

GOVERNANCE SUB GROUP POLITICAL PARTY REPRESENTATIVES

MINUTES OF MEETING ON 7 JUNE 2006

AT LOUGH NEAGH DISCOVERY CENTRE

ATTENDEES:

Victor Brownlees	Armagh City & District Council (Chair)
Nora Winder	Armagh City & District Council
Gerry Miller	Belfast City Council
John Mathews	Alliance Party
Paul Butler	Sinn Fein
John O'Kane	SDLP
Billy Armstrong	UUP (representing Danny Kennedy)
Jonathan Huish	IDeA
Mylene Ferguson	DoE
Piers Dalgarno	DoE
Greg Magee	DoE

Apologies:	Peter Robinson	DUP
	Danny Kennedy	UUP

1. Following introductions the Chair welcomed everyone to the meeting and advised that its purpose was to ensure he had an accurate picture of the opinions among the political party representatives following the bilateral meetings held previously. He advised that the aim of the sub group was to identify the key issues, consider what has to be legislated for and try to get a collective view on Governance.

Terms of Reference

2. The Chair asked if there were any further views on the group's terms of reference (ToR). No comments were made and the ToR were agreed.

Finding So Far

3. The Chair then gave a presentation on progress to date explaining how he had carried out a number of interviews with the individual party representatives, party policy officers, academics and representatives from the Scottish Executive and Departments in the Republic of Ireland. These interviews together with the input of the political representatives would inform an issues paper on Governance which would be presented to the Taskforce Working Group and Political Panel.

The Chair advised that the role of local government falls into three categories:

- Democratic Accountability

- A sense of place
- The ability to bring together people and organisations.

He then went on to discuss the main issues that would have to be addressed.

Standards and Behaviour

4. The challenge is ensuring that the new Governance structures to be put in place are fit for purpose as the current system is not. The Chair advised of the need for a constitution or contract with citizens. A code of conduct will be required which is mandatory and has sufficient sanctions and greater performance assessment with an internal standards committee and external oversight. The representative from DOE legislative team advised the meeting that a working group was currently developing a Code of Conduct.

Councillor/Officer Relationships

5. There is also a need for a protocol to give a clear definition of roles and responsibilities and lines of accountability for councillors and officers. The Chair further advised that there should be designated and separate roles for posts such as Head of Paid Service, Monitoring Officer and Chief Financial Officer with robust appraisal systems for senior managers and the management team. The importance of capacity building for both elected members and chief executives was stressed and agreed.

Role of Councillors

6. Councillors should be civic leaders and representative of everyone in their district. The services they provide will greatly increase post RPA and they will be responsible for the development of both local and regional policy together with the implementation of Government policy. These roles and the tensions between them must be recognised and provided for.

Structures

7. New open and transparent structures will have to be put in place to deal with new regional responsibilities eg planning and building control. Local area committees or civic councils should be set up to retain local identities. The IDeA representative gave an explanation of the Welsh structures – a mix of cabinet and management board. He also agreed to provide a paper on the Welsh model for the next meeting. The importance of retaining a civic dignitary role was stressed which should be rotated among the parties. The Chair advised that this could be determined by the civic committee.

Civic Responsibility Sharing

8. On the issue of sharing civic responsibility the Chair advised that from his previous talks with members, the general consensus was that a system of 50%+1 was insufficient. It was essential that minority groups have a voice. There was some discussion over proportionality and whether this should be set in legislation. It was suggested that the increased powers and decision making should not be left open to each council. It was also suggested that the increase in powers should result in power-sharing. The Chair advised that the general consensus emerging was a need to be prescriptive in primary legislation on proportionality and which models to be used with Ministerial approval being required for any other model. It was suggested that a quicker system of call-in would be required to ensure effectiveness and confidence – internal at first, then external and finally through the courts.

Local Engagement – accountability to citizens

9. On the issue of local engagement and accountability there would be a responsibility on councils to engage with citizens. Consideration should also be given to a citizen's petition and local referenda.

