

## 5.5 (5) Assets

*Additional clarification is required in respect of estates and associated costs for accommodation and IT systems*

**5.5.1 IT** – The Sub-Group understand that Planning Service have transferred its capital IT assets to the ownership of IT Assist. This will create logistical problems in the re-

allocation of hardware and systems to the 11 new Councils or incur some alternative management arrangement to allow the new councils to discharge their planning function.

This concern is not confined to the professional aspects of Planning, but also relates to many of the Admin and HR support systems. Similar concerns exist regarding accommodation costs and fixtures and fittings.

The new system 'ePIC' is being rolled out by Planning Service at present. Future systems integration and the ability of the new councils to access the system may be difficult and, therefore, early and constructive engagement between the Department and local government is crucial. Consideration will need to be given to any potential costs to councils in terms of infrastructure required to access the ePIC or Network NI systems, and whether these will be funded centrally at the outset. Should integration be considered an effective Service Level Agreement would have to be developed and agreed in relation to support for IT.

This also raises legal and security issues in respect of access to the Civil Service ICT infrastructure along with issues of compatibility with existing council systems and the proposals arising from the soon to be published Council IS strategy.

Planning Service appreciate the issues associated with the transfer of hardware and software, the issue of access, integration, compatibility and the need to interface with the IS Strategy being developed for Local Government

**Urgent action to resolve these issues is required by the appropriate PDP Sub-Group along with support from PWC.**

## **6.0 Issues requiring further consideration.**

*It should be noted that there still remain areas where no consensus could be agreed, as part of the Technical Sub-Group discussion process. The principal differences were between the Planning Service and local government representatives regarding the scope of the proposed transfer. These relate, in particular, to the retention of specialist staff within the Planning Service and the scrutiny role of the Department vis-a-vis the autonomy of local government to deliver a responsive service to the citizen.*

Almost all of the issues identified, both strategic and operational require further direction from other elements of the RPA management and transition structures. The issues are highlighted throughout the report with suggestions as to who should seek agreement or seek further clarification.

There is unanimous agreement that Planning is the most complex area to effect the transfer and has the potential to make the greatest impact at local level. Direction is therefore required as to whether the Planning Transfer of Functions Technical Sub-Group should continue to meet to provide an on-going link with Planning Service to provide the Local Government officer group to discuss the detailed proposals in the

consultation paper, undertake the co-design process, and develop the detail associated with the transfer supported by the work of the PDP Sub-Groups and PWC.

The Sub-Group would once again emphasise the need for urgent action so that the practicalities of the transfer can be planned and implemented to achieve the May 2011 deadline.

**D. McCammick**

Chair of the Planning Transfer of Functions Technical Sub-Group

Prepared by :- J.McKenzie  
K.Heaney

# **Appendix 1**

## **Planning Transfer of Functions Technical Sub-Group**



## Planning Transfer of Functions Technical Sub-Group

The Planning Transfer of Functions Technical Sub Group was created following earlier work between NILGA, Solace and the Transfer of Functions Working Group established by PDP C as a response to the concerns in the implementation of the Review of Public Administration. The Group representing a cross section of officers from Councils across the province was set up to consider the professional and operational implications of the transfer of the Planning function from the Department of the Environment and any other government department which have a role to play in the Planning function.

### Sub-Group Membership:

D.McCammick – Antrim - Chair	D.Bell - Coleraine
K.Doherty - Coleraine	J.Dumigan - Down
N.Dunn - Newtownabbey	L.Flanigan - Limavady
B.Hegarty - Fermanagh	K.Heaney - Belfast
A.Law - Antrim	J.McCorry - Newry & Mourne
G.McGivern - Newry & Mourne	M-T.McGivern - Belfast
J.McKenzie - Antrim	G.Millar - Belfast
L.Porter - Craigavon	J.Quinn - Arc 21
K.Sutherland - Belfast	

Officials of the Planning Service who offered clarification, advice and guidance to the Group were in attendance at the meetings held on the 26<sup>th</sup> January 2009 and 27<sup>th</sup> February 2009.

### Sub-Group Meetings:

26 <sup>th</sup> January 2009	Initial Meeting with planning Service- Millennium House
18 <sup>th</sup> February 2009	First Sub-Group Meeting - Antrim
27 <sup>th</sup> February 2009	Second Sub-Group Meeting – Antrim (attended by PWC)

## **Appendix 2**

### **PWC Planning Service Response**

#### **Issues Log**

## PWC DoE Planning Service Assessment Response: Detailed comments provided by Transfer of Functions Sub Group

<b>Function</b>	<b>Comments</b>
<i>GENERAL</i>	<ul style="list-style-type: none"> <li>▪ The PWC document quotes DOE Planning Service as stating that the proposals are 'expected to include' a list of 8 issues. Given that Councils will be expected to 'hit the ground running' in taking on Planning matters in 2011, it is surely unreasonable to expect Councils, at least in the short term, to undertake not only the role but an enhanced role, with an increased number of requirements; to be undertaken by uncertain resources; and achieved within tighter timeframes.</li>   <li>▪ It would appear from the PWC document that whilst Planning Service is giving the appearance of complying with handing over responsibility for Planning to Council, the Councils will be expected to consult and seek approval of the Department prior to proceeding with various aspects such as local Development Plans.</li>   <li>▪ Pages 2-5 of the PWC document lists functions which are to be identified against which Planning Service has cited implications which arise from such a transfer. Further clarification is required from NIEA prior to 4 of the functions being included for transfer.</li>   <li>▪ Of the 24 functions identified for transfer, only 3 have no implications registered against them; and the Department wish to retain some level of control in respect of 9 functions.</li>   <li>▪ There needs to be greater clarification as to the extent of the 'reserve powers' which the Department will have in respect of a number of the functions transferring</li>   <li>▪ Disappointing that it would appear that Councils need to be scrutinised in terms of the delivery of the following functions: <ul style="list-style-type: none"> <li>▪ Processing Planning Applications on crown land;</li> <li>▪ Planning agreements on regionally significant applications;</li> <li>▪ Control of demolition or works to listed buildings on 'significant applications' or 'Council owned listed buildings';</li> <li>▪ Conservation area designation;</li> <li>▪ Demolition of Council buildings within Conservation areas;</li> <li>▪ Determining hazardous substances consent applications by Councils;</li> <li>▪ Applying Tree Preservation Orders;</li> <li>▪ Determining Tree Preservation Orders;</li> <li>▪ Preserving trees in conservation areas;</li> <li>▪ Issuing completion notices; and</li> <li>▪ Preparing simplified planning zones without Departmental scrutiny role in preparation/approval.</li> </ul> </li>   <li>▪ Unsure the rational for including the phrase <i>"No areas are specifically under review in terms of whether they should transfer or remain with</i></li> </ul>

	<p><i>central government”</i> given the preceding responses to the PWC return and the clear retrenchment in regards to transfer of particular functions and staff and the increased scrutiny role for the Department as alluded to within the PwC submission</p> <ul style="list-style-type: none"> <li>▪ It will be important that the planning decision-making process mitigates the potential for varying interpretations at a local level, and that a robust framework is defined to give common guidance to decision-makers.</li> </ul>
<p><i>Local development planning</i></p>	<ul style="list-style-type: none"> <li>▪ Potentially this could be a significantly more staff and resource intensive system than the current development plan approach. Planning Service has already indicated that they would not have the resources to concurrently deliver this new system irrespective of there whether there were 11 Councils.</li> <li>▪ The added value to Council will arise from the integration with Community Planning and enhanced consultation/ engagement arrangements. Important to recognise that local development planning would be a key lever for councils to address local priorities and place shape.</li> <li>▪ There is however clarity required in relation to the processes for oversight to be exercised by the Department. These should not be more than the securing of strategic alignment with the broader government objectives and programmes. The important conformity issues would relate to the spatial plan proposals embodied within reviewed RDS.</li> <li>▪ Clarity required as to the intended role of the Department in regard to <i>“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”</i>;</li> <li>▪ It would be timely to consider further synergies in the emerging of the transfer of functions. There are many areas that cross a variety of disciplines and the interlinking of both the policy formulation and the service delivery should be given further consideration. The potential links with Building Control functions is clear. Similarly, there is clearly expertise in Environmental Protection, Landscape Design/ Architecture etc.. These elements could be enhanced in line with the local development planning functions to be transferred to Councils.</li> <li>▪ <b>Expertise Advice:</b> There are issues in regards to the relationship between specialist DRD functions in respect of supporting planning applications and the future autonomy of councils in delivering its local development plan functions. The annual report 2007/2008 suggests that consultancy support from DRD cost in excess of £4m. How will this be managed and resourced post transfer. Councils will need to consider whether or not they would wish to hold the internal capacity to provide expert advice on planning applications and strategic transport issues as part of the administration of their planning responsibilities.</li> <li>▪ In the absence of the awaited consultation document from the Planning Service, it is our understanding that as part of the reform of planning system a new local development plan system will be introduced to replace the current area plans.</li> <li>▪ This is a new process similar to that for Local Development Frameworks in England with very ambitious timescales suggested in recent consultation papers. The timescales are such that if the process was</li> </ul>

	<p>intimated now the strategic documents for the new Council areas would be completed by 2011. Significantly different from the current Development planning approach and timescales.</p> <ul style="list-style-type: none"> <li>▪ <b>Governance:</b> current proposals for increased levels of scrutiny by the Planning Service and the introduction of a process of independent examination seem somewhat excessive and far beyond the current provisions in place. <ul style="list-style-type: none"> <li>▪ Is this necessary as it is merely adding another layer of bureaucracy.</li> <li>▪ If applied, what real teeth will councils have in regards to the development plan process.</li> <li>▪ The scrutiny process should be streamlined e.g. focused on conformity with regional policy/frameworks such as the RDS.</li> </ul> </li> </ul> <p>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.</p> <ul style="list-style-type: none"> <li>▪ This needs to be clarified in respect of the role of the Department and the trigger points. This could seriously undermine confidence in the system. The stage at which these powers could be exercised needs to be carefully considered alongside the appeal system and the rights of applicants/ communities.</li> <li>▪ It will be important that development plans have a site specific element and address integration around issues such as transportation, environmental / waste, energy, utilities, industrial, commercial, community planning, sustainable development policies etc.</li> </ul>
<i>Development management</i>	<ul style="list-style-type: none"> <li>▪ This function is intended to be cost neutral and there may be significant implications in respect of the reduced application numbers resulting from the economic downturn. The current arrangement seeks to ensure that fees cover cost. The proposal is that the fees levels will be set by the Department. This does not take account of the differential incomes that could arise across the different administrations or provide an insight as to whether the existing fees would cover costs in each of the proposed 11 Council areas.</li> <li>▪ There needs to be greater clarity around the definition of the applications to be called in and the additional application over which the Department would retain reserved powers. The exercise of call-in powers in other administrations is very infrequent and the current proposals under the reform process have not been agreed through the NILGA Planning Sub Group. There was significant concern among members as to how the process could be administered and the danger that uncertainty for potential developers etc.</li> <li>▪ Planning Service should be able, from the existing application register and by example, to more accurately define the type and number of applications that would be subject to these processes.</li> <li>▪ The level of delegation to be exercised within the new Councils will be a matter for individual determination on transfer.</li> </ul>
<i>Enforcement</i>	<ul style="list-style-type: none"> <li>▪ Under the proposals the Department will be responsible for the performance management of district council planning functions. Given the record of the Planning Service in relation to dealing with applications in an efficient and timely fashion this gives cause for some concern.</li> <li>▪ There will be implications for Legal Services in the new Councils arising</li> </ul>

	<p>from the exercise of the transferred functions. Whilst this is likely to be most significant under the enforcement operations there may be implications from the establishment of the new processes suggested for Local Development Planning and Development Management.</p> <ul style="list-style-type: none"> <li>▪ Councils need to have a more statutory “clout”, perhaps through early implementation of legislation along the lines of the Cleaner Communities Act. DOE already aware of Council’s views on this legislation.</li> </ul>
<i>Planning agreements</i>	<ul style="list-style-type: none"> <li>▪ Planning agreements on regionally significant applications should be developed in consultation with new Councils as the impacts are likely to be local in nature.</li> </ul>
<i>Temporary listing of buildings of special architectural or historic interest [NIEA]</i>	<ul style="list-style-type: none"> <li>▪ NIEA suggested there would be no functions transferring to Councils although there are specific costs associated with the Development Control planning function. The costs are indicated in the “notional cost” section of the Planning Service Annual Report 2007/2008. This is a general issue that needs to be addressed for NIEA activity and there may be an overlap or synergy in terms of future Council expertise that may be available in technical areas such as Building Control.</li> </ul>
<i>Local listing of buildings of special architectural or historic interest [NIEA]</i>	<ul style="list-style-type: none"> <li>▪ See above.</li> <li>▪ This is an additional responsibility or potential function which would not currently be resourced. There are, however, resources available to Planning Service to provide advice in respect of conservation and other design matters. The disaggregating of the activity is not considered by Planning Service.</li> <li>▪ The proposals look like an attempt to retain bureaucracy and restrict delegation. They need to be discussed with NIEA with a view to agreeing a solution.</li> </ul>
<i>Control of demolition or works to listed buildings</i>	<ul style="list-style-type: none"> <li>▪ See above</li> </ul>
<i>Conservation area designation</i>	<ul style="list-style-type: none"> <li>▪ This area requires clarification of the “reserve powers”. It is assumed that these are reserve powers in addition to the Council having the ability to consider Conservation Area designations. If so then the resources currently within the Planning Service HQ should form part of the transfer.</li> <li>▪ The Department’s reserve powers to designate conservation areas needs to be prescribed in relation to when this would be considered appropriate.</li> <li>▪ Surely the management of this process should be taken forward under the local area plan.</li> </ul>
<i>Urgent works to preserve listed buildings and buildings in conservation areas [NIEA]</i>	<ul style="list-style-type: none"> <li>▪ See above</li> </ul>
<i>Determining hazardous substances consent applications</i>	<ul style="list-style-type: none"> <li>▪ This was centralised by Planning Service but the expertise could exist within the new 11 Councils – it would be worth exploring this with Environmental Protection to determine the synergy in terms of the potential expertise in councils both existing and future.</li> </ul>
<i>Applying tree preservation orders</i>	<ul style="list-style-type: none"> <li>▪ The resources could be integrated with existing expertise in Council Parks and Recreation functions linked to a greater role in commenting on applications from a landscape perspective. There would however be significant resource implications where significant TPO designations are present within new Council areas.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ The process of commenting on applications was carried out as a pilot exercise by Belfast Parks and Leisure to determine the potential for involvement and the level of work required- although the advice was rejected by Planning Service.</li> </ul>
<i>Determining tree preservation order consents</i>	<ul style="list-style-type: none"> <li>▪ As above</li> </ul>
<i>Preservation of trees in conservation areas</i>	<ul style="list-style-type: none"> <li>▪ As above</li> </ul>
<i>Review of Old Mineral Permissions</i>	<ul style="list-style-type: none"> <li>▪ Specialist function that will vary significantly in terms of the implications for the new Council areas. Planning Service should be able to quantify the implications for the proposed Council areas.</li> </ul>
<i>Issuing completion notices</i>	<ul style="list-style-type: none"> <li>▪ Department will retain reserve powers to issue completion notices under current proposals.</li> </ul>
<i>Preparing simplified planning zones</i>	<ul style="list-style-type: none"> <li>▪ Any scrutiny role should be restricted to ensuring that any potential SPZ conform with strategic policy.</li> </ul>
<i>Revoking, modifying or discontinuing planning permission and consents.</i>	<ul style="list-style-type: none"> <li>▪ There are potential issues arising from the potential liabilities arising from decisions made by a previous administration. The ongoing implications arising from decisions by new Councils should be resourced from internal sources / capacity.</li> </ul>
<i>Compensation liabilities</i>	<ul style="list-style-type: none"> <li>▪ See above. Should transfer to councils.</li> </ul>
<i>Responding to purchase or blight orders</i>	<ul style="list-style-type: none"> <li>▪ See above</li> </ul>
<i>Issuing certificates of alternative development value.</i>	<ul style="list-style-type: none"> <li>▪ See above</li> </ul>
<i>Maintaining a register of applications, consents, notices certificates etc</i>	<ul style="list-style-type: none"> <li>▪ Systems issue for the new Councils and the existing IT provision. There are a variety of Development management tailored solutions available from private sector suppliers.</li> </ul>

