

**CONSULTATION ON THE DRAFT LOCAL  
GOVERNMENT (FINANCE) BILL**

**DEPARTMENTAL RESPONSE**

**March 2010**

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### General

1. The Department of the Environment issued a consultation document on the draft Local Government (Finance) Bill on 24 July 2009, seeking comments by 31 October 2009. The aim of the Bill is to modernise the current legislative framework relating to local government finance and councillors' remuneration in Northern Ireland.
2. The Department received a total of 28 responses to the consultation.
3. 64% (18) of all respondents welcomed the Bill and the Department's proposals to modernise the current legislative framework relating to local government finance and councillors' remuneration. No respondents opposed the overall purpose of the Bill.
4. 79% (22) of all respondents submitted comments on specific provisions in the Bill, as well as making comments of a general nature.
5. This document provides a summary of the issues raised by respondents and sets out the Department's response.

## **Part I – Financial Administration**

6. **Clause 1(2) requires a council to designate an officer of the council as its chief financial officer**

### **Comment**

Seven respondents stated that the roles of chief executive and chief financial officer should be separated.

One respondent stated that further clarification was needed on the role of the chief financial officer in order to ensure that the duty was delegated to the appropriate officer, and that the chief executive should retain the role of chief financial officer.

### ***Departmental response***

*In considering the staffing structures of the eleven new councils, the Policy Development Panel on governance and relationships agreed that the role of chief executive and chief financial officer should be separated in the new councils. The Department proposes to take this forward in the forthcoming Local Government (Reorganisation) Bill.*

### **Comment**

Eight respondents stated that the Department would need to make regulations prescribing the qualifications required for a chief financial officer.

### ***Departmental response***

*Section 41(3) of the Local Government Act (Northern Ireland) 1972 provides the Department with the necessary power to specify, by determination, the qualifications required for a chief financial officer.*

7. **Clause 2 allows the Department to make regulations or issue guidance concerning the accounting practices to be followed by a district council, any committee of a council for which separate accounts are kept, or a joint committee of two or more councils.**

### **Comment**

Fourteen respondents commented that they were content that in principle the proposed legislation will give district councils greater freedom to manage their own financial affairs without having to obtain consent from the Department, but were concerned such freedom could be constrained through the use of central government regulations.

### ***Departmental response***

*The Department will consult on any subordinate legislation to be made, or guidance to be issued, under the provisions of the Bill.*

### **Comment**

One respondent stated that it would welcome the opportunity to engage closely with the Department in drafting the regulations under this Bill to ensure that they reflect the needs of local government in Northern Ireland and provide for the provision of a modern and responsive public service by district councils.

### **Departmental response**

*The Department will continue to work with councils through bodies such as the Association of Local Government Finance Officers (ALGFO) when developing the provisions to be taken forward in the regulations.*

8. **Clause 4(1) requires the chief financial officer to report to the council on the robustness of the estimates of income and expenditure for the coming year submitted to it under clause 3.**

### **Comment**

Fourteen respondents asked for clarification of the concept of robustness, recommending that the Department should issue guidance on the exact issues to be considered by the chief financial officer in order to determine whether estimated figures are robust.

### **Departmental response**

*Guidance on the issues to be considered is given in the Prudential Code for Capital Finance in Local Authorities (“the Prudential Code”) issued by the Chartered Institute of Public Finance and Accountancy (“CIPFA”). It provides clarification on the prudential indicators to be taken into consideration when preparing estimates. Consideration of these indicators will assist chief financial officers and councils to reach a decision concerning the robustness of the estimates of income and expenditure.*

9. **Clause 6 enables the Department to make regulations requiring councils to maintain financial reserves.**

### **Comment**

One respondent asked that the regulations should provide sufficient flexibility to allow councils to accumulate adequate reserves to achieve medium and long-term strategic objectives.

### **Departmental response**

*The Prudential Code requires councils to consider revenue forecasts and capital expenditure plans on a continuous basis for a rolling three-year period. The Department will consult on any regulations for reserves before they are made.*

**Comment**

One respondent asked for phased implementation of any regulations regarding reserves to cover the costs of transition to reformed local government.