External Checks & Validation

10. The Chair advised that in addition to the Equality and Human Rights Commissions and the Ombudsman there is a need for an oversight commission and an increased role for the Audit Office. It was suggested that more than one external check would be required to ensure confidence from all sides but that any commission would have to be strong, flexible and have sufficient sanctions to make it effective. This was agreed in principle. Speed of resolution is essential to save time and money. It was suggested that bodies such as the Ombudsman tend to drag the process out. A new performance assessment model will be required. The Comprehensive Performance Assessment tool used in England has made the performance of councils much more open and visible however they are now moving to a new more flexible system. The Chair advised that another sub group was taking this work forward.

Councillor Participation in other Bodies

11. The Chair commented on the possibility of a conflict of interest where members serve on joint committees, cross border bodies, limited companies or other corporate bodies. It was pointed out though that there are no nominations now to outside bodies. Appointments are made based on the merits of the applicants.

12. The Chair asked members to consider all the information that had been provided and consider what has to be legislated for, what else needs to be considered and what will go into the final report of the sub group.
13. The issue of flags and emblems was raised and it was agreed that the Department would provide a response on this.

Dates for meetings

14. Wednesday 14 June @ 9.30am at Lough Neagh Discovery Centre
Tuesday 27 June @ 9.30am at Seagoe Hotel, Portadown

Monday 12 June – Chairs' updates to the Political Panel

Tuesday 4 July – Chairs present final reports to Working Group

Monday 17 July – Chairs present final reports to Political Panel

GOVERNANCE SUB GROUP POLITICAL PARTY REPRESENTATIVES

MINUTES OF MEETING ON 14 JUNE 2006

AT LOUGH NEAGH DISCOVERY CENTRE

ATTENDEES:

Victor Brownlees	Armagh City & District Council (Chair)
Nora Winder	Armagh City & District Council
Gerry Miller	Belfast City Council
John Mathews	Alliance Party
Paul Butler	Sinn Fein
John O'Kane	SDLP
Arnold Hatch	UUP (representing Danny Kennedy)
Jim Wells	DUP (representing Peter Robinson)
Jonathan Huish	IDeA
Mylene Ferguson	DoE
Piers Dalgarno	DoE
Greg Magee	DoE

Apologies: Peter Robinson DUP
 Danny Kennedy UUP

15. The Chair welcomed everyone to the second meeting of the sub group political representatives. He advised that the group must be clear about what could be achieved by the end of June although the Minister had agreed to allow some slippage in the deadline. He suggested two key areas that the group should concentrate on:

- a. Identifying the key issues to be addressed; and
- b. Considering what has to be legislated for in the new Local Government Order and what can be parked for consideration later.

16. The IDeA peer then asked members for suggestions of the key issues that they felt had to be addressed. The following points were agreed:

- i. Code of Conduct
- ii. Representation, including proportionality
- iii. Citizen Focus
- iv. Safeguards
- v. Councillor/Officer Relationships
- vi. Decision Making
- vii. Default Power
- viii. Local Government Commissioner

In addition to these the Chair suggested an Internal Standards Committee, Split responsibilities and Regulatory & Quasi Judicial functions as issues for consideration.

The representative from the DOE legislative team advised that a draft Report was currently being prepared in relation to Code of Conduct which would require Ministerial approval, and it was hoped that it would be ready early July.

17. The IDeA peer next asked members to detail which of the key issues identified had to be legislated for and the following list was agreed:

- i. Code of Conduct
- ii. Safeguards, internal/external and split responsibilities
- iii. Councillor/Officer Relationships
- iv. Central/Local Government Relations
- v. Regulatory & Quasi Judicial Functions, eg. Planning/Licensing
- vi. Audit Committee

18. The group then considered the remaining key issues from the initial list.

Representation

Members suggested that the two key considerations under representation were proportionality and the allocation of posts. It was agreed that a general principle of proportionality should be established together with a menu of options of different models which would be objective and reflect the make up of the community.