**DRD Transfer of Functions  
Technical Sub-Group**

**Report  
to  
Policy Development Panel C**

**26<sup>th</sup> March 2009**



# Local Government Interim Position Paper

## **1.0 Background and Summary**

As part of the Transfer of Functions Working Group, a task and finish group comprising senior operational officers drawn from both local government and Roads Service was established to facilitate detailed discussions in relation to the local roads public realm functions transferring to the new councils under RPA.

This position paper is structured as follows:

**Section 2** describes the **Purpose** and gives a full **Introduction** listing the 11 functions, the interrelationship of the: roads functions with the planning function, future influencing arrangements for the non transferred functions and changes in organisation and administration. It also states the considerations the group has taken into account in the assessment of the transferred functions.

**Section 3** discusses the **Limitations** the group have been working under in reviewing the changes. These are principally that the 11 functions are very limited in scope and will not on their own provide much meaningful role for local government in place shaping or work towards visible accountability and convenience of contact for members of the public.

**Section 4** describes the **Context** of Minister Foster's original RPA statement and how local government can be engaged in the future. In particular the importance of a framework so that local government has a real role in policy development, detailed programme development, design stages and implementation of roads related functions.

**Section 5** discusses both revenue and capital **Costs** in outline.

**Section 6** summarises the **Interim Position** recommended by the group referring to further details given in **Appendix 1**.

**The group believes that the transfer many of the functions suggested would not be in local government, regional government or the general public interest as presently envisaged. It does however suggest changes and means by which some transfer of responsibilities could be made effective.**

## **2.0 Purpose and Introduction**

The purpose of this report is to set out the preliminary local government recommendations on service delivery in relation to the 11 functions proposed to transfer from DRD Roads to local government under RPA. This report is intended to advise ministers, councillors and others on the overall practicalities and consequences of any transfer of the 11 functions and to inform the overall decision making process. Nevertheless consideration of these 11 functions (and possible changes within some of them) cannot be treated in isolation from:-

- the proposed transfer of the planning function to local government;

- the informal and formal changes required in the influencing role of local government;
- future administration and systems.

As set out in the Arlene Foster's Ministerial statement of 31 March the proposed functions transferring from DRD Roads Service to Local Government are:

1. Pedestrian Permits
2. Alley gating
3. Streetscaping
4. Environmental Improvements
5. Maintenance of Amenity Areas
6. Salting Footways
7. Local Events on Roads
8. Grass Cutting / Weed Spraying
9. Gully Emptying
10. Off Street Car Parking
11. Street Lighting

In making recommendations for the efficient and effective service delivery of the 11 functions, the local government took account of the following key issues:

**a) *What operational and resource implications are associated with the transfer?***

- Is the function discretionary or statutory, and what are the legal responsibilities, liabilities and risks associated with its transfer?
- What does the transfer mean in terms of physical, financial and human assets and what would be the impact on local government, and in particular the ability to meet service standards and expectations.

**b) *What added value will the transfer bring?***

- (a) for the general public;
- (b) for local councils, for example, in terms of linkages to broader agendas e.g. community planning, place-shaping;
- (c) for service improvements

There are clearly detailed technical issues surrounding all of the transferring functions including, for example, important issues in relation to the assimilation of any new functions with wider local government service delivery, financial and political systems. As the policy framework will transfer with all functions as it currently stands, if councils decide to amend the policy framework this will require equality screening and consultation with DRD.

There has been constructive engagement between Road Service officials and local government representatives to ensure that greater clarity on the functions transferring and that appropriate consideration and more detailed discussion may be required at a higher level on the potential implications for local government of:

- the transfer of functions that are already under-resourced and whose transfer would introduce inefficiencies of scale;
- transfer of long-term financial and public liabilities;
- the implications resulting from the transfer of funding burden from the regional to district rate.

### 3.0 Limitations

The context in which discussions around the transfer of functions is limited to securing agreement on “marginal changes” to the proposed 11 transferring functions should be noted. Such changes must be justified on a service delivery basis, and take account of:

- the principles of strong Local Government;
- the role of Local Government in supporting place shaping;
- the need for single point contact and accountability at the local level;
- ensuring improved customer centric services together with value for money considerations.

Whilst recognising the limited scope for any significant variance from what is currently being proposed to transfer, local government considers that it is important to highlight at the outset the lack of over-arching framework and strategic rationale for the transfer of the 11 functions. This has limited and constrained local government’s ability to properly consider the practical details of each proposed transfer:

The consideration of the 11 individual functions reads as a piecemeal approach to the RPA. There is no strategic rationale underpinning the proposed functions, and as such the process is not in keeping with the principle of strong local government or with the principles of single point of contact and accountability. The current functions offer little scope to develop a strategic approach and integration of local roads management within broader local development planning functions. Decisions about roads need to be integrated with decisions about how to improve quality of life and the priorities for local roads should be determined by Elected Members accountable to the public rather than a one-size fits all approach delivered regionally. Local Government has taken advice from professional bodies such as the Technical Advisers Group (TAG) which has expressed similar concerns about the absence of an overall strategic framework and piecemeal division of functions.

There is a considerable expectation on local government to deliver service improvements through RPA. However, both the resources and the actual functions proposed to transfer particularly limited - that local government would not be able to meet those expectations without significant additional investment. In addition, the scope of the transfer of powers is equally limited, in that local government would not necessarily have the authority to affect the changes that Members and the public might expect.

**Accordingly, Local Government would strongly endorse the need for a strategic and consistent approach based on the concept that, in the long term, responsibility for local roads should be transferred to local government, and that relevant functions, unless there is a valid reason not to, should be transferred to local government.**

#### *Due Diligence and Informed Decisions*

Local government would underline that currently, with respect to some proposed transfers, insufficient information is available to determine whether it would be appropriate for the function to transfer and to what extent the proposed transfer is fair and equitable in terms of future delivery requirements and expectations. There is a need for full and itemised costs for all ‘functions’ – including admin and processing costs, maintenance and equipment costs (including the cost of machinery, storage etc), enforcement costs etc.

#### **4.0 Context**

Local Government considers that the guiding principles, which should underpin any consideration given to the transfer of functions, are based on the need for single point contact and accountability at the local level; creating improved customer centric services and achieving value for money. Councils should be given the necessary autonomy to address local priorities with as little central government control as possible. Transferring functions should be those which are required to allow the new Councils to make a difference to both the performance of their areas and the outcomes that matter for citizens. The Group acknowledges the important role of local government as 'Place Shapers' and local government considers that localised issues cannot be addressed easily by central government. It reinforces the strategic leadership and co-ordinating role of Councils in delivering integrated and responsive locally accountable services.

There is a danger that the current piecemeal approach to the transfer of functions resulting from the RPA process will result in greater confusion for the citizen. A joined-up system of government with clarity of responsibility, alignment of purpose and ensuring that services are delivered by those parts of the system which are best placed to meet the needs of the citizens must be the long term aim.

Notwithstanding the final agreed position on the 11 functions proposed to transfer, it is considered essential that local government has a far greater role in policy formulation and implementation of all transport and related roads functions at the local level. This role was reinforced in Minister Foster's RPA statement in which she stated that ***"there will be a formal and direct input by new councils to local roads decision making and an enhanced accountability framework within which the Roads Service relationship with local government will operate. This could take the form of a statutory framework setting out the respective roles and responsibilities of Roads Service and the new councils"***.

#### ***How will councils be engaged in the future?***

The need for a more formalised input by councils into the local roads decision making process is further amplified with the decision not to transfer full responsibility for the maintenance of local roads but rather a very diluted package of narrowly defined functions. If councils are to effectively deliver community planning and make a positive and lasting improvement to the wellbeing of communities, there must be greater integration and coordination of public services and the targeting of resources at the local level.

Local government would seek continued discussions with the Department and Minister in regards to the potential future transfer of additional roads related functions to councils.

It is the understanding of the Group that the Roads Service is currently considering the type of governance framework (e.g. influencing model) necessary to deliver the ministerial commitment and to ensure there is stronger partnership working between the Roads Service and local government. To be effective such a framework needs to have a statutory basis and should be linked to the broader community planning agenda.

**Clearly Local Government must be a partner in the development of such a framework and be engaged at all levels within the process including, for example, policy development, detailed programme development, design stages and implementation.**

**Accordingly, it is recommended that the DRD Sub Group be retained for the purposes of taking forward the development of an appropriate governance framework for the future consideration of both PDP C and SLB.**

**5.0 Costs**

It is important to recognise that whilst there are likely to be initial up-front costs attached to the desegregation of roads related functions across 11 councils there may be potential longer term savings/efficiencies to be gained through the aggregation and integration of some roads related functions at the local level within other functional responsibilities of councils. While it is acknowledged that there are likely to be fewer examples of where disaggregating of services across 11 councils is likely to save costs, these additional costs will, to some degree, be offset by the integration and alignment of the transferring functions with existing Council Service delivery.

It should also be noted that if fewer services are transferred, than proposed, there would almost inevitably be an overall reduction in the estimated cost of disaggregation, but that this must be balanced against the aim of locally focused efficient service delivery.

While the focus has necessarily been on the operational costs of the transfer, a consistent level of capital spending on improvements must be considered as part of the overall expenditure.

**6.0 Interim Position**

Whilst the Sub Group has been working to an extremely tight timescale, table 1 below provides a summary of the local government INTERIM POSITION in regards to the transfer of roads related functions to local government for the consideration of PDP C at its meeting on 26<sup>th</sup> March 2009. Attached at Appendix 1 is further detail in regards to the initial recommendations put forward by the Sub Group.

It is recommended that the transfer of functions proposals need to be informed by a detailed due diligence process to examine service costs, resources, assets and liabilities associated with each transferred function. This should also examine the interrelationship with other transferring functions for example:

- development plan, development control and any highway/traffic interrelationship
- any centralised admin and IT functions and related services. For example maintenance of roads, parking enforcement date processing etc..
- amenity areas in housing estates.

**Table 1: Summary of Local Government Interim Position**

<b>Function</b>	<b>Local Government (Interim Position)</b>	<b>Issues for consideration</b>
<i>Pedestrian Permits</i>	<b>Recommended to transfer</b> subject to the ability for local government to control entire process including enforcement.	<ul style="list-style-type: none"> <li>▪ With the transfer of parking (see below) local government would readily be able to carry out the enforcement.</li> <li>▪ Whilst DRD has indicated that the enforcement of Pedestrian Permits could remain the responsibility of traffic attendants retained by the Roads Service</li> </ul>

		<p>and PSNI, local government considers that this would not be a satisfactory long term solution as it would remove the necessary local accountability link and would be confusing to the public.</p> <ul style="list-style-type: none"> <li>No staff and a limited budget will transfer with the function; this will have some minor resource implications for councils</li> </ul>
<i>Off Street Car Parking</i>	<p><b>Recommended to transfer</b> – but it is not considered an efficient use of resources or effective service delivery to split on and off-street parking.</p> <p>Local Government would advocate the transfer of both off-street and on-street car parking</p>	<ul style="list-style-type: none"> <li>Splitting on-street and off-street operations is not appropriate or inefficient. It would introduce greater confusion for the citizen in regards to accountability.</li> <li>Roads Service officials have indicated they will seek early consideration from the Roads Service Board to the proposal that responsibility for on-street (and prohibited) car parking also transfers to local government as part of the RPA. This change to the initial RPA recommendations will require Ministerial approval.</li> </ul>
<i>Alley gating</i>	<p><b>Recommended to transfer</b> but there is a requirement to streamline the process and for councils to be given statutory responsibility to Grant Orders</p>	<ul style="list-style-type: none"> <li>Current approval system and operational processes needs streamlined.</li> <li>Transfer of responsibility to Councils to process and issues Orders will require changes to current legislation to provide an appropriate policy and operational framework for alley gating designation.</li> <li>A schedule of all alleys separate from other highways may be an appropriate way to delegate the highways/traffic powers on these alleys to local government. The legal aspects will be explored further by DRD.</li> <li>There would be cost implications for councils in administering this function which needs to be considered further. However, there is a potential linkage to the planning function for delivery.</li> <li>There may be additional difficulties for local authorities in resisting some applications.</li> <li>Ensuring equality and equity will be important for local government.</li> </ul>
<i>Salting Footways</i>	<p><b>Recommended not to transfer</b> as existing arrangements are adequate e.g. councils have the ability to assist in emergency situations under existing local agreements in place with DRD</p>	<ul style="list-style-type: none"> <li>Considerable public liability risks attached to this function and associated insurance costs.</li> <li>Considerable costs to deliver unless there is a tight specification (e.g. BCC only clear city centre retail hub)</li> <li>There are no proposed financial or asset transfers associated with this function</li> <li>It would not be feasible to clear all footpaths –this could raise equality / equity issues.</li> <li>Supply of salt – negotiated agreement with Roads Service would be required for efficiency reasons.</li> <li>Separation of liability for footpaths and roads – may create confusion and impact on accountability. Also risk that snow could be pushed from footways to roads or vice versa which could have road safety implications.</li> </ul>