**Departmental response**

*Provision for financial reserves will not be introduced prior to the financial year 2011-12.*

10. **Clause 7 makes provision for reserves specified in regulations under clause 6(1) to be designated controlled reserves, with a required minimum balance at the end of the financial year. The chief financial officer must report to the council on the reasons for a controlled reserve not achieving the minimum level, and any action considered necessary to prevent a recurrence in the following year.**

**Comment**

Eleven respondents expressed concern that allowing the Department to specify any reserve a controlled reserve is not compatible with giving councils freedom to manage their own affairs.

**Departmental response**

*It is considered good practice to maintain minimum levels of reserves. The Department will make provision for this in regulations, which will be consulted on under clause 43 of the Bill.*

**Comment**

One respondent asked for further clarification on what constitutes “controlled reserves”.

**Departmental response**

*Clarification will be provided in regulations which will be consulted on.*

**Comment**

One respondent asked the Department to issue guidance for consultation in regard to the maximum level of reserves that should be maintained as this is a matter which the local government auditor comments on when reviewing the annual accounts.

**Departmental response**

*The Department does not consider it necessary to issue the suggested guidance at this point, but will monitor the situation.*

11. **Clause 9 gives a council power to establish additional funds, with the requirement that income arising from investment of the money in, or other application of, the fund should be carried to the fund.**

**Comment**

Eight respondents expressed a view that these funds should not be subject to any departmental control nor treated as controlled reserves in accordance with clause 7.

***Departmental response***

*District councils will have the freedom to establish such funds as they consider necessary. The Department is of the view that, in the interests of best practice and prudent financial management, any reserves held in funds should be eligible to be treated as controlled reserves.*

12. **Clause 11 allows a council to borrow money for any purpose relevant to its statutory functions or for the prudent management of its financial affairs.**

**Comment**

Two respondents asked the Department to create a general power of expenditure for councils in relation to the discharge of their statutory functions.

***Departmental response***

*Section 17(3) of the Interpretation Act provides that, where an enactment empowers any person or authority to do any act or thing, they are also deemed to have been given all such powers as are:*

- *reasonably necessary to enable them to do that act or thing, or*
- *incidental to them doing that act or thing.*

*The Department does not therefore consider it necessary to create a general power of expenditure.*

**Comment**

One respondent recommended additional provision to confer a power on councils to enter into other methods of raising finance, such as local asset backed borrowing.

***Departmental response***

*Clause 24 specifically prevents a council from using local asset backed vehicles for borrowing, requiring all money borrowed, and the interest charged, to be charged on all the revenues of the council.*

**Comment**

One respondent recommended that the Bill should state expressly that borrowing can be applied to both capital and revenue activities.

**Departmental response**

*The Department considers that it would be not be in the interests of good financial management for councils to borrow for revenue activities. It is expected that councils would meet their operating costs from monies raised from the rates and other income generating activities.*

**Comment**

One respondent noted that an important element of the assurance process under the current arrangements for loan sanctions is provided by the Department of the Environment approving the loan. This respondent asked the Department for details of alternative measures proposed to provide the relevant assurance.

**Departmental response**

*The Department is satisfied that assurance will be provided by councils operating within affordable borrowing limits, which will be determined in accordance with the Prudential Code.*

13. **Clause 13 introduces a duty for councils to determine an affordable borrowing limit.**

**Comment**

Nine respondents noted that there is no requirement for the chief financial officer to report to the council on the review of the affordable borrowing limit. These respondents recommended that this should be included in subordinate legislation.

**Departmental response**

*In keeping with good financial practice and risk management, the Department would expect the chief financial officer to keep the council's financial position under review at all times, and to report to the council on a regular basis.*

**Comment**

Three respondents asked for clarification on how the affordable borrowing limit is to be determined.

**Departmental response**

*The affordable borrowing limit is to be determined by councils in accordance with the Prudential Code.*

**Comment**

One respondent agreed that it is best practice to commit to borrowings that a council can afford to repay, but expressed concern that it had limited control over the consolidation of borrowing between two amalgamating councils, with the affordability of borrowing being reduced through the establishment of the new council with a reduced rates base. This respondent gave the view that this would result in borrowing that would be disproportionate to income generated, which might fall outside limits recommended in regulations.