It was suggested that the total number of votes received by a party should be taken into account rather than just the votes received by successful candidates. This may ensure greater representation.

It was also suggested that all senior positions should be split to ensure fairness and that this should be prescribed. It was argued however that over prescription could result in stunting the process.

Other issues for consideration included the need for a mechanism for agreeing which option to use and what would happen in the interim period while this decision was being made.

Decision Making

It was suggested that the two main decision making issues are:

- a. The major council decisions, eg setting rates; and
- b. Those operational decisions around running normal council business.

Some discussion followed on various models such as committee systems, management boards and cabinets. The IDeA peer advised

that decision making in Wales follows a Council – Cabinet – Scrutiny style.

A question was raised over the call-in procedure. It was suggested that if all councillors were content with decisions being made, then no one would call-in, for example decisions around planning applications. Possible solutions included ensuring there was an external check, an increased role for the Local Government Auditor (with a widened CPA role), an oversight function in Central Government, the Ombudsman (although this has considerable financial restrictions) and judicial review.

It was also suggested that the call-in procedure could be used as a delaying tactic, slowing the decision making process. Consideration may be given to curtailing the number of times a member can call-in during the year.

5. The next meeting of the group is 9.30am on 27 June 2006 at the Seagoe Hotel, Portadown. The Chair advised he would check the availability of the IDEA peer and a further meeting may be arranged.

GOVERNANCE SUB GROUP POLITICAL PARTY REPRESENTATIVES

NOTE OF MEETING ON 30 JUNE 2006 AT LOUGH NEAGH DISCOVERY CENTRE

ATTENDEES:

Victor Brownlees	Armagh City & District Council (Chair)
Nora Winder	Armagh City & District Council
Gerry Miller	Belfast City Council
Peter Robinson	DUP
John O'Kane	SDLP
David Ford	Alliance Party
Danny Kennedy	UUP
Jonathan Huish	IDeA
Alex Maskey	Sinn Fein
Piers Dalgarno	DoE
Janet Cooper	DoE
Greg Magee	DoE

Apologies: John Mathews	Alliance
Paul Butler	Sinn Fein

1.0 **Background**

1.1 A copy of the draft final report of the governance sub group was distributed to the political representatives for discussion. The report identifies key issues relating to governance arrangements for local councils in the context of both the review of public administration decisions and the local government modernisation agenda. It sets out a series of recommendations which if agreed will require legislation and / or guidance to be put in place.

1.2 The Chair explained that the draft report had been drawn up following the meetings held with the political representatives to date when discussion had taken place on the combined research, consultation and information contributed by the consultative forum made up of officers from local government, voluntary & community sector and central government departments.

2.0 **Key governance issues identified in the draft report**

2.1 **(1.1.1) Equitable representation / sharing of civic responsibility**
It was agreed that there was a requirement for proportionality to be enshrined in legislation. Guidance should provide councils with the default arrangement and a menu of proportionality models to select from. Councils may adopt any of these models however any departure from the menu will require approval by the Minister.

3.0 **(2.1.1& 2.1.2) Safeguards checks and balances**

3.1 Although the positions of the ombudsman and local government auditor are already covered in legislation, further consideration needs to be given to the roles they might play in terms of assessing the performance of councils.

3.2 **(2.1.3)** - Section should be changed to read “Existing Equality obligations to remain though there **is** a need to review the efficacy of the arrangements for ensuring public bodies fulfil these obligations”.

3.3 **(2.1.4)** – It was agreed that any new Performance Assessment Framework requiring councils to demonstrate adherence to best practice in corporate governance should include sanctions / penalties for failing councils, in order to make the system effective.

3.4 **(2.1.6)** – Discussion took place regarding the mandatory “Code of Conduct” and it was agreed that the guidance should include penalties for breaches of the code.

3.5 **(2.1.7)** – The Chair clarified issues around the member / officer protocol and the inclusion of senior council officers within the code of conduct.

3.6 **(2.1.8)** – Discussion followed about whether complaints raised by members of the public could be addressed through a council’s standards committee.