		<ul style="list-style-type: none"> <li>▪ Specialised equipment would be required at a substantial cost to local government.</li> </ul>
<i>Local Events on Roads</i>	<b>Recommended to transfer</b> – as this should be relatively straightforward to deliver under the Miscellaneous Provisions Bill	<ul style="list-style-type: none"> <li>▪ New Miscellaneous Provisions Bill due 2011 makes reference to an enhanced role for local government in 2011. The powers will include road closure for social, sporting, film, cultural and arts events. As proposed, if the powers are delegated to local councils DRD will be consulted on the provision of suitable alternative traffic routes. PSNI may also be involved.</li> <li>▪ There are no proposed financial or asset transfers associated with this function</li> </ul>
<i>Gully Emptying</i>	<b>Recommended not to transfer</b> - not under current transfer proposals, as this should be part of the overall local roads maintenance package	<ul style="list-style-type: none"> <li>▪ Function is an integral part of the overall roads maintenance package, and therefore should not be considered in isolation.</li> <li>▪ There are significant public liability implications with a public perception that this function is linked to flood control.</li> <li>▪ It is considered that the transfer of this function will add another layer of bureaucracy and confusion into the process where DRD, Water Service and Flood Liaison Group all have related responsibilities for gully emptying.</li> </ul>
<i>Maintenance of Amenity Areas (including grass cutting)</i>	<b>Cannot decide at this stage as further detail is required.</b>	<ul style="list-style-type: none"> <li>▪ It is considered that there is scope to enhance such areas without any transfer of functions taking place.</li> <li>▪ More detailed information required in regards to definition and extent /scope of service. In particular 'amenity areas' are in different ownerships (e.g. housing) and vary in context between urban, suburban and rural.</li> </ul>
<i>Grass Cutting / Weed Spraying</i>	<b>Recommended not to transfer.</b> It is considered that these are two distinct functions with different operational and resource implications for councils if they transfer. To an even greater extent the considerations for amenity areas as described above applies to both functions. This it is recommended that these functions do no transfer as local government objectives could be achieved more readily as described.	<ul style="list-style-type: none"> <li>▪ To an even greater extent the consideration for amenity areas as described above applies to both functions.</li> <li>▪ Local government objectives could be achieved more readily as described in the appendix.</li> <li>▪ The basis of the grass cutting schedule is intrinsically linked to road safety and therefore should remain integral to that process within DRD.</li> <li>▪ Councils will still have the ability to enhance grass cutting and weed spraying schedules to improve the amenity of the area should they so desire.</li> <li>▪ Weed spraying is important to protect the fabric of the road structure it should therefore rest with whoever is responsible for road maintenance.</li> <li>▪ Significant Health &amp; Safety issues and the disposal of residual waste.</li> </ul>
<i>Street Lighting</i>	<b>Recommended not to transfer</b> as this is closely related to other highway maintenance and road safety functions with significant associated public liabilities.  Therefore, unless the entire road	<ul style="list-style-type: none"> <li>▪ Significantly under resourced and massive under investment in replacing stock. Significant capital replacement programme time bomb.</li> <li>▪ Significant capital costs to be incurred to separate the local street lighting network from the strategic road network. Significant infrastructure costs required e.g. introduction of dual cables across the entire network.</li> </ul>

	<p>maintenance for local roads was to transfer it would not make sense. Furthermore there are major maintenance and replacement cost issues.</p>	<ul style="list-style-type: none"> <li>▪ DRD has funding to replace columns on a 100 year replacement cycle which is not aligned to the equipment lifespan. This has very significant cost implications for local government.</li> <li>▪ Any transfer would create additional confusion for the citizen and reduce accountability.</li> <li>▪ Notwithstanding this recommendation not to transfer, it is crucial that local government further extend its' influencing role in terms of street lighting in any new scheme as lighting is a significant contributor to community safety and wellbeing.</li> <li>▪ Councils can already contribute to lighting schemes for enhanced special designs by DRD as part of its place shaping responsibilities</li> </ul>
<p><i>Streetscaping &amp; Environmental Improvements</i></p> <p><i>Note: considered together rather than as separate 'functions'</i></p>	<p><b>Recommended status quo</b> as no transfer of function is being proposed as Streetscaping and environmental improvements are currently promoted by DSD not DRD.</p>	<ul style="list-style-type: none"> <li>▪ Whilst there is no direct function being proposed to transfer to councils, local government will need to engage with DSD to ensure that the necessary functions are transferred from the Department.</li> <li>▪ Notwithstanding whether this function transfers if councils are to deliver street-scaping and environmental improvement schemes they will need appropriate engagement mechanisms with DRD Roads Service to take forward associated road related matters e.g. traffic orders, change of status etc.</li> </ul>



## Appendix 1: Local Government Interim Position on the Specific Functions proposed for Transfer (Roads Service)

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
Pedestrian Permits	<p><b>Recommended to transfer subject to the ability for local government to control entire process including enforcement.</b></p> <p>If suggestions on parking enforcement are adopted this would be straightforward.</p>	<ul style="list-style-type: none"> <li>Implications for on-street parking and enforcement?</li> <li>Whilst DRD has indicated that the enforcement of Pedestrian Permits could remain the responsibility of traffic attendants retained by the Roads Service, local government considers that this would not be a satisfactory long term solution as it would remove the necessary local accountability link and would be confusing to the public.</li> <li>PSNI has a role also in enforcing pedestrian permits in particular circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>As part of this function a total budget of £8K primarily, administratively based, will transfer to local government.</li> <li>No staff will transfer with the function; it will be necessary however, for councils to provide the necessary administrative support to administer the process.</li> <li>In relation to the enforcement of permits a suitable notification mechanism is required between Roads Service, PSNI and councils.</li> </ul>	<ul style="list-style-type: none"> <li>Greater local autonomy for councils</li> <li>Enforcement of pedestrian permits is linked to both on and off-street car parking functions</li> <li>Especially important function for larger towns and cities.</li> </ul>
Off Street Car Parking	<p><b>Recommended to transfer– but it is not considered an efficient use of resources or effective service delivery to split on and off-street parking.</b></p> <p>Local Government</p>	<ul style="list-style-type: none"> <li>Splitting on-street and off-street operations is not appropriate or efficient. Would introduce greater confusion for the citizen in regards to accountability.</li> <li>Local Government acknowledges that on-street car-parking is connected to wider traffic management issues however it is also of the view that off-street parking also connects to the wider issues as control and management of parking has an</li> </ul>	<ul style="list-style-type: none"> <li>Local Government already has experience of enforcement concordats.</li> <li>Lancashire has introduced an interesting hybrid model whereby some local control is with district local authorities with economies of scale of combined IT systems and the ability to transfer to meet special needs.</li> </ul>	<ul style="list-style-type: none"> <li>Keeping off-street and on-street car parking together maintaining economies of scale.</li> <li>Maximise synergies and connections with the broader community planning, and place shaping role of councils.</li> <li>Ownership and control of the assets to transfer with functions. Over 80% of current car park stock is owned by Roads Service. This needs to be overt in the process.</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
	<p>would advocate the transfer of both off-street and on-street car parking.</p> <p>This should include prohibited areas (e.g. yellow lines)</p>	<p>significant influence on total trip ends and therefore traffic.</p> <ul style="list-style-type: none"> <li>▪ Similarly it is considered that private off street parking (including redevelopment sites) needs to be carefully considered as part of both development planning and development control transfers.</li> <li>▪ There are established policy frameworks (e.g. Regional Transportation Strategy) which councils will need to follow in developing local policies on car-parking. The overall strategic policy formation will continue to be largely centrally driven although with an enhanced influencing role for local government.</li> <li>▪ It is noted that income received from parking in some areas may cross-subsidise parking in other council areas. A further detailed breakdown of costs and revenue will be provided by DRD and will require further consideration and discussion.</li> <li>▪ There is currently one enforcement operation, one IT contract, and one back office structure for the administration of off-street and on-street parking across Northern Ireland.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Most UK districts even in two tier authorities now manage both on and off street parking.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Support wider local economic development, retail and tourism agendas</li> <li>▪ The transfer of both off-street and on-street car parking, including prohibited parking areas e.g. yellow lines would provide for single point accountability and greater clarity of responsibility among the general public on all aspects of parking. This approach would be in line with most of the rest of GB.</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
		<p>Notwithstanding the decision to be taken in regards to transferring both functions to Councils, consideration will need to be given to common support systems, e.g. IT. Also consideration needs to be given to how best to ensure approximately common but locally responsive standards of enforcement are delivered. Each authority will require some flexibility in enforcement priorities but probably cross subsidy required between urban and rural areas.</p> <ul style="list-style-type: none"> <li>▪ It is important that early direction is given on the transfer of car-parking functions as the current NCP (enforcement) and SPUR (IT system and processing) contracts will end in the next few years, subject to contract extensions. Any new delivery structure must be taken into account in any new contract.(It does not appear that the transfer would be significantly affected by current contract terms)</li> <li>▪ Further consideration is required on appropriate future delivery models e.g. delivery through 11 contracts, regional enforcement contract or on a sub-regional</li> </ul>		

Function	Local Interim Position (based on available information)	Govt Position Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
		<p>grouping basis.</p> <ul style="list-style-type: none"> <li>▪ Roads Service officials have indicated they will seek early consideration from the Roads Service Board to the proposal that responsibility for on-street car parking also transfers to local government as part of the RPA. This change to the initial RPA recommendations will require Ministerial approval.</li> <li>▪ The cost for management, cash collection enforcement and back office functions needs to be quantified.</li> <li>▪ The design function for new controlled areas and enhancing existing areas could be transferred or alternatively retained in DRD with effective joint working between councils and DRD</li> <li>▪ Maintenance budget for car-parks is limited. Consideration needs to be given to how this would be disaggregated on an 11 council basis from the overall Roads Service maintenance budget.</li> <li>▪ It is not suggested that Park and Ride facilities should transfer at this stage.</li> </ul>		

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
Alley gating	<b>Recommended to transfer</b> – but there is a requirement to streamline the process and for councils to be given statutory responsibility to Grant Orders	<ul style="list-style-type: none"> <li>▪ There is a broad consensus across the Group that a comprehensive review of the current approval system and operational processes is required.</li> <li>▪ It is recognised that this may require changes to the current legislation to provide an appropriate policy and operational framework for alley gating designation. A schedule of all alleys separate from other highways may be an appropriate way to delegate the highways powers on these alleys to local government. This will be explored further by DRD.</li> <li>▪ Further consideration is required on the funding arrangements and costs.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ensuring equality and equity will be important for local government</li> <li>▪ There may be additional difficulties for local authorities in resisting some applications.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The added value would be in regards to the management of space as part of the place shaping agenda of councils and the requirement to introduce greater controls on anti-social behaviour.</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
		<ul style="list-style-type: none"> <li>As no resources are projected to transfer, there may be some additional minor maintenance costs apart from cleansing which local councils may incur.</li> </ul>		
Salting Footways	<b>Recommended not to transfer</b> – existing arrangements are adequate e.g. councils have the ability to assist in emergency situations under existing local agreements in place with DRD	<ul style="list-style-type: none"> <li>DRD has a ‘Power’ but not a ‘Duty’ to clear snow and frost from footways. Limited use of this power- only used in exceptional circumstances.</li> <li>Some councils already administer this function, as required, on behalf of DRD – local agreements in place. Councils can already undertake this function under the current system if they so wish. Public risk liability is minimised within the current frameworks in place with DRD.</li> <li>There are no proposed financial or asset transfers associated with this function</li> <li>In the context of exceptional circumstances / emergency situations council intervention can be facilitated within the current provisions in place</li> <li>If statutory responsibility transfers to Local Government appropriate public liability protections need to transfer.</li> </ul>	<ul style="list-style-type: none"> <li>Considerable public liability risks attached to this function and associated insurance costs.</li> <li>Considerable costs to deliver unless there is a tight specification (e.g. BCC only clear city centre retail hub)</li> <li>It would not be feasible to clear all footpaths – this could raise equality / equity issues.</li> <li>Supply of salt – negotiated agreement with Roads Service would be required for efficiency reasons.</li> </ul>	<ul style="list-style-type: none"> <li>Separation of liability for footpaths and roads – may create confusion and impact on accountability. Also risk that snow could be pushed from footways to roads or vice versa which could have road safety implications.</li> <li>Specialised equipment would be required at a substantial cost to local government.</li> <li>GB authorities salt roads but not often footpaths – not seen as an issue.</li> </ul>
Local Events	<b>Recommended to</b>	<ul style="list-style-type: none"> <li>New Miscellaneous Provisions Bill</li> </ul>	<ul style="list-style-type: none"> <li>This will be dependent on</li> </ul>	<ul style="list-style-type: none"> <li>Could support the delivery of</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
on Roads	<b>transfer</b> – as this should be relatively straightforward under the Miscellaneous Provisions Bill	<p>due 2011 makes reference to an enhanced role for local government in 2011. The powers will include roads closure for social, sporting, film, cultural and arts events. As proposed, if the powers are delegated to local councils DRD will be consulted on the provision of suitable alternative traffic routes. PSNI may also be involved.</p> <ul style="list-style-type: none"> <li>• In addition to the Order making process, local government will need to liaise with organiser to ensure adequate control and monitoring of local events on roads and that any external costs are recoverable or paid by local government.</li> <li>▪ Different provisions exist for major roads</li> <li>▪ There are no proposed financial or asset transfers associated with this function</li> </ul>	the processes emanating from the new Bill.	wider tourism and culture and arts priorities of councils.
Gully Emptying	<b>Recommended not to transfer</b> - Not under current transfer proposals – however if there was a decision to accept it reinforces need to consider local roads	<ul style="list-style-type: none"> <li>▪ Function is an integral part of the overall roads maintenance package, and therefore should not be considered in isolation.</li> <li>▪ There are significant potential cost implications (e.g. disposal of waste – NILAS targets will be</li> </ul>	<ul style="list-style-type: none"> <li>▪ There are significant public liability implications with a public perception that this function affects flood control.</li> <li>▪ Work relates purely to clearing of gully pot and associated pipe work. The</li> </ul>	<ul style="list-style-type: none"> <li>▪ No added value. Limited scope to enhance service as DRD would set policy, inspection frequency and enforcement. Current proposals would almost be a pure contractor role and an extra “middleman” in this operation.</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
	holistically	affected with the possible imposition of fines )	<p>assets themselves will remain in the ownership of DRD.</p> <ul style="list-style-type: none"> <li>It is considered that the transfer of this function will add another layer of bureaucracy and confusion into the process where DRD, Water Service and Flood Liaison Group all have related responsibilities for gully emptying.</li> </ul>	
Maintenance of Amenity Areas (including grass cutting)	<p><b>Cannot decide at this stage as further detail is required.</b></p> <p>The condition and state of all amenity areas is important to local councils as part of its public realm and place shaping role.</p> <p>The definition and “ownership” of amenity areas is far from clear. It</p>	<ul style="list-style-type: none"> <li>A clear definition of an “amenity area” is required and an assessment undertaken of the current asset log and associated maintenance costs regardless of the present controlling authority.</li> <li>Roads Service has indicated from initial consideration that most ‘road’ amenity areas form part of the highway.</li> <li>In any consideration of LAs paying to enhance the service it is understood that at present any extra funding received by DRD cannot easily be transferred to operational teams for such an increased service.</li> </ul>	<ul style="list-style-type: none"> <li>Theoretically there appear to be 2 ways to enhance maintenance of such areas:- <ol style="list-style-type: none"> <li>Firstly by making money over to DRD to carry out such enhanced activities</li> <li>Secondly local councils could provide an extra level of maintenance over and above that provided by DRD.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Function could be integrated within Council’s current cleansing and environmental improvement schemes</li> <li>Linkages to public realm improvements.</li> </ul>



Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
	<p>could include hard and soft landscaping and pedestrian areas as part of roads responsibilities, hard and soft landscaping as part of housing developments, and lay bys and bypassed sections of roads as part of the rural road network. On some of these areas local government already provides cleansing, litter bins and some ground maintenance e.g. bulb planting.</p> <p>It is considered that there is scope to enhance such areas without any transfer of functions taking place.</p>	<p>For this to work DFP and DRD (et al) need to resolve any such problems.</p> <ul style="list-style-type: none"> <li>▪ If alternatively local government are to carry out the extra maintenance operations it needs to be integrated with the times and extent of DRD's planned activities. In some cases there would be a significant risk to local govt arising from claims - potential for significant maintenance liabilities especially in rural areas.</li> <li>▪ There may be some constraints for DRD to enhance the service in relation to manpower and equipment limitations.</li> <li>▪ More detailed information required in regards to definition and extent /scope of service liability before any decision can be reached.</li> </ul>		
Grass Cutting / Weed Spraying	<p><b>Recommended not to transfer.</b></p> <p>It is considered that these are two distinct functions with different operational and resource implications for councils if they transfer</p>	<ul style="list-style-type: none"> <li>▪ Roads Service advises that the prime purposes of grass cutting are to maintain passage and use of the highway and to maintain road safety and sight lines. Different requirements in rural and urban areas mean that generally t grass is cut twice per year in rural areas and five times per year in urban.</li> <li>▪ The standard of maintenance is</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hidden costs including vehicle maintenance and accommodation. Potential capital replacement costs for local government.</li> <li>▪ Public Liability Responsibility – liability costs not included in resources transferred. For example some road accident claims submitted</li> </ul>	<ul style="list-style-type: none"> <li>▪ There could be added value from further strengthening the environmental and maintenance standards.</li> <li>▪ Overlaps /connection with the current parks functions.</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
	<p>The considerations for amenity areas, as described above, apply to an even greater extent to both functions. Local government objectives could be achieved more readily as described in the next column.</p>	<p>important to local government in terms of its place shaping and public realm role. It is considered by local government that the enhanced standards preferred by local government could be achieved by either:</p> <ol style="list-style-type: none"> <li>1. local councils providing an extra level of maintenance over and above that provided by DRD</li> <li>2. by councils paying DRD to carry out such enhanced activities.</li> </ol> <ul style="list-style-type: none"> <li>▪ The basic grass cutting schedule is intrinsically linked to road safety. Therefore the minimum standards must remain, the responsibility of DRD,</li> <li>▪ Councils will still have the ability to enhance grass cutting schedules to improve the amenity of the area should they so desire.</li> <li>▪ For weed spraying DRD advises that all this work is contracted out and is normally performed twice per year. There may be a case for local government to increase the frequency of weed spraying and for clearing away dead or dying weeds. This should be possible through a direct payment to the DRD appointed contractor for</li> </ul>	<p>cite overgrown verges or noxious weeds as a contributing cause of the accident with associated liabilities.</p> <ul style="list-style-type: none"> <li>▪ Issues in regards to the maintenance of plant/equipment and associated costs for councils.</li> <li>▪ Current staffing complement are used on a seasonal basis whereby those staff responsible for grass cutting would be used, for example, to undertake verge and drainage work in the winter.</li> <li>▪ Weed spraying is important to protect the fabric of the road structure it should therefore rest with whoever is responsible for road maintenance. Also Health &amp; Safety issues.</li> </ul>	

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
		additional works.		
Street Lighting	<p><b>Recommended not to transfer. This is closely related to other highway maintenance functions and road safety.</b></p> <p>Therefore, unless the entire road maintenance for local roads was to transfer it would not make sense. Furthermore there are major maintenance and replacement cost issues.</p> <p>Notwithstanding this recommendation, it is very important that local government further extend its' influencing role in terms of street lighting in any new scheme as lighting is a significant contributor to community safety and wellbeing.</p>	<ul style="list-style-type: none"> <li>▪ In the event of a transfer there would be substantial costs and other transferring resources – Capital funding, Staff, IT, Contracts, backlog and hidden costs (i.e. a number of linked services not transferring)</li> <li>▪ Significant inefficiencies and cost implications would result from the proposal to separate the lighting system on local roads from that of trunk roads and traffic sign network.</li> <li>▪ Centralised design and consultancy team are too small to split amongst 11 authorities.</li> <li>▪ Requirements on local government to reduce CO2 over the next few years could have a substantial impact on the design and operation of street lighting designs.</li> <li>▪ If function were to transfer, councils would be required to adhere to minimum standards set by the Department</li> </ul>	<ul style="list-style-type: none"> <li>▪ DRD has funding to replace columns on a 100 year replacement cycle which is not aligned to the equipment lifespan. This has very significant cost implications for local government.</li> <li>▪ Within GB PFI equipment replacement contracts have been introduced as local authorities could not meet the necessary costs.</li> <li>▪ There will be significant operational difficulties from separating functions and systems</li> <li>▪ Under the transfer and associated legislation (i.e. Street Works Liabilities) Councils would be considered as Utilities which would add increased bureaucracy and administration for local government</li> <li>▪ Relevant specialist expertise will be required at a cost to councils.</li> <li>▪ It should be noted that local government can already use the expertise in the DRD central design team to introduce special lighting</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significant shortfall in resources e.g. 08/09 budget allocated was £16.2m; however, actual cost for 08/09 was £21.9m. Significant subvention from the Roads Maintenance Budget</li> <li>▪ Massive under investment in replacing stock – potential capital replacement programme time bomb.</li> <li>▪ Significant capital costs to be incurred to separate the local street lighting network from the strategic road network. Significant infrastructure costs required e.g. introduction of dual cables across the entire network.</li> <li>▪ Create additional confusion for the citizen and reduce accountability.</li> <li>▪ Potential health and safety and public liabilities attached to the delivery of maintenance related services.</li> </ul>

Function	Local Govt Interim Position (based on available information)	Issues Requiring Clarification and other Key Issues	Rationale	
			Operational	Added Value
			schemes separate from the main street lighting.	
Streetscaping and Environmental Improvements  Note: considered together rather than as separate 'functions'	<b>No transfer</b> as function is undertaken by DSD not DRD.  Regardless of decisions taken on whether to transfer this function, to deliver street-scaping and environmental improvements on the ground local authorities will still require significant influence with DRD to promote re traffic orders and change of status of highways. Similarly local government would require a major influencing/joint working arrangement with DSD to ensure proper public realm and place shaping roles for local government.	<ul style="list-style-type: none"> <li>▪ DSD driven and funded – therefore need to clarify functions transferring with DSD</li> <li>▪ Maintenance responsibilities. Have been covered under sections referring to amenity areas and grass cutting/weed spraying</li> </ul>	<ul style="list-style-type: none"> <li>▪ No powers/functions transferring from Roads Service to Local Govt</li> <li>▪ Roads Service role will remain the same – consultee, and advice / licensing re traffic management.</li> </ul>	<ul style="list-style-type: none"> <li>▪ If local government is to be given responsibility for the funding and implementation of these schemes (from DSD and not DRD) the added value would be in relation to supporting the place shaping role of councils and contributing to the Quality of Life agenda.</li> </ul>

**DSD Transfer of Functions  
Technical Sub-Group**

**INTERIM REPORT  
to  
Policy Development Panel C**

**26<sup>th</sup> March 2009**

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# **REPORT OF DSD TRANSFER OF FUNCTIONS TECHNICAL SUB-GROUP**

## **1. POLICY PROPOSALS**

**Summary:** The purpose of this Report from DSD Transfer of Functions Technical Sub-Group is to clarify details of functions transferring to local government from the Department for Social Development and, where justified, making recommendations on marginal changes to the proposed functions transferring.

**Action:** The Transfer of Functions Working Group is asked to:

- 1. Discuss and agree the detail of the report**
- 2. Include, as appropriate, key issues and emerging recommendations within its overall Transfer of Functions report to be submitted for the consideration of PDP C.**

## **2. Introduction**

2.1 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 transferring functions including policy background, current operational delivery mechanisms and current resource allocation;
- Seek agreement on responsibility for future delivery of functions;
- Identify potential policy issues in regards to the transfer of functions; and
- Recommend marginal changes to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong Local Government; the role of Local Government in supporting place shaping; the need for single point accountability at the local level; ensuring improved customer centric services; and value for money considerations.

## **3. Background**

3.1 In Arlene Foster's statement to the assembly on the 31 March 2008 outlining the future shape of local government the following functions were identified as transferring from DSD to local councils.

- work in tackling urban deprivation (primarily the Neighbourhood Renewal Programme);
- work in town and city regeneration (operational delivery of physical development projects including comprehensive development, public realm and environmental improvement);
- local community development support (- primarily the Community Support Fund); and
- housing related functions including registration of houses in multiple occupancy; housing unfitness responsibilities (e.g. repair and demolition notices); local energy conservation; and responsibility for travellers' transit sites.

3.2 There are clearly detailed technical issues surrounding all of the transferring functions including, for example, important issues in relation to the assimilation of new functions with existing local government functions. A due diligence review is required to examine the implications for local government resulting from the transfer of functions and to ensure the efficient and effective transfer of functions to local government to ensure that service continuity is maintained.

- 3.3 Accordingly, constructive discussions between Departmental and Local Government officials has been undertaken to articulate and refine those technical and operational issues around the transferring functions and, in particular, the resourcing of the functions and to identify those issues which need to be addressed or require further clarification prior to transfer. The fundamental principle which underpinned discussions was the shared ambition to provide enhanced public services to the citizen and improve the wellbeing of communities.
- 3.4 Accordingly, this report sets out further detail on the proposed functions to transfer to local government including possible 'marginal changes' to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong Local Government; the role of Local Government in supporting place shaping; the need for single point accountability at the local level; ensuring improved customer centric services; and value for money considerations.

## 3.5 Executive Summary

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.

### 3.5.1 Need for Simplified Governance and integrated service delivery

There is a need to rationalise and streamline service delivery with greater integration at the local level to support the wider community planning and place shaping role of councils and to improve the wellbeing of communities through targeted intervention.

### 3.5.2 Oversight

There must be a balanced partnership between central and local government which ensures central policy formation takes account of localised priorities and supports the autonomy of local government. There must be greater recognition of the role of local government as a central partner in public service delivery.

### 3.5.3 Proposed Functions and Resources to Transfer

It is proposed that there are three areas of operational delivery which are transferring directly from DSD with a further area from the Northern Ireland Housing Executive. The three DSD core functions are:

- work in tackling urban deprivation (the Neighbourhood Renewal Programme);
- work in town and city regeneration (operational delivery of physical development projects including comprehensive development, public realm and environmental improvement); and
- local community development support (the Community Support Fund).

The NIHE area consists of four parcels of work relating to:

- housing in multiple occupancy;
- housing unfitness;
- Travellers transit sites; and
- local energy conservation

### 3.5.6 Budget and Staff

Table 1 below provides a summary of the budget and staff attached to the functions proposed to transfer to local government.



<b>Table 1: Proposed transfer of budget and staff</b>				
<b>Function</b>		<b>Budget</b>	<b>Staff</b>	<b>Comments (key issues)</b>
<b>Urban Regeneration</b>				
Tackling Urban Deprivation		£20m	79	Future budget subject to CSR bidding – uncertainty
Town and City Centre Regeneration		£40-£50m	39	Capital Assets of approx £70million – pending proposals to transfer
Local Community Development		£5million	None	Future budget subject to CSR bidding - uncertainty
<b>Housing Related Functions</b>				
HMO's		£700K revenue £500K income	None	Whilst no staff is proposed to transfer, this function could be readily assimilated with councils
Unfitness		£8K revenue (salary costs)	None	
Travellers Transit Sites		£6K revenue (revenue Costs)	None	Potential capital required to acquire necessary sites
Local Energy Conservation		None	None	Some councils already undertake this function on behalf of the NIHE.

### 3.5.7 Issues requiring further consideration

- **Budget and Resources:** Concerns in regards to the future sustainability of funding as the majority of functions to transfer will be subject to CSR bidding in 2011. Therefore, urgent discussions need to ensue between DSD, DFP and local government to quantify the level of resources to be secured for the future delivery of the functions post 2011.
- **Comprehensive Development Schemes - Transfer point of no return:** Some master planning and comprehensive development schemes will be under way at the appointed day for the transfer of functions and handover may have to be slightly delayed for management purposes. The Department would propose that a few schemes may have passed the point of no return, e.g. Victoria Square at present, and will not be handed over. The early engagement of councils (e.g. in advance of transfer) in the developmental stages of such schemes would support a more efficient and effective handover of and strengthen the sustainability of such projects.
- The management and sale of land is closely linked to the development and implementation of urban regeneration schemes, particularly development schemes. There will be an issue of the timing of transfer of some lands, particularly where there is still a legal process e.g. vesting, in train. All lands will be transferred as soon as is practicable. All efforts should be taken to ensure that all lands transfer at point of transfer.
- **Capital Projects:** In considering the development of large scale capital/physical projects, DSD are required to secure and commit the required resources up-front which is held in a type of assurance fund. This detracts from the ability of the Department to profile and spread its funding across a range of projects. Consideration will need to be given to the potential implications for councils and to whether an alternative arrangements needs to be put in place.
- **On-costs:** 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.