**Departmental response**

*This is not an issue for this Bill, however, this and other financial issues relating to the reform of local government are being considered by the Strategic Leadership Board and the Regional Transition Co-ordinating Group.*

14. **Clause 14 enables the Department to impose borrowing limits in specific circumstances.**

**Comment**

Eleven respondents stated that the Department's power (outlined in clause 14(2)) to set a limit on borrowing by a particular district council should be restricted to circumstances where that council has disregarded its duty or obligation under section 13.

**Departmental response**

*The Department intends that this power should be exercised only in exceptional circumstances and where it is considered necessary.*

**Comment**

One respondent asked for clarity as to the circumstances which would prevail for the Department to set limits in relation to borrowing under clause 14(2).

**Departmental response**

*This provision will ensure that, where there is evidence that a council's external debt is, or is in danger of becoming, unsustainable, the Department may limit the council's borrowing capacity. The exact circumstances requiring such limits will vary according to the individual circumstances of councils. The Department intends that this power should be applied rarely, and only in exceptional circumstances.*

**Comment**

Two respondents stated that a definition of "national economic reasons" should be provided in the Bill or in the regulations made under this clause.

**Departmental response**

*"National economic reasons" may be identified in terms of the Northern Ireland or United Kingdom economies. Beyond that, there is no definition that would encompass all possible situations. The Department would intend to use this power only in exceptional circumstances, and where the national economy required it. Regulations made under this power also require the consent of the Department of Finance and Personnel.*

**Comment**

Two respondents stated that regulations should clearly outline the treatment of schemes that are already in progress or have been agreed.

**Departmental response**

*It is not necessary to provide for this in regulations as the Prudential Code requires existing financial commitments to be taken into consideration when determining the affordable borrowing limit.*

**15. Clause 17 deals with credit arrangements entered into by councils.****Comment**

Nine respondents asked for clarification on whether long term liabilities associated with the closure and aftercare costs associated with landfill sites are to be treated as credit arrangements for inclusion when determining the affordable borrowing limit.

**Departmental response**

*It is expected that councils will make provision for closure and post-closure costs of landfill sites through application of their reserves. Where the full amount of such costs is met in this way, the effect on the calculation of the affordable borrowing limit is nil.*

**Comment**

Eight respondents recommended that trade creditors should be excluded from the definition of a credit arrangement as they are part of the working capital requirement and not long term debt.

**Departmental response**

*Clause 17(3)(b) excludes liabilities which fall due in less than 12 months from the date of the transaction. The Department will consult on the regulations which will prescribe the liabilities to be excluded from credit arrangements.*

**Comment**

Ten respondents asked for clarification of the term prescribed liability.

**Departmental response**

*This will be provided in regulations.*

**Comment**

One respondent thought that there was a gap regarding the Department's power to make regulations referred to in clause 17(2)(b).

**Departmental response**

*The Department does not consider that there is any omission or confusion here.*

16. **Clause 22 enables the Department to make regulations about the use of capital receipts.**

**Comment**

Thirteen respondents interpreted the clause as removing the current requirement (in section 59 of the Local Government Act (Northern Ireland) 1972) for capital receipts to be applied in the first instance against money borrowed for the purpose of acquiring that asset, and asked for the removal of the power outlined in clause 22 for the Department to control this area by regulation.

**Departmental response**

*Clause 44 of, and the Schedule to, the Bill will repeal section 59 of the Local Government Act (Northern Ireland) 1972. Section 59 required that capital from the sale of any council asset had to be used to repay money borrowed for the acquisition of that asset. The Department intends to retain the power to make regulations about the general use of capital receipts.*

**Comment**

One respondent asked to be fully consulted on the drafting of any regulations made under this clause.

**Departmental response**

*As required by clause 43, regulations under clause 22 will be subject to consultation.*

17. **Clause 23 gives local councils the power to invest.**

**Comment**

One respondent stated that the ability to invest in capital expenditure should not be restricted to resource-rich authorities and that the Department may wish to consider interim arrangements to allow for the transition to the eleven council model.