3.7 **(2.1.9)** – It was accepted that provision should be made for an external point of reference to hear concerns over conduct, behaviour or actions by individuals or groups of councillors. The guidance should clarify to whom reference is made, including the sanctions.

3.8 **(2.1.10)** – It was agreed there should be a division of responsibility between the roles of Chief Executive / Head of the Paid Service, Chief Finance Officer and Monitoring Officer (Head of Legal Services).

3.9 **(2.1.11)** – It was agreed that councils should establish an Audit Committee, to agree the internal audit plan, monitor its implementation and consider reports from the Local Government Auditor.

4.0 **(3.0) – Decision making and accountability**

4.1 **(3.1.1)** – The issue of weighted majority voting will be discussed at the next meeting on Thursday 6 July 2006.

4.2 **(3.1.2)** – With regard to open meetings, guidance should clearly set out the circumstances where meetings are held in private, eg when dealing with staffing matters and where an issue is commercially sensitive.

- 4.3 The next section, “consideration is being given to possible scrutiny by an Assembly Committee” was deleted.
- 4.4 **(3.1.3)** - Discussion followed regarding the requirement for each council to have a written constitution. Guidance should include advice on the content of the constitution which is seen as essentially a citizen’s charter, setting out the council structure, standing orders, etc.
- 4.5 **(3.1.4)** – The council’s regulatory and quasi judicial responsibilities should be made more explicit and councils required to establish necessary mechanisms for carrying out these roles eg planning and licensing.

The IDeA peer explained that in Wales, up to 80% of such matters are dealt with by officers. Elected members are not permitted to discuss for example planning applications with constituents and declaration of interests by elected members in relation to planning applications are much more stringent than Northern Ireland. IDeA’s advice was to take a more moderate approach to this issue than Wales.

It was suggested that a capacity building programme needed to be put in place to carry out the new transfer of functions.

- 4.6 **(3.1.5)** – Legislation should be put in place to require councils to have effective mechanisms in place to assist in the structuring of their decision making processes, eg taking decisions, scrutinising their impacts / outcomes, co-ordinating corporate interests of the council, monitoring performance, developing policy, consultation and holding other bodies to account for services delivered to citizens within particular council areas. Guidance will include a range of options for councils to choose from. Should a council wish to adopt any other approach, this will require Ministerial approval.
- 4.7 **(3.1.6)** – It was accepted that councils should be required to publish an annual report. Currently there is only a requirement for councils to publish annual accounts. Guidance should set out the report format.
- 5.0 **(4.0) – Citizen engagement.**
- 5.1 The Chair explained that within the existing Best Value legislation there was a requirement for consultation. The Local Government Taskforce Community Planning sub group was majoring on a need for community engagement. There may be a need to strengthen the Best Value legislation to ensure there would be an effective vehicle for engaging with the citizen.
- 5.2 **(4.1.2)** – It was agreed that enabling legislation should be put in place allowing councils to establish forums at a local level if they chose to do so. Guidance could include how to set up these forums, including the applicability of partnership models. It was accepted that this was an

evolutionary process and in time these forums may not all be necessary with some councils choosing to wind up these local forums.

6.0 **Next meeting**

Next meeting of the political representatives will take place on Thursday 6 July at 10.00am in Lough Neagh Discovery Centre.

It was agreed that once the draft report is complete, it will be need to be discussed by the political parties in advance of the Local Government Taskforce Political Panel meeting on 17 July.

GOVERNANCE SUB GROUP POLITICAL PARTY REPRESENTATIVES

NOTE OF MEETING ON 6 JULY 2006 AT LOUGH NEAGH DISCOVERY CENTRE

ATTENDEES:

Victor Brownlees	Armagh City & District Council (Chair)
Gerry Miller	Belfast City Council
Peter Robinson	DUP
John O'Kane	SDLP
David Ford	Alliance Party
Danny Kennedy	UUP
Jonathan Huish	IDeA
Paul Butler	Sinn Fein
Piers Dalgarno	DoE
Mylene Ferguson	DoE
Janet Cooper	DoE

Apologies: John Mathews Alliance

1.0 Minutes of previous meeting (30 June 2006)

The minutes of the meeting held on 30 June 2006 were agreed subject to the following amendments.