- **Assets:** DSD currently hold very significant working assets including land banks. On the basis that assets follow function the local government sector would assume that ownership of such assets (and associated liabilities) would transfer.
- **Allocation of resources:** Currently DSD's physical and programme based funding is focused at addressing deprivation (e.g. targeting the worst 10 percent most deprived) and allocated on that basis across Northern Ireland. Further consideration needs to be 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.
- **Living Over the Shop:** Given the potential capacity of the LOTs initiative to support town centre regeneration and neighbourhood regeneration, local government would call for further consideration to be given to the inclusion of this function as part of the transfer proposals.
- **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.
- **Belfast City Centre Regeneration Directorate:** Negotiations between DSD and Belfast City Council on transferring management of Laganside assets to the City Council are currently underway and should be progressed within the context of the potential transfer of the ownership and management of the assets.
- **Connection with DARD:** Greater clarity is required with regard to the respective roles of DSD and DARD and their interconnections to provide an integrated and holistic regeneration programme across Northern Ireland. The transfer of responsibility for both urban and rural regeneration to councils will provide an opportunity to support a more integrated and holistic approach to regeneration to be delivered across Northern Ireland.

### 3.5.8 Recommendation

It is recommended that Policy Development Panel C consider the contents of this report and the issues contained therein and seek a process of further conversation within key groups, through the Strategic Leadership Board and between Environment Minister and relevant Departmental Ministers.

## 4. Main Report

### 4.1 Context

- In opening it is important to restate the commitment of the NI Executive to create 'Strong Local Government' and the associated agreed 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. Central to the vision is the provision of high quality, efficient services that respond to the needs of people and continuously improve over time".*

- The guiding principles which should underpin any consideration given to the transfer of functions should be based on the need for single point accountability at the local level; creating improved customer centric services and achieving value for money. Councils should be given the necessary autonomy to address local priorities with as little central government control as possible. Transferring functions should be those which are required to allow the new councils to make a difference to both the performance of their areas and the outcomes that matter for citizens. The model should be central

policy formation, local service delivery. Functions transferring should be anchored within and preferably delivered by councils themselves.

#### **4.2 Simplified Governance with streamlined and integrated service for effective and efficient future delivery of these functions in 2011**

- With regard to the transfer of function proposals and associated 'statutory powers', if councils are to effectively deliver community planning and make a positive and lasting improvement to the wellbeing of communities, there must be greater integration and coordination of public services and the targeting of resources at the local level.
- At present there are a range of Departments and Non-Departmental Public Bodies which both have a direct or indirect influence on the delivery of regeneration within Northern Ireland and there is clearly a need to streamline this and remove any unnecessary bureaucracy. The transfer of function proposals provide an opportunity to package interrelated functions together within councils (e.g. regeneration, local development planning, public realm aspects of local roads, local economic development, community development and rural development), enabling them to place shape and address local priorities. The closer integration with other related functions already undertaken by councils would provide increased potential for the success of community planning and enable resources and efforts to be targeted at addressing local priorities.
- The transfer of functions to local government should be considered within the context of enabling councils to make a difference to both the performance of their areas and in the outcomes that matter for citizens. Councils should be given a comprehensive portfolio of functions and responsibilities to be discharged in partnership with regional government to enable them to:
  - improve public services;
  - widen both access and choice for local people;
  - improve the quality of peoples lives;
  - encourage integrated service delivery at the local level; and
  - create attractive, vibrant, prosperous, safe and friendly places where people are proud to live.
- Regarding each function that will transfer to local government, options for models of service delivery are currently being explored and developed by PriceWaterhouseCoopers including the delivery of services by the 11 councils, on a group basis or on a regional basis. Local government has noted its desire that functions should transfer and be delivered by 11 Councils. It will be important that the development of such options is worked up in partnership with local government and a series of co-production workshops has been arranged to facilitate this process.

#### **4.3 Oversight**

- The Department has stated that policy responsibility for the functions being transferred will remain with the DSD Minister alongside policy and delivery of urban regeneration projects deemed by the Minister to be of regional significance. **Further consideration needs to be given to the appropriate future governance arrangements which should be put in place to enable councils to inform policy development and for central government to ensure policy compliance. This will require ongoing engagement between the Department and local government.**
- It is proposed also that the Department retain an oversight and monitoring role, the nature and extent of which will depend largely on the funding regime associated with the transferred operational

functions in the new Councils. **Again, it will be important that councils are given the necessary autonomy (within an agreed policy framework) to deliver at the local level with minimal central government intervention. This will need to be discussed further with both DSD and DFP given its role in agreeing the governance and accounting regime which will have to be applied by DSD.**

#### **4.4 Proposed Functions to Transfer**

- The Executive agreed that the operational delivery of urban regeneration (including Neighbourhood Renewal) and the delivery of support for the voluntary and community sector at local level would transfer to Local Government. The housing functions relating to houses in multiple occupation, housing unfitness (including repair and demolition notices), Traveller transit sites and local energy conservation will also transfer.
- Accordingly, it is proposed that there are three areas of operational delivery which are transferring directly from DSD with a further area from the Northern Ireland Housing Executive. The three DSD core functions are:
  - work in tackling urban deprivation (primarily the Neighbourhood Renewal Programme);
  - work in town and city regeneration (operational delivery of physical development projects including comprehensive development, public realm and environmental improvement); and
  - local community development support (the Community Support Fund).

The NIHE area consists of four parcels of work relating to:

- housing in multiple occupancy;
- housing unfitness;
- Travellers transit sites; and
- local energy conservation

##### **4.4.1 Projects of Regional Significance**

- It is stated that the Department will continue to control the delivery of major urban regeneration schemes deemed to be of 'regional significance'. Further clarification is required as to the type of projects that this would apply and the criteria to be used for designation. The assumption is that few, if any, schemes within the current portfolio of DSD would be deemed to be of regional significance and, therefore, **the premise should be that they all transfer to local government to be delivered and managed.**

##### **4.4.2 Urban Regeneration**

- Urban regeneration is defined in the Programme for Government 2008-11 as "regenerating disadvantaged areas and towns and cities, and supporting community development to create environments which enhance quality of life and contribute to well-being". The Investment Strategy for Northern Ireland defines the focus of urban regeneration to be on "making cities and towns in Northern Ireland places where people want to live, work and invest, maximising private sector investment and harnessing new opportunities in tradable services.

#### ***Budget***

- Whilst further work needs to be completed before an accurate picture of resources transferring to the new local Councils can be finalised, DSD's position at this time including the key issues under consideration is that a **total of 118 whole time equivalent (WTE) posts will transfer.** In relation to transferring programme spend, 2011/2012 is the start of a new CSR period and clarity is required

from DFP in terms of the likely settlement. Based on the 2010/2011 budget, it is projected that between **£40 and £50 million** would be required to deliver the urban regeneration physical development portfolio. It is important to note that the capital position for physical regeneration changes markedly from year to year and is complicated by requirement on DSD to generate receipts from site sales to fund other development. Work remains to be completed with DFP to establish the level of resources that may be transferred.

### ***Staff Transfer***

- The NICS has decided that staff will transfer to a new local council should their respective functions transfer. While the Executive has approved temporary transfer arrangements for staff transferring to the new Health and Social Care organisations and the new Education and Skills Authority, a decision on whether or not temporary transfer arrangements will be extended to staff transferring to the new 11 local councils has not yet been made. This area is currently under consideration by Policy Development Panel C particularly with regard to the use of temporary transfer arrangements. DSD has indicated that officials current understanding is that the resource attached to staff posts will transfer with function and that no resource will transfer in place of staff posts.
- DSD staff employed in delivering the functions being transferred to the new local councils are generalists - that is they are not professionally qualified in their function. That said they have developed a level of experience and expertise that at least in the short term is likely to be critical to the effective delivery of the transferring functions.

#### **4.4.3 Work in tackling urban deprivation**

- Neighbourhood Renewal is the principal DSD strategy for tackling urban deprivation which targets over 250,000 people – 60% in Belfast, 20% in North West and 20% across other regional towns and cities. The strategy is intended to provide direction for all Government Departments and Agencies with a role in helping deprived communities. In particular, the strategy was designed to enable better coordination of funding and spend on community development. Neighbourhood Renewal operates primarily in 36 areas that are within the most deprived ten percent of urban wards in Northern Ireland, as defined by the Noble Index. In addition there is currently a small pocket programme focussing on deprivation at enumerated district level administered by NIHE on behalf of DSD with delivery primarily via existing councils.

### ***Staff and Budget***

- 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).
- **Whilst the resource budget for Neighbourhood Renewal (2010/11) is £20 million, future funding 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 the understanding of the local government sector that this process starts later this year and it is important that councils are a partner in the process as they will become the future statutory owner of the function.**

#### **4.4.4 Work in town and city regeneration**

- This relates to the physical regeneration work carried out by the three main regional development offices (i.e. Belfast Regeneration Office (BRO), the North West Development Office (NWDO); and the Regional Development Office (RDO)) around re-vitalising towns and cities. This work is currently done in four ways e.g. 1) through creation of masterplans and development schemes; 2) through site assembly for developments; 3) by investment in major public realm schemes and environmental

improvement schemes as part of a wider regeneration plan; 4) and through 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 expert independent consultancy firms comprising a range of specialists, for example urban designers, masterplanners, landscape architects, road engineers, 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.
- 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.

### ***Capital Assets***

- The Department has capital assets associated with the operational delivery of URCDG projects and programmes. It is anticipated that the Department will shortly confirm details of working stock, valued at approximately £70 million, which will transfer to the new local councils.
- The Department has stated that the former newtownlands would not form part of the regeneration working stock and are all destined for disposal, with receipts being used to fund a variety of DSD and wider Executive programmes in the normal way. The Minister will shortly make a decision on their future, but the working assumptions is that these capital assets will not transfer to the new local councils. **Local government would seek further clarification in regards to a schedule of assets proposed for disposal and an understanding of the proposed use for any capital receipts received.**

### ***Staff and Budget***

- The capital budget that will transfer to the new local Councils in 2011 is subject to discussion with DFP and the Department will advise their estimate of this budget as soon as discussions are completed. Again, local government should be engaged in such discussions as given the fact that they will be the future custodians of the service.
- The DSD Minister has asked officials to place bids within the next budget process to secure a capital position of the **£40m to £50m** that is required to maintain the existing capital programmes transferring to the new councils. **There are 39 staff** (WTE) involved in physical regeneration functions currently located in 5 offices (James House (Belfast), Orchard House (Derry) Church Street

(Ballymena), Banbridge Business Centre and Kevlin Buildings (Omagh). These staff are to transfer to local government.

#### 4.4.5 Local Community Development Support

- 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.
- The 2010/11 budget for the Community Support Programme is **£5 million**. No staff is directly allocated to this function. Again, future funding will be subject to CSR bids.

#### 4.4.6 Housing in multiple occupancy

- There are around 12,000 HMO properties in Northern Ireland and the Housing Executive has extensive 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.
- **There are 33 staff (posts) involved in HMO functions currently located in 2 offices (Coleraine and Anne Street, Belfast).** It is proposed that **£700k revenue** (i.e. salary costs) will transfer with this function.
- There is an anticipated **registration fee income of £500k (2008/09)** which the Housing Executive is using to finance activities which deal with problems associated with concentrations of HMOs such as Community Safety Wardens Schemes etc. This income will transfer to the councils, but it does not cover the cost of operating the registration scheme.
- 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. Furthermore, 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, however, details are still to be confirmed.

#### 4.4.7 Housing unfitness

- NIHE is statutorily obliged 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, Group Repair Scheme, or in exceptional circumstances, a full Urban Renewal 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. DSD state that no staff is directly allocated to this function as the administration of the function is currently undertaken as part of other functions within the NIHE. The estimated salary costs which are dispersed across a number of staff is £8,000 p.a.

#### 4.4.8 Travellers' transit sites

- It is proposed that the statutory duty to make provision for Traveller transit sites currently vested in NIHE, together with the associated assets, will transfer to the new councils.
- The management of transit sites is part of a role of a Housing Officer. It is estimated that the **year salary cost to manage the 3 sites is £6,000**. There are currently two transit sites at Ballyarnett, Derry; Greenbrae, Strabane; and an Emergency Halting Site at Legahory, Craigavon (i.e. pending identification of a permanent transit site). It is our understanding that the NIHE are currently looking for other necessary sites which will have capital implications. If these sites are not secured prior to transfer, the necessary capital monies need to be identified.
- Members will note that the 'Local Government Partnership (LGP) on Traveller Issues' has submitted a proposition, for the consideration of the Sub Group, indicating that the position of LGP would be that responsibility for the provision of 'Traveller Transit Sites' should remain with NIHE, as the strategic housing authority, rather than transfer to local government. The LGP would suggest that the entire provision of housing related provision for the Travellers should be retained and delivered as one package by one body e.g. NIHE. Further consideration would need to be given to the relevant business case and implications associated with such a proposition.

#### 4.4.9 Local energy conservation

- 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 Authorities 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. **No resources are associated with the function.**

### 4.5 Issues requiring further consideration

- Budget and Resources:** Clearly there is considerable further work to be done in relation to quantifying the specific level of resources to transfer to local government. Issues around resources and budgets are becoming increasingly complex as the process of due diligence moves forward. Whilst projections have been provided in regards to transfer of both staff and budget to councils based on 2010/2011 estimates, securing future funding post 2011 will be subject to the CSR bidding process. Urgent discussions need to ensue between DSD, DFP and local government to quantify the level of resources to be secured for the future delivery of the functions post 2011.
- Comprehensive Development Schemes - Transfer point of no return:** Some master planning and comprehensive development schemes will be under way at the appointed day for the transfer of functions and handover may have to be slightly delayed for management purposes. The Department would propose that a few schemes may have passed the point of no return, e.g. Victoria Square at present, and will not be handed over. The early engagement of councils (e.g. in advance of transfer) in the developmental stages of such schemes would support a more efficient and effective handover of and strengthen the sustainability of such projects.