**Departmental response**

*This is not a matter for this Bill. This and other financial issues relating to the reform of local government are being considered by the Strategic Leadership Board and the Regional Transition Co-ordinating Group.*

18. **Clause 24 makes provision for security for money borrowed by a council, and for the appointment of a receiver in the event of default.**

**Comment**

One respondent commented that this clause should not be construed or interpreted as preventing a district council from making its assets available so that it can participate in Local Asset Backed Vehicles or other Special Purpose Vehicles which allow its assets to be joint-ventured (within reason) for regeneration purposes or for earning income.

***Departmental response***

*Clause 24 specifically prevents a council from using local asset backed vehicles for borrowing as it requires all money borrowed, and the interest charged, to be charged on all the revenues of the council.*

**Comment**

One respondent asked for paragraphs (5) to (8) of clause 24 to be removed from the Bill as a power to appoint a receiver because of a council debt is not matched by a specific power for councils to apply for the appointment of a receiver in connection with uncollected rates. This respondent went on to state that the costs of amalgamation and consolidation of liabilities could cause a council to owe well over £10,000 to its creditors, resulting in a receiver being sent in by the High Court.

***Departmental response***

*The Department does not consider it is necessary to make this amendment. Standard insolvency procedures are available to a council that wishes to take action against creditors.*

## **Part 2 – Grants to Councils**

19. **Clause 27 makes provision for the Department to make a rates support grant to district councils for each financial year.**

### **Comment**

Twelve respondents asked for a review of the statutory formula currently used to calculate the resources element before it is applied to the rates support grant, especially for the new district councils taking on additional functions.

Three respondents stressed the importance of having a formula that will ensure that the rates support grant will be allocated to those councils that need the highest levels of financial assistance. Two of those respondents recommended that Targeting Social Need measures should be applied to any review of the statutory formula for the rates support grant.

One respondent asked for further modelling to be undertaken to indicate the impact on councils of the redefined boundaries, and the implications for the rates support grant.

Two respondents stated that the merging of two councils with the lowest rates income and highest levels of deprivation will lead to a major equality issue if the level of rates support grant does not change. They stated that additional resources from central government would be needed to achieve equalisation among councils, asking for the inclusion of provision to allow for payment of an additional grant to councils that will suffer financial disadvantage due to the merger.

One respondent noted that it would be necessary to review the formula in light of the different demographics which would emerge after the reorganisation of local government, especially in light of the large rural councils which will be created.

### ***Departmental response***

*Initial modelling has indicated that the statutory formula currently used to calculate the resources element of the general grant is suitable for calculating the rates support grant for the eleven new councils. This view has been endorsed by the Strategic Leadership Board. An equality monitoring exercise on the statutory formula is carried out on an annual basis and this continues to show no adverse impact on any of the section 75 groups. Should further modelling exercises highlight that the statutory formula needs to be updated, then a further Equality Impact Assessment will be carried out on the revised formula at that stage.*

**Comment**

Two respondents asked for provision in the Bill to provide for some transitional relief in the first four years of the new council, to allow for an adjustment period before ratepayers are required to pay the significantly higher rates.

One respondent demanded that all the costs of the review of local government be met by central government rather than local rate payers.

**Departmental response**

*Financial issues relating to the reform of local government are being considered by the Strategic Leadership Board and the Regional Transition Co-ordinating Group.*

**Comment**

Eight respondents expressed alarm that the provision in paragraph (6) stated that the amount payable as the rates support grant could be calculated as nil.

**Departmental response**

*The resources element of the general grant is being replaced by the rates support grant. The resources element of the general grant can currently be calculated as nil. There is therefore no change in Departmental policy.*

**Comment**

One respondent expressed concern that, although supportive of the intention to bring the financial regime for local government in Northern Ireland in line with Great Britain, the majority of council funding in Northern Ireland is derived from the district rate collected by an external agency that is not accountable to local government. The respondent would like to see controls introduced to ensure councils are not affected adversely by the actions of agencies which are outside their control.