- 1.1 Para 2.1- Equitable representation / sharing of civic responsibility; should be amended to read "It was agreed that there was a requirement for proportionality to be enshrined in legislation. Guidance should provide councils with the default arrangement and a menu of other proportionality models to select from. Councils may adopt any of these models however any departure from the menu will require approval by the Minister".
- 1.2 Para 3.5 – The Chair clarified issues around the member / officer protocol and the inclusion of senior council officers within the code of conduct
- 1.3 Para 4.5 – Regulatory and quasi – judicial responsibilities of the council; should be amended to read "The IDeA peer explained that in Wales, up to 80% of such matters are dealt with by officers. Elected members are not permitted to discuss for example planning applications with constituents and declaration of interests by elected members in relation to planning applications are much more stringent than Northern Ireland. IDeA's advice was to take a more moderate approach to this issue than Wales".
- 1.4 Para 4.6 – Legislation should be put in place to require councils to have effective mechanisms in place to assist in the structuring of their

decision making processes eg taking decisions, scrutinising their impacts / outcomes, co-ordinating corporate interests of the council, monitoring performance, developing policy, consultation and holding other bodies to account for services delivered to citizens within particular council areas. Guidance will include a range of options for councils to choose from. Should a council wish to select any other approach, Ministerial approval will need to be sought.

2.0 Matters arising

- 2.1 (2.1.6 of the report) – The Chair advised that he had spoken to the DoE Permanent Secretary regarding the “Code of Conduct” currently being drafted by Local Government Division and it was agreed that the political representatives would have sight of the draft before approved by the Minister.
- 2.2 (3.1.6 of the report) – Discussion ensued about the requirement for councils to publish an annual report. It was accepted that varying degrees of detail could be issued to different bodies, groups or individuals depending on their particular interest.
- 2.3 (4.1.1 of the report) – Citizen engagement. It was agreed that although councils should be required to engage with their local citizens, it was important that enabling legislation only should be put in place allowing councils to decide what suits the needs of their particular area.

Further consideration needed to be given to the specific functions to be carried out by these local forums.

3.0 Decision making and accountability – weighted majority, “call in”

- 3.1 A paper with the following sections was issued for discussion, (can be viewed at www.doeni.gov.uk/lgd/localgovreform, under governance). The figures used are based on certain assumptions which are clearly set out at the beginning of each of the following sections.
- i. overview of the application of D’Hondt;
 - ii. A percentage breakdown of electoral seats within the 2008 reconfiguration of local councils;
 - iii. Application of D’Hondt for the appointment of the Chairman and Deputy Chairman of 5 principle committees;
 - iv. Application of D’Hondt for the appointment of the Lord Mayor and Deputy Lord Mayor.
- 3.2 The IDeA peer explained how the “call in” process operates within local government in Wales.

Discussion ensued regarding:

- * the number of members required to “call in” a decision;
- * should certain decisions should be exempt from the process;
- * whether a limit should be imposed on the number of times a councillor can sign in any one year to prevent a small group of councillors from frustrating council business;
- * the merits of the Assembly “call in” mechanism and;
- * pre-emptive v retrospective “call in”.

3.3 It was agreed that a threshold of 20% of members should be set to allow “call in” on any decision with a weighted majority vote of 75% to carry it. Weighted majority voting should only be required if the “call in” procedure was initiated. If deadlock exists, opportunity should be provided for reconsideration / negotiation with a fall back requiring external intervention, probably by the Minister, if agreement cannot be reached. This would not replace any of the other appeals mechanisms already in place.

4.0 The Chair advised that the final report would be amended to reflect the added changes discussed at the meeting. The report would then be tabled for discussion along with the other sub group reports at the Political Panel meeting on 17 July 2006.