- The management and sale of land is closely linked to the development and implementation of urban regeneration schemes, particularly development schemes. There will be an issue of the timing of transfer of some lands, particularly where there is still a legal process e.g. vesting, in train. All lands will be transferred as soon as is practicable. All efforts should be taken to ensure that all lands transfer at point of transfer.
- **Capital Projects:** In considering the development of large scale capital/physical projects, DSD are required to secure and commit the required resources up-front which is held in a type of assurance fund. This detracts from the ability of the Department to profile and spread its funding across a range of projects. Consideration will need to be given to the appropriateness for such a regime to transfer to councils with function.
- **On-costs:** 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. Under the current accounting arrangements within central government a large range of support services and accommodation costs are funded directly through DFP e.g. DSD benefits from a range of non hard charged HR, Finance and IT services and legal advice and a significant number of existing DSD staff are in shared, Government owned buildings. How such costs are paid for in the future needs to be examined further.
- **Assets:** DSD currently hold very significant working assets including land banks. On the basis that assets follow function the local government sector would assume that ownership of such assets (and associated liabilities) would transfer.
- **Allocation of resources:** Currently DSD's physical and programme based funding is focused at addressing deprivation (e.g. targeting the worst 10 percent most deprived) and allocated on that basis across Northern Ireland. Further consideration needs to be 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.
- **Living Over the Shop:** Living Over the Shop (LOTS) is a major initiative to tackle the shortage of social housing. The strategy aims to maximise the supply of social and affordable housing, to enhance the role of social housing in supporting strong sustainable communities and to promote the social housing sector's contribution to wider regeneration and development initiatives. It is estimated that 924 units of social housing will be delivered through housing associations over the five-year period. This funding has not been included in the transferring functions because the Housing Executive, as the strategic housing authority, has overall responsibility for maximising housing supply and improving housing conditions. The LOTS strategy was deemed to be a better fit with the Housing Executive, although its capacity to support town centre regeneration and neighbourhood regeneration cannot be undervalued and there must be greater connection with councils. **Accordingly, local government would call for further consideration to be given to the inclusion of this function as part of the transfer proposals.**
- **Urban regeneration projects jointly managed with OFMdfM:** DSD currently owns the Girdwood site in North Belfast and manages the regeneration of this with the Crumlin Road Gaol site which is owned by OFMdfM. The two Departments also jointly oversee the ILEX development company in Derry/Londonderry. The Department has indicated that there are currently no plans for these sites or ILEX to transfer to the new local Councils. Local government would seek further discussions in regards to the future of
- **Belfast City Centre Regeneration Directorate:** Belfast City Centre Regeneration Directorate implements the Department's regeneration objectives for Belfast City Centre, dealing with major schemes that give rise to particularly complex legal and financial matters and which have an impact beyond Belfast. These schemes require specialist skills to implement and advice is commonly required across a range of issues from expert agencies in London. The Directorate also manages the legacy of

the Laganside Corporation including the Lagan Lookout, the weir and the Laganside Events programme. Negotiations between DSD and Belfast City Council on transferring management of Laganside assets to the City Council are currently underway and should be progressed within the context of the potential transfer of the ownership and management of the assets.

- **Connection with DARD:** under current policy DSD have a remit for towns and urban areas with a population above 4,500 (as defined by NISRA) and the focus of funding is on these areas. DARD has a remit for smaller towns and settlements and can target funding (e.g. Rural Development Programme) to these areas. This differentiation causes confusion and frustration among citizens and elected Members. Greater clarity is required of the respective roles of DSD and DARD and their interconnections to provide an integrated and holistic regeneration programme across Northern Ireland. The transfer of responsibility for both urban and rural regeneration to councils will support a more integrated and holistic approach to regeneration to be delivered across Northern Ireland.

#### **4.6 Recommendation**

It is recommended that Policy Development Panel C consider the contents of this report and the issues contained therein and seek a process of further conversation within key groups, through the Strategic Leadership Board and between the Environment Minister and transferring functions Departmental Ministers.

**Peter McNaney**, Chief Executive of Belfast City Council

Chair of DSD Transfer of Functions Technical Sub Group

March 2009

#### **Membership of Technical Sub Group**

- **Trevor Polley**, Chief Executive of North Down Borough Council
- **Valerie Watts**, Chief Executive of Derry City Council
- **Henry Johnson**, Department of Social Development

**DETI Transfer of Functions  
Technical Sub-Group**

**Report  
to  
Policy Development Panel C**

**26<sup>th</sup> March 2009**

## **REPORT OF DETI TRANSFER OF FUNCTIONS TECHNICAL SUB-GROUP**

**Chair: John McGrillen, Chief Executive, Down District Council**

Sub-Group Members:

Shirley McCay, Head of Economic Initiatives, Belfast City Council

Mark Lusby, Senior Economic Development Manager, Derry City Council

### **POLICY PROPOSALS**

**Summary:** The purpose of this Report from DETI Transfer of Functions Technical Sub-Group is to clarify details of functions transferring to local government from DETI and, where justified, making recommendations on marginal changes to the proposed functions transferring.

**Action:** The Transfer of Functions Working Group is asked to:

3. Discuss and agree the detail of the report
4. Include, as appropriate, key issues and emerging recommendations within its overall Transfer of Functions report to be submitted for the consideration of PDP C.

### **Introduction**

1. 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 transferring functions including policy background, current operational delivery mechanisms and current resource allocation;
  - Seek agreement on responsibility for future delivery of functions;
  - Identify potential policy issues in regards to the transfer of functions; and
  - Recommend marginal changes to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong Local Government; the role of Local Government in supporting place shaping; the need for single point accountability at the local level; ensuring improved customer centric services; and value for money considerations.

## **Background**

2. In Arlene Foster's statement to the assembly on the 13 March 2008 outlining the future shape of local government the following functions were identified as transferring from DETI to local councils.

### **Economic Development**

- Start a Business Programme & Enterprise Shows
- Youth Entrepreneurship (such as Princes Trust & Shell Livewire)
- Social Entrepreneurship
- Investing for Women
- Neighbourhood Renewal funding relating to enterprise 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 & delivery of customer care schemes;
- Providing advice to developers on tourism policies and related issues

3. This report from the DETI group sets out further detail on the functions transferring including where there is agreement on responsibility for future delivery of transferring functions and recommends marginal changes to the transferring functions where this is justified on a service delivery basis.

## Section I : Background

1. Within the DETI context there are presently two important policy frameworks under development which are pertinent to discussions on functions transferring to local government, namely:

- The new Northern Ireland Enterprise Strategy
- The Second Tourism Strategic Framework for Action

Engagement with and input from the local government sector will be vital in developing both of these strategies. Useful engagement and discussion has already taken place as part of the early work on the new Northern Ireland Enterprise Strategy.

On the tourism side, a new Strategic Framework for Action may also impact on the roles, responsibilities and working relationships of local councils, NITB, DETI and other players.

The Department has stated that it is keen to ensure that the new tourism strategy does not result in further fragmentation of the delivery of the tourism sector and will be seeking to develop a much more collaborative relationship with local government in the area of tourism development in the future. This is likely to be based around a tourism destination approach, linked to the development of the Northern Ireland Tourism brand.

NITB will be approaching SOLACE to nominate an appropriate officer to provide a local government input into this new tourism strategy.

Whilst the original suites of programmes proposed for transfer remain valid, there may be changes and refinements arising from the above reviews which will impact on Councils' roles in both economic development and tourism. In recognition of this fact the DETI Minister has agreed to Minister Wilson's request to allow officials to negotiate marginal changes around those functions transferring.

2. One specific challenge highlighted is that work on the current Enterprise Strategy as led by DETI has been parked pending the outcome of the Barnett Review. While the review will not

consider the role and activities of councils directly, it is possible that clarity on the future role of Councils in relation to the enterprise strategy and proposed enterprise and business pipeline may be influenced by the recommendations/outcomes of the Review. The Review is due to complete in the summer of 2009, after the timescales for conclusions of the Technical Sub-Group meetings.

3. Both Central Government ( via DETI) and Local Government (via the DETI Technical Transfer of Functions Sub-Group) are approaching discussions in a positive and collaborative manner. DETI are welcoming proposals from Local Government on the issues surrounding transfer including extent of functions, mechanics of transfer and systems to ensure compatability between regional policy and local delivery. They are also seeking the full participation of Local Government in producing guidelines where relevant.
4. The DETI Transfer of Functions Sub-Group met with DETI on 24 February, with Invest NI on 10March and with NITB on 18 March. These meetings have identified key issues for future discussion and subsequent agreement on a way forward. It is clear that much of the detail of the transfer of functions remains to be clarified and it is therefore proposed that these engagements (and the Task and Finish Sub-group) should continue beyond the completion of this first report.
5. In discussions to date, DETI have stressed that the economy is at the heart of the Programme for government (Pfg) and that their role is to meet targets as set out in 3 Public Service Agreements of Productivity Growth, Employment and Tourism. The relationship between DETI and Local Government must be guided by working together to achieve the targets of the PFG.
6. In the post-RPA environment, it is considered that Councils should have a direct relationship with DETI as the custodian of regional economic policy in addition to a closer working relationship with Invest NI and NITB. This would be a new and iterative engagement process which would extend beyond the current relationship with DETI which, to date, has been centred on EU programmes. This may take the form of a regular forum between DETI, its agencies and the new Councils or cluster of Councils on issues of policy development and implementation, complementarity, and collaboration.

In addition to the relationship between DETI and the new Councils it will be important to consider the role of other departments such as DEL, DARD and DSD who also play a significant role in the area of enterprise promotion and economic development.

## Section Two : Proposed Functions Transferring

The DETI position paper previously set out the following detail on specific elements in relation to Local Economic Development and Tourism. These are:-

### Local Economic Development

- Start a Business Programme (SABP) and Enterprise Shows
- Youth Entrepreneurship
  - Princes Trust
  - Advantage NI
- Investing in Women
- Social Economy
  - Social Entrepreneurship Programme
- Neighbourhood Renewal

### Tourism

- Product Development
- Visitor Servicing and Planning Advice
- Support for smaller scale Tourist Accommodation

*In contrast to the ministerial statement of March 08 relating to Tourism, the DETI position paper does not explicitly include local marketing, provision of business support/ business start up advice/ customer care schemes, although the budget transferring in relation to local tourism activities remains £1m.*

*These points will have to be clarified in further discussions.*



### Section Three: Technical Issues

Based on the above starting point, an issues log has been created following discussion with DETI. This will be further enhanced as discussions with DETI and its agencies progress.

Programme/Issue	Clarification to Date	Outstanding implementation issues
<b>LEGISLATIVE</b>		
<b>Local Govt Order 2002, Clause 2 of Article 8</b>	Article 8 of the Order will be retained in its entirety therefore power for Councils to hold, acquire and dispose of land will remain unchanged.	
<b>ECONOMIC DEVELOPMENT PROGRAMMES</b>		
<b>Small Business Support Programme (formerly) Start a Business Programme</b>	<ul style="list-style-type: none"> <li>▪ SABPs has been reviewed and is now the new Small Business Support Programme</li> <li>▪ Annual budget: £4,750,000</li> <li>▪ New contract for delivery will commence in April 09 for 3 years with break clause inserted at 2011</li> <li>▪ Separate contracts exist for each Invest NI Regional Office area – will be a requirement to reconfigure these to fit with new Councils</li> </ul>	<ul style="list-style-type: none"> <li>▪ It is expected that the new Northern Ireland Enterprise Strategy will set the context for these programmes and the respective roles of all the relevant parties. This in turn could impact on the role, responsibilities and relationship of local and central government. These issues need to be considered as we move towards implementation.</li> <li>▪ Having a break clause at 2011 may mean that new Councils will have to make decisions about contract continuation at the point of their formation. This may not be feasible and will possibly be an issue for the Transition Committees to consider.</li> <li>▪ Decisions need to be made regarding how to split the budget between 11 Councils and how to ensure consistency of approach across all Councils / Invest NI local office areas. This may require some further guidance as to how these arrangements are developed.</li> <li>▪ Single monitoring agent contract &amp; single MIS system will be difficult to split – DETI propose strong case exists for some form of coordinated delivery across all Councils</li> </ul> <p>DETI would welcome views/suggestions from the local government sector, via the Task and Finish Sub Group, on all of these issues.</p>

<b>Go For It Campaign</b>	<ul style="list-style-type: none"> <li>▪ The 'Go For It' campaign will transfer in full to Local Government</li> <li>▪ The Go for It Campaign is the marketing operation behind the Small Business Support programme. It consists of a central campaign to ensure Regional media coverage (including TV) and separate regional campaigns addressing local market conditions.</li> <li>▪ Annual budget: £1 million</li> <li>▪ Contract to be in place April 2009 – 2012 with break clause at 2011</li> </ul>	<ul style="list-style-type: none"> <li>▪ How to manage across 11 Councils and ensure consistency of approach?</li> <li>▪ Future of initiative / brand/ how to refresh with 11 Councils involved?</li> <li>▪ Guidelines from Cent Govt may be produced with input by Local Govt?</li> <li>▪ Future financing of Entrepreneurship campaigns – will DETI continue to inject finance?</li> <li>▪ How to maintain the region promotional activity across 11 Councils?</li> </ul>
<b>Enterprise Week</b>	<ul style="list-style-type: none"> <li>▪ Annual Budget: £500,000</li> <li>▪ Intention is to put in place a 3 year contract for the delivery of Enterprise Week events (eg. Big Idea Competition for young people). Will include contract break clause at March 2011.</li> </ul>	<p>How to maintain Regional profile of Enterprise Week and deliver events which are NI-wide and which have significant media impact</p> <p>Potential difficulties in coordination across 11 Councils</p>
<b>Start-Up Shows / Sponsorship Events</b>	<p>No separate budget Budget now subsumed within the Go for It Campaign (to undertake event sponsorship/article placement)</p>	<ul style="list-style-type: none"> <li>▪ As with 'Go For It' Campaign issues above</li> </ul>
<b>Youth Entrepreneurship</b>	<p>Advantage NI (previously Shell Livewire) Contract due to expire in March 2010. Going out to tender end 09 with potential for new 3 year break clause at March 2011 Annual Budget: £300,000</p>	<ul style="list-style-type: none"> <li>▪ May be difficult to get provider to accept just one year guaranteed business?</li> </ul>
<b>Disadvantaged Youth Entrepreneurship (PTNI)</b>	<p>Annual Budget: £600,000 Going out to tender towards the end of 2009. Potentially a new 3 year contract from April 2010 but with break clause at March 2011</p>	<p>May be difficult to get provider to accept just one year guaranteed business.</p>
<b>Investing in Women</b>	<p>This programme is now part of the redesigned Start a Business Programme which is called 'Small Business Support Programme' with contract being awarded for delivery commencing April 09</p>	<ul style="list-style-type: none"> <li>▪ Clarification of budget / resources for Female Entrepreneurship?</li> <li>▪ See under Small Business Support Programme above for further queries</li> </ul>
<b>Social Economy</b>	<p>Social Entrepreneurship Programme will transfer Annual Budget: £900,000 Contract commencing April 2009 for 3 years with break clause at 2011</p>	<ul style="list-style-type: none"> <li>▪ How this integrates with other Social Economy initiatives delivered by Councils or other partners?</li> <li>▪ Clarification of current contract status required ?</li> </ul>