**Departmental response**

*The Strategic Steering Group for Land and Property Services and Local Authorities provides a forum for discussing and resolving any issues of concern between councils and Land and Property Services.*

20. **Clause 28 permits the Department to reduce the amount of the de-rating and rates supports grants payable to councils in specified circumstances.**

**Comment**

One respondent suggested that any sanctions in circumstances whereby local government failed to achieve or maintain a reasonable standard of economy, efficiency and effectiveness in the discharge of its functions should be applied as a last resort, giving consideration to the likely effect of any such sanctions upon the administration of local government. Further clarity was sought on how such sanctions would be introduced and the role of the local government auditor.

**Departmental response**

*This clause carries forwards the current provisions for making deductions from the general grant, and applies them to the new de-rating and rates support grants. Where a council has failed to achieve or maintain a reasonable standard of economy, efficiency and effectiveness in the discharge of its functions, or has expenditure that is excessive in the context of its financial resources, central government should have power to intervene, as a last resort, to protect the public purse.*

**Comment**

One respondent asked for rigorous scrutiny of the intentions behind these new powers.

**Departmental response**

*As stated above, these are not new powers.*

**Comment**

One respondent requested absolute assurance that it would be consulted before the Department uses its powers to defray expenditure and deduct costs in relation to specified bodies from the de-rating or rates support grants.

**Departmental response**

*Deductions to defray expenditure for services provided to all councils by specified bodies are currently made from the general grant. Deductions will be made from the new de-rating and rates support grants on the same basis. As required by clause 43, regulations under clause 28 will be subject to consultation.*

### **Part 3 – Payments to Councillors, etc**

21. **Clause 30 will give the Department power to make regulations concerning the payment of allowances and other payments to councillors by councils. Regulations may also require councils to publish a scheme of allowances.**

#### **Comment**

Six respondents recommended that, in terms of proper accountability for public funds, all claims for expenses should be supported by appropriate evidence of expenditure incurred in accordance with Her Majesty's Revenue and Customs (HRMC) requirements.

#### ***Departmental response***

*Evidence of expenditure is already required by the Local Government (Travel and Subsistence Allowances to Councillors) (No.2) Regulations (Northern Ireland) 1973 (as amended).*

#### **Comment**

One respondent stated that paragraph (6) will require ratepayers to pay the costs of voluntary and statutory transition committees which councils have been forced to establish and which were not included in the rates estimates or budgeted for.

#### ***Departmental response***

*The Department currently provides funds (approx. £150,000 package for each council cluster) to assist with the costs of the voluntary transition committees' work of preparing for local government reform in 2010/11. The full costs associated with local government reform, including the statutory transition committees, form part of the Department's bid for additional funding on foot of the PricewaterhouseCoopers report, 'Economic Appraisal of Local Government Service Delivery'.*

#### **Comment**

One respondent stated that the sentence 'In this section any reference to a council includes a reference to a joint committee' should be removed as it is misleading, inaccurate, and confers power on a 'joint committee' which it is not entitled to.

#### ***Departmental response***

*This provision does not confer any powers on joint committees. Its purpose is to allow payments to be made to members of joint committees.*

22. **Clause 33 allows councils to make payments towards expenditure reasonably incurred by a councillor in attending a conference or meeting on matters relating to the interest of the district or any part of it, and the inhabitants of the district or any part of it.**

**Comment**

One respondent asked for the inclusion of a further criterion, pertaining to the advancement of the affairs of local government. Another respondent commented in a similar vein to the effect that it would be sufficient for expenses incurred in attending conferences and meetings relevant to the administration of local government, rather than testing if the expenditure was in the interest of the district.

***Departmental response***

*It is the Department's view that councils should consider if the expenditure is in the interest of the district and its inhabitants before deciding to make payments for this purpose.*

**Comment**

Two respondents asked for regulations to stipulate a requirement for each council to assess each event against its relevance to the interests of the district or the inhabitants of that district, and to also assess value for money to ensure appropriate and relevant use of council funds.

***Departmental response***

*As a matter of best practice, the Department would expect councils to assess the benefits, relevance and value for money of any event when deciding to make payments under this clause.*

**Comment**

Two respondents, while noting the provision of clause 35, expressed a view that it would be clearer to make specific provision for payment towards expenditure incurred by an officer of a council in clause 33.

***Departmental response***

*The Department does not consider it is necessary to make such provision for officers.*

23. **Clause 34 gives the Department power to make regulations for the establishment of an independent panel to advise the Department on payments to councillors.**

**Comment**

One respondent stated that members of the panel should be appointed using the public appointments process, and drew attention to the importance of appropriate expertise and knowledge of the roles and responsibilities of elected members and familiarity with remuneration issues for councillors as criteria for selection.

**Departmental response**

*The Department intends to use the public appointments process to select the members of the panel, using appropriate criteria for selection.*

**Comment**

One respondent asked the Department to consider making specific provision in the draft Bill for an allowance scheme for joint committees.

**Departmental response**

*The Department does not consider this necessary.*

**Comment**

One respondent asked that the recommendations of the independent remuneration panel should be flexible enough to allow councils to make payments to councillors to undertake duties as the council requires.

**Departmental response**

*The independent remuneration panel will make recommendations to the Minister on the system and maximum amount of the various allowances payable to councillors. Councils will retain the power to determine the amount of each allowance for members, provided it does not exceed the maximum amount set by the Department.*

**Comment**

One respondent also asked if the costs associated with the establishment of the panel would outweigh the benefits of changing from current practice.

**Departmental response**

*The costs of the panel have been estimated at less than £20,000 per annum. Also, this will not be a permanent panel but will only meet as and when required to carry out a review as directed by the Minister. Northern Ireland is the only part of the United Kingdom where there is no independent body to consider the level and system of councillors' allowances. The establishment of the panel will therefore bring Northern Ireland into line with the rest of the United Kingdom.*

24. **Clause 35 provides that, for the purposes of this Part of the Bill, “councillor” includes a member of a committee or sub-committee of a council, whether a member of the council or not, and that expenses payable under clause 33(1) shall also be payable to officers.**

**Comment**

One respondent commented on this clause recommending the removal of the provision that includes an officer of the council in the definition of the term “councillor” on the basis that it equates paid members of staff already receiving a salary with elected representatives entitled to extra remuneration.

***Departmental response***

*The purpose of this clause is to enable payments to be made to officers towards expenditure incurred in attending conferences or meetings relating to the district or its inhabitants. It does not equate officers with councillors.*

#### **Part 4 – Miscellaneous powers to make payments**

25. **Clause 36 allows a district council to make payments for any purpose which in its opinion are in the interests of, and will bring direct benefit to, the council, its district or any part of its district, or the inhabitants of the district or any part of its district.**

##### **Comment**

Twelve respondents queried the need for this provision, given the proposals to introduce a general power of well-being.

##### ***Departmental response***

*It is proposed to include the general power of well-being in the forthcoming Local Government (Reorganisation) Bill. It is considered necessary to retain this provision until such time as that Bill comes into operation.*

26. **Clause 37 requires payments under clause 36 to be commensurate with the direct benefit accruing to its district or any part of its district or to the inhabitants of its district or any part of its district.**

##### **Comment**

Seven respondents recommended an amendment to the wording of paragraph 1, so that it would read "... shall not make payments under section 36 unless, in its opinion, the direct benefit accruing...".

##### ***Departmental response***

*The Department does not consider it necessary to amend this clause.*

##### **Comment**

Two respondents asked for guidance to ensure that a standardised assessment would be used by all councils when assessing whether the direct benefit accruing is commensurate with the payments to be made.

##### ***Departmental response***

*The Department would expect councils to use the guidance on economic appraisal in the public sector when assessing the costs and benefits of any proposed expenditure.*

27. **Clause 38 allows a council to make payments to a fund raised in connection with a particular event directly affecting persons resident in the United Kingdom under specified circumstances.**

**Comment**

Eight respondents asked for the provision to be extended to apply to circumstances or causes in general rather than being restricted to a particular event.

***Departmental response***

*The Department is not persuaded that there is a need to amend this provision.*

28. **Clause 39 places a restriction on the cumulative amounts payable under provision of clauses 36 and 38.**

**Comment**

Eleven respondents queried the need for this restriction in the light of proposals to introduce a general power of well-being for district councils.