<b>Neighbourhood Renewal</b>	This programme is now part of the Small Business Support programme with contract being awarded for delivery commencing April 09.	<ul style="list-style-type: none"> <li>How will this integrate with other Neighbourhood Renewal Initiatives delivered by other Departments, Councils or other partners? See under Small Business Support Programme above for further queries.</li> </ul>
<b>Support for smaller scale tourist accommodation (B&amp;B and smaller Self-Catering)</b>	<p>This will transfer from INI to Councils. Barnett Review is considering whether tourism accommodation should remain a function of Invest NI rather than NITB, therefore parent agency may move from Invest NI to NITB in future.</p> <p>£300k is total budget to transfer.</p> <p>This funding was originally IFI funding and has now been discontinued. However, a firm commitment was made to transfer this element of budget to Local Government.</p>	<ul style="list-style-type: none"> <li>£300k across 11 Councils is difficult to administer. How to handle this activity and funding at a local level?</li> <li></li> </ul>
<b>Totals</b>	<b>£8.38m (Excl Loan Funds)</b>	<p>The current proposals indicate that the local economic development budget to transfer has reduced from £10.1m to £8.38m.</p> <p>The transferring budget previously was made up of £5.7m Invest NI baseline and £4.4m of EU matched funding. The £8.38m now proposed is entirely funded from NI Executive budgets. While no EU match funding is associated with these activities at present, some of these may attract EU match funding should local councils which to avail of such additional funding. Further discussion will be required on this issue.</p>
<b>LOCAL TOURISM PROGRAMMES</b>		
<b>General</b>	At this point in time a policy framework for the delivery of tourism has yet to be developed. The department have made it clear however that the wish to avoid further fragmentation within the sector and will be seeking a new and collaborative approach to tourism development in partnership with local government in the future. In the absence of such a policy framework it is not clear what the roles and responsibilities of local councils might be moving forward. It is recognised however that local government probably has a greater spend collective tourism spend than NITB and as such is already a crucial stakeholder in the area of tourism development.	<ul style="list-style-type: none"> <li>Clarification of budget/ resources. The budget allocation of £1m is based upon £500k previously allocated to RTPs (now £280K), £250K provided to BVCB for Gateway servicing (which is likely to continue to go to BVCB via BCC) and approx £250k provided to other local area based TPO's e.g Mourne Heritage Trust</li> <li>How to distribute budget across 11 Councils or tourism 'destinations'/ Possibly less than £70k would be allocated per Council if done on an even split after allocation to BVCB.</li> <li>Further consideration should be given to the role of local government in the delivery of capital projects funded by the NITB TDS scheme and signature project themes</li> </ul>

<b>Product Development</b>		Further clarity is required around the definition of product development. Appears to be a desire to differentiate between strategic product development and local product development in order to define roles. This needs much further thought.
<b>Visitor Servicing and Planning Advice</b>	Planning advice is simply giving advice on planning policy to applicants with tourist related projects. Tourism Planning Policy has not yet been developed.	Further clarification required on the role of Councils in visitor servicing although it is clear this will need to go beyond providing TICs which are becoming less important due to the increase on online information and accommodation booking.
<b>Local Tourism Marketing</b>	Department is keen to avoid duplication between the work of Tourism Ireland, NITB and Local Authorities	New Tourism policy needs to provide role clarification in this area so as to avoid duplication and the waste of limited resources
<b>Provision of Business Support/Business Start-Up Advice/Customer Care Schemes</b>		
<b>Programme</b>	<b>Clarification to Date</b>	<b>Outstanding Queries / Comments</b>
<b>Support for smaller scale tourist accommodation (B&amp;B and smaller Self-Catering)</b>	See above	
<b>BUDGET &amp; RESOURCES</b>		
<u>Local economic development</u> £8.38m (baseline) Plus funding of £250k for 8 posts	DETI are welcoming proposals from Councils on the optional method of transferring budget across 11 Councils. This is further complicated in the case of tourism where the budget could be allocated to new clusters / successors to RTPs rather than local Councils	It is not now proposed to transfer match-funded programmes.

<p><u>Local Tourism</u> £1.33m core funding Plus funding for 4 posts</p>	<p>It is anticipated that £1m is being transferred from NITB budget with funding associated with four administrative posts . £0.33m transferring from Invest NI. Currently Invest NI do not spend £0.33m on tourism, rather this is a symbolic gesture on behalf of Invest NI</p>	<ul style="list-style-type: none"> <li>▪ Amount of funding for posts has yet to be clarified – what grades / posts are being referred to.</li> <li>How monies are allocated still to be addressed.</li> </ul>
<p><b>Flexibility between programmes</b></p>	<p>Whilst ring-fencing of amounts is likely to take place in certain programmes to safeguard expenditure in that area, flexibility between programmes will also be permitted subject to negotiations with DETI</p>	
<p><b>Actual transfer of monies</b></p>		<ul style="list-style-type: none"> <li>▪ It has yet to be determined whether funding will transfer to Councils from DETI or from DFP or DOE depending on governance and accountability issues</li> </ul>

## **Section Three: Other Issues Identified**

### **Local Economic Development**

#### **Invest NI Regional Offices**

- RPA offers an opportunity to better develop relationships between Councils and regional offices.
- DETI and Invest NI recognise that the location and geographical responsibility of the regional office network needs to be examined in light of local government boundary changes associated with RPA. (However, it is not currently considered likely that the number of offices will be increased).
- Local Invest NI offices have local client companies which may also have a relationship with the Local Council – how these relationships are managed needs to be addressed.
- Need for clarity over role of local Councils and regional Invest NI offices for the business community.
- Role of local enterprise agencies (LEAs) and other support organisations also needs to be factored in to ensure customer focused delivery is paramount in business support in N Ireland.

#### **Invest NI Land and Property Portfolio**

- Potential for greater synergy between local Councils and Invest NI to maximise such support for small businesses sector in its entirety.
- While Ministers have agreed that property is not involved in the transfer of functions the need to work together to ensure the most efficient use of Invest NI & local council property portfolio for the benefit of economic development is acknowledged.

#### **Local Enterprise Agency Network**

- There are proposals for Enterprise Northern Ireland (ENI) to review the LEA network and its future role in the context of both RPA and the new Northern Ireland Enterprise Strategy. Invest NI and local councils should be involved in the review. Possible issues for review could include:
  - Future of Enterprise Agencies as a delivery mechanism for business support?
  - Lack of formal statutory relationship with local Councils
  - Future of property portfolio attached to LEA network?

#### **The suite of Enterprise Loan Funds.**

⇒ ENI Loan fund £1.5m

- ⇒ PTNI Loan Fund £250k
- ⇒ Women in Enterprise £100k
- ⇒ ASPIRE £500k

These are four **4 Revolving Funds with total Capital of £2.35m**. They include 4 separate loan funds all providing micro finance to the locally focused market. They include contributions from a variety of sources (IFI, Peace, DETI, LEA's etc). Invest NI had proposed that responsibility for these loan funds could be transferred to local government but further discussions have indicated that Invest NI's role in relation to the funds are limited and primarily relate to managing out any legacy oversight associated with the initial injection of government funds. **It is therefore recommended that responsibility for these loan funds do not transfer to local government.**

### **Legislative responsibility for small business support**

- Majority of NI companies are small businesses with responsibility for their support and nurturing spread across several organisations. Invest NI have a client list of c.2700 therefore the majority of NI businesses are outside their remit (as they are almost wholly locally focused and financial assistance could contravene EU and National rules).
- There is a need for clarification, within the legislative guidelines associated with local economic development, of the role of Councils and of Invest NI. This will have links to Community Planning and the Power of Well Being.

### **Tourism**

#### ▪ Future of Regional Tourism Partnerships

- Uncertain future in context of new Councils and review of NITB's Strategic Framework for Action
- Clustering of Councils around 'tourism destinations' rather than council boundaries is emerging preferred approach of NITB for future regional tourism initiatives
- Clustering groups may be flexible dependent on 'destinations' being marketed by NITB
- If some form of cluster organisation remains consideration needs to be given to whether these are funded directly or indirectly

#### ▪ Policy Frameworks

- Potential for local 'Integrated Strategic Frameworks' for each cluster / Council groupings under the overall NITB Strategic Framework for Action

▪ Branding

- How to ensure complementarity between local brands and overall NI brand as articulated by NITB
- Relationships between local Councils / clusters and Tourism Ireland?

▪ Events Budgets

- As of 1 April 2009 NITB take on the responsibility for events from the former NI Events Company. NITB will also be giving consideration to the role of local government in the delivery of events which have the potential to attract an audience from outside Northern Ireland.

**Section 4: Cross-Sectoral Recommendations**

Discussions with DETI are still at a relatively early stage so it is not yet possible to make conclusive recommendations. However, subject to negotiations with DETI and other Departments, marginal changes which may be proposed include, but are not limited to the following:

1. Integration of micro business support programmes across DETI and DARD and transferred to Local Government in a combined package.
2. Linkages between Neighbourhood Renewal as presently constituted under DSD and initiatives targeted as Neighbourhood Renewal as under DETI.
3. Need for synthesis of local physical regeneration programmes, including environmental improvement schemes, as currently delivered by DSD, DRD, DARD and NIHE with local economic development delivery
4. Integration of 'Living Over the Shops' (LOTS) schemes, as currently delivered under NIHE, with local economic development delivery
5. Linkages between local delivery of arts and festivals as currently delivered by DCAL with local tourism delivery.



## **Section 5: Issues requiring further consideration**

There are still a number of issues for further consideration pending the outcome of further detailed discussions with Invest NI and NITB which are proposed to continue over the coming months. The key outstanding issues have been captured on the table presented in Section 3 – Technical Issues, above.

### **RECOMMENDATION**

It is recommended that the Transfer of Functions Working Group agrees this report for inclusion in its overall report to PDP C and that the TFWG agree that the DETI Task & Finish Group should be maintained with a view to continuing discussions and reaching an agreed way forward on the issues highlighted. All recommendations from the sub group take account of the principle of strong local government, local government's place shaping role and economies of service delivery. The initial discussions have taken place in a positive spirit of co-operation.

**John McGrillen**

**Chair of DETI Transfer of Functions Technical Sub Group**

***Date: 13 March 2009***

**DARD Transfer of Functions  
Technical Sub-Group**

**INTERIM REPORT  
to  
Policy Development Panel C**

**26<sup>th</sup> March 2009**

# REPORT OF THE AGRICULTURE AND RURAL DEVELOPMENT TRANSFERRING FUNCTIONS TASK AND FINISH SUB-GROUP

## POLICY PROPOSALS

**Summary:** The purpose of this Report from the Agriculture and Rural Development Sub-Group is to clarify details of functions transferring to local government from the Department of Agriculture and Rural Development and, where justified, making recommendations on marginal changes to the proposed functions transferring.

**Action:** The Transfer of Functions Working Group is asked to:

5. Discuss and agree the detail of the report
6. Include, as appropriate, key issues and emerging recommendations within its overall Transfer of Functions report to be submitted for the consideration of PDP C.

## Introduction

4. 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 transferring functions including policy background, current operational delivery mechanisms and current resource allocation;
- Seek agreement on responsibility for future delivery of functions;
- Identify potential policy issues in regards to the transfer of functions; and
- Recommend marginal changes to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong Local Government; the role of Local Government in supporting place shaping; the need for single point accountability at the local level; ensuring improved customer centric services; and value for money considerations.

## **BACKGROUND/CONTEXT**

The reference to DARD in the Minister's Statement is not a definitive statement in terms of functions transferring as it only refers to the "delivery of the EU Rural Development Programme 2007-2013" with a further reference to greater involvement in fishery harbour management. Axis 3 of the Programme is currently being delivered by 7 Council Clusters/Action Groups under provisions made in the Local Government (Constituting a Joint Committee) Order (Northern Ireland) 2009. The Council Clusters are not coterminous with the new Council boundaries determined in the RPA, neither are they in keeping with existing cluster groupings for the delivery of environmental health or building control services.

Councils do not have a statutory remit for all other aspects of the EU Rural development Programme, determined in Axes 1 and 2, which relate primarily to improvements and modernisation of the farming industry, training, marketing, on farm environmental programmes, animal health and welfare, forestation and so on.. Delivery of Axis 1 is contracted to an agent up to 2013 and delivery mechanisms for Axis 2 are likewise in place for the same period.

Axis 3 is closely aligned with existing Council functions eg business creation, tourism, village renewal. However, while these programmes are being delivered through district councils and Local Action Groups,, DARD retain budget and policy responsibility (see Appendix A for detail of each Axis).

While the Minister's Statement refers to the EU Rural Development Programme 2007-2013 current legislation only enables Axis 3 to be delivered by Councils. Parts of Axis 1 (ie adding value to agriculture producers and improving marketing capability and aspects of vocational training ref. business development) are relevant to the broader economic development role of Councils and their economic partners. However as stated above, DARD has in place a delivery agent to manage and deliver these economic measures up to 2013.

In recognising the 11 council configuration determined in the RPA, DARD is committed to amending the Local Government (Constituting a Joint Committee) Order (Northern Ireland) 2009 to facilitate the delivery of Axis 3 in the period 2011- 2013.

Rural Development is a wide ranging term which can include economic development, village regeneration, community development and local services in rural areas. All these functions post 2011 will be the remit of the new Councils who will also have Planning powers, vesting powers for all towns and villages etc and the lead role in Community Planning. However, Rural development as a function of DARD will not be transferring. It is worth noting that DARD's role in Rural Development has been funded primarily by EU funding and it is only in recent years that public expenditure funds have been expended on Rural Development. There is therefore no separate budget within DARD to transfer as it is part of the wider EU Programme.

The Minister, in her Statement, also stated that “*DARD will therefore explore the options available to deliver an increased role for local government in fishery harbour management within the existing structures*”.