***Departmental response***

*It is considered necessary to retain this provision until such time as the general power of well-being comes into operation as part of the proposed Local Government (Reorganisation) Bill.*

29. **Clause 40 allows a council to pay reasonable subscriptions to specified classes of associations or voluntary bodies.**

**Comment**

One respondent suggested that this should include where a council considers it necessary or desirable for an officer to hold membership of a professional body in connection with that officer's discharge of duties.

***Departmental response***

*The Department intends to include a provision that will enable a council to meet the costs of membership of a professional body in cases where the officer's membership of that body is considered necessary or beneficial in carrying out the duties of the job.*

## **Part 5 – Supplementary**

30. **Clause 43 places a requirement on the Department to consult with**
- **councils;**
  - **such associations representative of councils;**
  - **such associations representative of officers of councils; and**
  - **such other persons or bodies it considers appropriate**
- before making any regulations or Orders, or issuing any guidance, under the provisions of the Act.**

### **Comment**

Two respondents asked for assurance, or an express provision, for the Department to consult with joint committees.

One respondent requested absolute assurance that it would be included as a specified consultee.

### ***Departmental response***

*The Department intends to consult with councils, joint committees and trade unions as a matter of course.*

31. **Clause 46 provides that the title of the proposed Act will be the Local Government Finance Act (Northern Ireland).**

### **Comment**

One respondent expressed a view that, as Part 3 deals with payments to councillors and other expenditure issues, the Bill should bear the title “Finance and Expenditure Bill”.

### ***Departmental response***

*The Department does not consider it necessary to amend the title of the Bill.*

## **Departmental response to other comments – not linked to specific clauses**

32. **Comment** - One respondent disputed the reality of steps taken to modernise the legislative framework for local government finance, given the financial pressures on councils arising through the proposed introduction of three quangos- a Single Waste Authority, a Business Services Organisation and a Municipal Bank.

### ***Departmental response***

*The Bill is concerned with the day to day financial arrangements of councils and payments by councils. The Department considers it necessary and timely to modernise the legislative framework for local government finance and payments to councillors. The proposals for a Single Waste Authority, a Business Services Organisation and a Municipal Bank are linked to local government reorganisation and are therefore not matters for this Bill.*

33. **Comment** - Two respondents asked why the draft Bill had been screened out for an equality impact assessment, particularly with regard to the equity of the rates support grant, which is of major importance.

### ***Departmental response***

*Clause 27 gives the Department the power to make regulations for determining the amount of the rates support grant. Such regulations will be screened for equality impact, and will also be subject to consultation.*

34. **Comment** - One respondent expressed concern over the issue of loans from the Department of Finance and Personnel for the implementation of the local government aspects of the Review of Public Administration. The respondent was concerned that this would impact severely on future staffing levels and provide for unfair differential treatment between local government and other RPA sectors, specifically regarding the funding of a voluntary early severance scheme.

### ***Departmental response***

*Financing the costs of local government reorganisation is not a matter for this Bill.*

35. **Comment** - One respondent recommended that the Department take the opportunity to specify the provisions that would apply to joint committees, similar to Schedule 7 to the 1972 Act.  
Another respondent noted that the Bill does not extend, in general terms, to joint committees, and requested a provision to extend the provisions of the Bill, insofar as they are relevant, to joint committees.

***Departmental response***

*The Department does not consider this to be necessary.*

*Also, as the work of joint committees varies it would not be appropriate to apply the provisions of the Bill to every joint committee. Where current financial provisions have been applied by order to a specific joint committee, subordinate legislation will be made to amend those orders.*

36. **Comment** - Eleven respondents expressed concern that the Bill does not make provision to support new initiatives and models for service delivery, such as introducing powers for councils to participate in public private partnerships or public finance initiatives.

***Departmental response***

*This is being taken forward in Part 1 of the Local Government (Miscellaneous Provisions) Bill 2010, which is currently awaiting Royal Assent.*

37. **Comment** - Nine respondents noted that the Draft Finance Bill does not provide for the signing off of the accounts of the existing twenty-six district councils for 2010-11.

***Departmental response***

*This is not a matter for this Bill. Arrangements for the signing off of the accounts of the 26 councils for 2010/11 are being considered by the Strategic Leadership Board and the Regional Transition Co-ordinating Group.*

38. **Comment** - Two respondents asked for clarification on whether section 59 of the Local Government Act (Northern Ireland) 1972 was to be repealed.

***Departmental response***

*Section 59 of the 1972 Act is included in the Schedule of Repeals.*

39. **Comment** - Eight respondents asked for the repeal of section 96(5)(a) of the 1972 Act, which currently requires all disposals of land for less than best price to be approved by the Department, and replace it with a power enabling the Department to specify in regulations the purpose and limitations applicable to such disposals.

One of those respondents expressed the view that the current role of the Department was not compatible with the proposed introduction of the power of well-being, but also stated any such regulations should include safeguards and scrutiny mechanisms to prevent any possible malpractice.

**Departmental response**

*This is not a matter for this Bill. Also, the Department is not persuaded that the requirement for councils to obtain approval for disposals of land at less than best price should be removed.*

40. **Comment** - Seven respondents asked for the limit specified in section 100 of the 1972 Act (which currently permits a council to make contracts up to £30,000 in value without use of the common seal of the council) to be updated. These respondents recommended that the Department should have the power to amend the limit by regulation.

**Departmental response**

*Section 100 (1A) of the 1972 Act already enables the Department to amend this financial limit by order. The Department will continue to work with councils through bodies such as the Association of Local Government Finance Officers (ALGFO) on this issue.*

41. **Comment** - Three respondents recommended that the Bill should make provision for the inclusion of social clauses in public procurements.

**Departmental response**

*The Department is considering making provision for social clauses by way of an order under section 2 of the Local Government (Best Value) Act (Northern Ireland) 2002. It is not necessary to make provision for social clauses in primary legislation.*

42. **Comment** - One respondent stated it would welcome a framework to support regional or co-operative approaches, for example, taking advantage of shared services or avoiding duplication of resources in neighbouring areas.

**Departmental response**

*This is not an issue for this Bill. The Strategic Leadership Board is considering options for future collaborative work between councils. If statutory provision is needed, it will be taken forward in future legislation.*

43. **Comment** - One respondent indicated that the full implications for joint committees of the Review of Public Administration would not be known before the closing date for responding to this consultation exercise. It asked for the inclusion of provisions in the Bill that would allow for flexibility as more RPA-based financial issues emerge.

**Departmental response**

*Financial issues relating to the reform of local government are being considered by the Strategic Leadership Board and the Regional Transition Co-ordinating Group. Any matters that require legislative measures will be included in the forthcoming Local Government (Reorganisation) Bill.*

44. **Comment** - One respondent asked, in the event of any delays to the legislation for the local government aspects of RPA, for consideration to be given to introducing the power of well-being in the Finance Bill. In addition, the respondent recommended that consideration be given to developing the power of well-being along the lines of the “power of competence in relation to functions” that operates in some countries in Europe.

***Departmental response***

*It is not considered necessary to move the provisions on the power of well-being from the Local Government (Reorganisation) Bill to the Local Government (Finance) Bill.*

45. **Comment** - One respondent stated that, in order to deliver better value to the public purse, councils and joint committees should be able to make capital contributions to capital projects to minimise long term costs, particularly the cost of finance charged. It clarified this by adding that the ability of local government to borrow at more competitive rates, and often for longer periods, than the private sector could result in more cost effective solutions for the public sector, particularly in the case of large scale capital projects which often create long term financial liabilities for councils.

***Departmental response***

*The Department assumes that the comment is about the ability of councils and joint committees to enter into PPP/PFI contracts. The Local Government (Miscellaneous Provisions) Bill, which is currently awaiting Royal Assent, will clarify the powers of councils and certain joint committees to enter into such contracts.*

46. **Comment** - Four respondents noted that the detail of the new financial framework will be provided in regulations, and expressed concern over the content, resource implications, timing and procedure for regulations.

***Departmental response***

*The Department will continue to work with councils through bodies such as the Association of Local Government Finance Officers (ALGFO) when developing the regulations. As required by clause 43, the Department will consult on regulations before they are made.*

47. **Comment** - One respondent requested that monitoring of councils under the new statutory financial framework should be “light touch” and incorporated into the existing audit cycles.

***Departmental response***

*Noted.*