## **POLICY/TECHNICAL ISSUES**

The policy issues in regard to this transfer can be grouped as follows:-

1. It is not appropriate or within current statutory provisions to transfer the N.I. Rural Development Programme 2007-2013 to Councils. Elements outside pure animal husbandry and agri-environmental have been contracted out by DARD until 2013. These include the economic and vocational training elements of Axis 1. While Local Government would have preferred to see these economic elements transferred to District Councils to help better integration of economic development services, this can only be considered whenever a new Rural Development Programme is being considered post 2013.
2. Delivery of Axis 3 does not represent additional powers or functions for Local Government. DARD will retain the policy and budgetary function for Axis 3 and Councils and Local Action Groups as delivery bodies will be accountable to DARD for the management of the programme.
3. DARD is committed to amend its legislation so that Axis 3 delivery at local level is compliant with Council structures post 2011.
4. Councils, through the current legislation and as part of the transfer of functions, will have the key role in Local Economic Development, Community Development, Urban Regeneration and these issues overlap with Rural Development. The transfer of functions does not address this issue from a policy and implementation context.
5. Councils will be tasked to lead and facilitate statute based Community Planning post 2011. As Rural Development is not transferring to Councils, yet the Council ability to develop their rural areas is key to place shaping and Community Planning, DARD will need to consider how it will engage in this process to ensure that common Plans are all embracing.
6. DARD proposed, as part of the RPA arrangement, to make the Northern Ireland Fishery Harbour more accountable and explore options to deliver an increased role for Local Government in Fishery Harbour Management within existing structures.

The RPA proposals still leave a lack of integration between DARD's role in Rural Development and the various new and existing functions of the Council post 2011. Under current policy DSD have a remit for towns of 4,500 populations plus while DARD has responsibility for the EU Rural Development Programme which is targeted on smaller towns and settlements. This differentiation causes confusion and frustration for local town people who cannot understand why there is an environmental improvement scheme funded by DSD in one town and yet a neighbouring town does not fit the criteria due to its smaller population. A major part of a place shaping agenda is the ability to work with local towns and villages to enhance their environment and therefore regenerate the town and enhance its economic fabric. The lack of a co-ordinated approach leads to double standards within a District and a level of frustration among elected members and residents currently. There will be opportunities for better co-ordinated post 2011 when Councils undertake the current DSD role in Urban Regeneration and the village renewal aspects of the DARD Rural Development Programme.

Similarly, community groups and networks fall between several stools – DARD, DSD and Councils. To date, DARD have been using the Rural Community Network and Sub Regional Networks to deliver their community development programme but this has sometimes been in isolation of Councils and DSD. This lack of integration leads to confusion and indeed the absence of a long term strategy for community development within the District. Recent funding problems with the Networks emphasise the need for these groups to be connected to Councils who have a long term plan for community development in their District. The current proposals in regard to the delivery of a Rural Anti-Poverty Strategy and Social Exclusion are not connected to Council priorities; with Local Government consultation only conducted in the later stages of development. Anti Poverty Strategies need to be co-ordinated across all communities within Council areas and the role of DARD and Local Government in this area post 2011 needs to be further explored.

Similarly Rural Tourism and Rural Business Support cannot be delivered in isolation of the tourism and business networks at a District and Regional level. Rural Tourism is part of a wider tourism package as identified in the NITB Tourism Strategy for Northern Ireland for example the development of rural accommodation, attractions etc within the Mourne must be correlated to the Signature Project to ensure the product fits with the wider team product and is appropriate as part of an overall package.

## **ADDITIONAL AREAS OF COMMON INTEREST**

### **Forestry:**

Forest Service within the Department is currently developing a strategy for social use and recreation within forests. This recognises the potential that forests offer to contribute towards wider Government objectives for example, in the areas of sport, tourism, health and education. Forest Service is also seeking to expand forest cover in Northern Ireland to increase the diverse benefits that forests can offer. In both areas, Forest Service would wish to work closely with Councils in identifying and developing opportunities.

Forest Service is currently reviewing its legislation to enable it to enter partnerships with Local Government and other agencies to develop the potential of the Forestry estate for tourism, recreational and other purposes.

### **Cross Sectoral Recommendations**

- Need to agree Action Plan and timescale for transfer of any functions.
- Need to work together to agree better integration of roles.
- Need to review Rural Clusters in 2010 to address the issue of coterminosity.
- Need to review rural Community Development provision in the context of RPA and Community Planning.
- Legislation is required to give Local Government an increased role in Forestry management.
- Need to involve Local Government in the preparation of a Rural Development Programme post 2013.

### **Technical Issues:**

Based on the above points the issues in the table below have been prepared for discussion with DARD. This will be further enhanced during discussions.

**Liam Hannaway**, Chief Executive of Bandbridge District Council  
Chair of DARD Transfer of Functions Sub Group

March 2009

Issues	Clarification to Date	Outstanding Queries
<p>NI Rural Development Programme 2007-2013</p>	<p>Axis 1 and 2 cannot transfer as most of the parts of the programme have been contracted out until 2013 and other aspects are purely agriculture or farm husbandry related.</p> <p>Axis 3 is currently delivered through 7 Council clusters/Local Action Groups albeit not coterminous with existing Council clusters used for example in the delivery of environmental health or building control services, or within the 11 council configuration proposed in the RPA. DARD recognises that Axis 3 delivery at local level must change to reflect the new Council structures in place in 2011.</p> <p>DARD will instruct its Programme Managers of Axis 1 economic elements to liaise with Local Government</p>	<p>How we will realign clusters post 2011.</p> <p>What role will Councils have in the economic element of Axis 1?</p> <p>What will happen post 2013 with any potential new programme?</p>
<p>Rural Community Development</p>	<p>Local Government should have the lead role in all community development post 2011 including the delivery of community support in rural areas.</p> <p>DARD is currently funding existing rural support networks as part of its Anti Poverty / Social Inclusion framework. The networks are being offered contracts which will run until Sept 2009.</p> <p>Given the transfer of DSD's community development functions, the inclusion of DARD's rural community development</p>	<p>How best do we realign the current networks with Council or Local Action Group boundaries?</p> <p>Anti Poverty Strategies need to be co-ordinated across all communities within Council areas. What will be the role of DARD and Local Government in this area pre and post 2011?</p> <p>Will the DARD rural community development budget transfer post 2011? There is no dedicated staff resource in respect of community development as</p>



	<p>work as part of the anti-poverty framework / budget into proposed transferred functions would seem the logical step in aligning actions with the Community Planning statutory process.</p> <p>Similarly, the alignment of government anti poverty and related Targeting Social Need programmes should be by their very nature across the <i>full</i> extent of a new Council's boundaries, both urban and rural, so it is logical that this co-ordination role by the new local authority is backed up, as appropriate, by transfer of function and enabling legislation from DARD and DSD, et al.</p> <p>There are no staff resources to transfer for this area. DARD has a managing agent role but delivery s via the Rural Community Network and Rural Support Networks</p> <p>Local Government has a concern that the current direct relationship between DARD and the Networks needs amended to ensure better co-ordination between DARD and Local Government and consistency with Local Government Community Support and Good Relations Programmes.</p>	<p>the current DARD role tends to be contract management. This needs to be discussed in the context of any overall community development budget.</p>
Forestry	<p>Forestry Service see a role for Local Government in the expansion of forests.</p> <p>Forest Service wish to develop partnerships with Local Government to develop the tourism and recreation potential of forests.</p>	<p>Legislative requirements to develop this partnership</p> <p>What budget could transfer for the development of tourism and recreation from DARD?</p> <p>[No budget transfer would be proposed. Forest Service will continue to maintain its forest estate and infrastructure and</p>

		its existing budgets will be required. The intention is that Forest Service will be able to facilitate project promoters (such as Councils) who wish to develop their own specific projects within the forest environment.]
NI Fishery Harbour Authority		<p>Need clarification of what is meant by the points made in the Minister’s Statement “to explore options available to deliver an increased role for Local Government in Fishery Harbour management within existing structures”</p> <p>The functions of the Northern Ireland Fishery Harbour Authority (NIFHA) are not transferring from DARD but the Minister has given a commitment to investigate how an increased role for local government within the existing arrangements can be achieved. Following a meeting with DOE, DARD has agreed that the way forward is to meet with the shadow Chief Executives and Transition Committees of the relevant new Councils in due course. This meeting would discuss the issue and consider the options available.</p>
Rural Development General	<p>Given the transfer of functions from DSD, Local Government will, post 2011, be able to exercise its power in regard to regeneration of urban and rural towns and villages across Northern Ireland. These powers in regard to regeneration coupled with planning will mean that Councils will be a key player in the development all towns and villages across Northern Ireland</p> <p>The transfer of additional economic development will enhance Local Government’s role in local economic development</p>	<p>Greater clarification between DARD and Local Government in respect of the various aspects of the delivery of Rural Development. While DARD agrees that further consideration of these matters is necessary, it takes the view that such a commitment should be in the context of developing a new Rural Development Programme post 2013, rather than to implement change in the latter 2 years of the current programme , where firm arrangements and responsibilities are in place.</p>

**DCAL Transfer of Functions  
Technical Sub-Group**

**Report  
to  
Policy Development Panel C**

**26<sup>th</sup> March 2009**

## **CULTURE ARTS AND LEISURE**

### **TRANSFERRING FUNCTIONS TASK & FINISH TECHNICAL SUB-GROUP**

#### **POLICY PROPOSALS**

**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**

5. 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 transferring functions including policy background, current operational delivery mechanisms and current resource allocation;
  - Seek agreement on responsibility for future delivery of functions;
  - Identify potential policy issues in regards to the transfer of functions; and
  - Recommend marginal changes to the transferring functions where this is justified on a service delivery basis and taking account of the principles of strong Local Government; the role of Local Government in supporting place shaping; the need for single point accountability at the local level; ensuring improved customer centric services; and value for money considerations.
6. 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.

## **Background**

7. In Arlene Foster's statement to the assembly on the 31 March 2008 outlining the future shape of local government the following new or enhanced functions were identified as transferring in 2011 from the Department of Culture Arts and Leisure to local councils.

- Armagh County Museum
- Functions of the NI Museum council
- Local water recreational facilities
- Local sports
- Local arts

## **Detail**

### **ARMAGH COUNTY MUSEUM**

#### **Policy Background**

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

#### **Functions Transferring**

9. Under the Local Government (Restructuring) Bill, scheduled to come into operation before May 2011, it is proposed that all functions of the ACM will transfer from NMNI to the new Armagh City, Banbridge and Craigavon District Council by 2011.

#### **Resource Allocation**

10. It is proposed that all ACM staff, assets, collections and liabilities will transfer to the new council. The associated direct costs for running ACM will also transfer, estimated to be £250k.

#### **Issues requiring further consideration**

11. NMNI and the Armagh City, Banbridge and Craigavon District Council transition committee will be required to draw up an agreement which details the transfer arrangements.

## **FUNCTIONS OF THE NI MUSEUM COUNCIL**

#### **Policy Background**

12. The NI Museum Council is a company with charitable status that was established under Ministerial order in 1993. NIMC is principally funded by DCAL, (£279k per annum) although it

also receives some income from its membership, comprising local authorities as well as a number of independent bodies.

### **Functions Transferring**

13. 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.

### **Resource Allocation**

14. The budget of £270k per annum will transfer along with 6 specialist staff.

### **Issues requiring further consideration**

15. Given the relatively small size of the NIMC it is not considered appropriate to decentralise it across the new 11 council model. While it is acknowledged that this issue will be given consideration through the Options for Local Government Service Delivery Consultancy a number of service delivery options which require further consideration and discussion by this sub group have been put forward including:-

- Possible Delivery Options
- A regional service delivery model
- Deliver through a restructured Local Government Association.

16. The Department is shortly commencing work on a museums policy which will include an examination of the role and individual functions of the NIMC and recommendations on an appropriate delivery mechanism. The Department will consult with Local Government during the policy development process.

## **LEISURE AND RECREATION (LOCAL WATER RECREATION FACILITIES)**

### **Policy Background**

17. 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**

18. Ownership of a total of around 21 public water recreation site/facilities will transfer to local government. 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. PWC is currently carrying out a mapping exercise of the sites.

19. The sites fall under three different categories:

- Those owned by DCAL
- Those leased by DCAL
- Those maintained by DCAL but where there is no clear ownership

### **Resource Allocation**

20. No staff will transfer to local government with this function. The transfer of resources in relation to this function relates only to assets and associated maintenance budgets and is estimated at between £50k and £60k per annum.

### **Issues requiring further consideration**

21. The Local Government (Restructuring) Bill is scheduled to come into operation before May 2011 and will include a general provision to enable the transfer of those sites owned and leased by DCAL to the new councils.

22. It is anticipated that the transfer of sites owned and leased by DCAL will be relatively straightforward however further detail and discussion is underway at an operational level on

- A breakdown of the maintenance budget across the new 11 council structure
- Appropriate mechanism for delivering resources

23. How maintenance of the sites can be effectively and efficiently integrated within local government. In relation to those sites maintained by DCAL but where there is no clear ownership, negotiations will continue with individual councils to undertake future responsibility for these sites by agreement. It is hoped that all such sites will have transferred to local councils prior to 2011.

## **LOCAL SPORTS**

### **Function Transferring and issues for consideration**

24. There is no transfer of function relating to local sports. The objective is that local sports will become integrated into the new local authority community planning process. While SportsNI are already liaising with existing local authorities, through the Council Leisure Officers Association on community sport programmes it is the view of local government that further consideration is required on enhancing the involvement of local government in local sports.

## **LOCAL ARTS**

### **Functions Transferring**

25. The proposal is to transfer, funding for Local Arts and Culture Projects from the Arts council NI

### **Resource Allocation**

26. The funding awarded by the Arts council NI to organisations for local arts and culture projects varies year on year but is currently estimated by the Department to be in the region of £560k. There is a lack of clarity however on how local arts and culture projects are defined and this contributes to a difficulty in assessing the proposed transferring funds. The Department has agreed as a matter of priority to examine the policy background on local arts and culture including, an agreed definition, the role of central and local government, the rationale for transfer, appropriate funding mechanisms and to provide clarification on available funding.

### **NEXT STEPS**

27. There are still a number of issues for further consideration pending the outcome of policy development on the Museums council and Arts and culture alongside operational discussion required on the transfer of the recreation sites. It is recommended that this Group should continue to meet as required to agree the necessary detail on the transferring functions.

28. In addition it is recognised that sports, arts and culture has the potential to make an important contribution to the effective implementation of agreed community planning objectives. Further discussion is required however on the role of and relationship between local and central government in delivering locally accountable services. There is a need for political direction on this issue and it is recommended that discussions on the way forward should be progressed through the SLB and between the DOE Minister and transferring Departmental Ministers.

### **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: March 2009



