

Emerging Proposals from PDP A on Governance Arrangements and Central / Local Relations

Agenda Item: 3

Summary: Outlining the Panel's emerging proposals in relation to the governance arrangement for the new councils, post 2011, and the framework for the formalisation of relations between central and local government.

Action Required: To note.

Background

1. Policy Development Panel A was tasked by the SLB with the development of recommendations on policy and implementation proposals in relation to governance, a council-led community planning process, and relations between central and local government. The Panel has now met on five occasions to discuss governance arrangements and central / local relations.
2. The attached paper represents a 'work in progress' on the development of policy proposals on these two issues. These emerging proposals provide a framework for further discussion to inform detailed recommendations that will be submitted to the SLB at its November meeting.
3. Members are invited to note the emerging proposals and the direction of travel in the work of the Panel.

POLICY DEVELOPMENT PANEL (GOVERNANCE, COMMUNITY PLANNING & CENTRAL / LOCAL RELATIONS)

EMERGING PROPOSALS

Summary: **Outlining the Panel's emerging proposals in relation to the governance arrangement for the new councils, post 2011, and the framework for the formalisation of relations between central and local government.**

Background

1. In response to Minister Foster's statement of 31 March 2008 on the future shape of local government, the Strategic Leadership Board agreed the establishment of three Policy Development Panels to support the reform and modernisation programme. Policy Development Panel A is tasked with the development of policy and implementation proposals in relation to governance arrangements for the new councils, the council-led community planning process, and the formalisation of relations between central and local government.
2. The Policy Development Panel has met on five occasions and this paper sets out members emerging proposals in relation to governance arrangements and central / local relations. A workshop will take place on 9 October to focus on the council-led community planning process and proposals in relation to the overarching framework for this important new responsibility will be developed subsequently.
3. In developing the proposals members took the decisions announced by Minister Foster as the statement of the policy objectives, and used the reports from the relevant Taskforce Sub-groups as the starting point. Additional desk research was undertaken to provide members with details on developments in other jurisdictions, particularly in relation to governance arrangements.

Governance

4. In relation to governance the policy objective, drawn from Minister Foster's statement, is the development of arrangements with appropriate checks and balances that are designed mindful of the need to ensure effective and inclusive local democracy, to protect the rights of minorities, to prevent any direct or indirect discrimination, and to promote the need of equality of opportunity. These would include arrangements to allocate Council Chairs, Deputy Chairs and positions on Council committees and to facilitate cross community decision making. The aim of the new council governance arrangements is to ensure the protection of the rights of all people in Northern Ireland, and provide for fair, transparent and efficient decision making.
5. In the context of this strategic policy objective members agreed that the management Terms of Reference for this project be defined as:

'To bring forward proposals for governance arrangements that provide for effective, efficient and transparent decision making by Councils, with appropriate checks and balances, taking account of Councils additional service delivery and community planning responsibilities.'
6. The policy objective and the Terms of Reference were translated by the Panel into the following key drivers for change against which the various issues were considered and assessed:
 - i. Efficient and effective decision making
 - ii. Checks and balances
 - iii. Proportionality in allocating key positions
 - iv. Transparency and Oversight
7. Members also expressed the view that the governance arrangements should recognise the importance of the role of a councillor and that there should be capacity building opportunities for all councillors to enable them to perform their civic representative role effectively. The business of council should also be

organised to allow as many people as possible to consider becoming, or remaining a councillor.

8. After considering the work of the original Taskforce's Governance Sub-group, and the additional research material provided by the joint secretariat, members have agreed a range of emerging proposals in relation to governance arrangements for the new councils.

Decision Making Structures

9. In relation to decision making and the political management structures that will operate in the new councils, members have agreed that a short list of options would be provided in legislation. Individual councils would have the flexibility to decide on the structure that is most appropriate for their circumstances. It is proposed that the list of options would be:
 - **Traditional committee style system**
 - **Streamlined committee style system**
 - **Cabinet style** – in this option membership would be decided through a Voluntary Coalition comprising of one or more parties.
10. In order to protect the rights of minorities, to prevent any direct or indirect discrimination, and to promote the need of equality of opportunity, it was agreed that proportionality would be a key principle underpinning each of the available options. As a further check and balance it was agreed that the selection of the decision making structure would be a Key Council Decision. The definition of Key Decisions and the application of a 'weighted majority' vote to such decisions will be explored further by the Panel.
11. The streamlined committee style system and Cabinet style structures by their nature provide for the devolving of a range of decisions from full Council. For these models members therefore agreed that provision must be made for effective scrutiny arrangements.

12. Whilst there was agreement amongst the members in relation to the political governance structures that would be available to the new councils there was nevertheless an acknowledgement that there could be circumstances where a council may not be able to agree on a specific model. It was therefore agreed that provision would be made for a 'default model' that would contain the following key elements:

- **the opportunity to devolve powers;**
- **a Scrutiny Committee where powers are devolved; and,**
- **an overarching Central Policy committee.**

Proportionality

13. As indicated above members agreed that proportionality would be a key principle underpinning the new governance arrangements. In relation to the arrangements for the allocation of key civic positions, including Chairs and Deputy Chairs of Committees and representative positions on external bodies, members considered that the following methodologies should be available:

- **D'Hondt**
- **Saint Lague**
- **Single Transferable Vote**

14. Members agreed that the allocation methodology would be applied to an agreed predetermined list of key positions, including those for membership of external bodies, for the full 4 year term of the Council. In setting the list account must be taken of possible variable conditions applying to outside bodies e.g. geographical constraints, and limited timescale of appointment. The list of key positions would be informed by the Council's decision on the decision making structure to be adopted. Any additional key positions identified over the 4yr period would be allocated by continuing the application of the proportionality model adopted by council.

15. The list of key positions would be agreed by Council. This decision would be defined as a Key Council Decision and as indicated above further work is required on this aspect and the application of a 'weighted majority' vote. In the absence of agreement on the methodology to be applied the default would be the application of D'Hondt over the council term.
16. In relation to the membership of committees it was agreed that positions would be allocated, over the 4 year term, by the following methods:
 - **Greatest Remainder, or**
 - **Droop quota**

The default model for committee membership would be Greatest Remainder.

Standards & Oversight

17. Work on the ethical standards regime for councils had been taken forward separately by the Code of Conduct Working Group as part of the modernisation agenda. This group had recommended following the Welsh system for ethical standards, but that the principles in the recommended Code of Conduct should mirror those for the Assembly Ethical Standards. Panel members agreed the broad recommendations, but some members expressed strong concern over the role of independent members on the proposed Standards Committee. Members requested that further research be undertaken in relation to the role of the proposed Monitoring Officer and the Pledge of Office for Councillors. Members also indicated that consideration would need to be given to a protocol on relations between Councillors and Council officers.
18. Panel members acknowledged the requirement for an enhanced role for the Local Government Auditor, following the reorganisation and the transfer of functions from central government. It was agreed that the determination of this enhanced role would best be informed in the context of the development of the proposed Performance Management framework.

Transparency

19. Transparency in the operation and the decision making processes in councils has been a consistent theme in the reform of local government in other jurisdictions. Members recognised that openness can be a key element when seeking to ensure the engagement of local citizens in the democratic process.
20. In order to support the achievement of this objective, members expressed the view that there should be a presumption that decision making would be open to the public, but that this needs to be tempered by the need to progress the business of Council effectively. In addition, members agreed that the new councils should be required to prepare and publish a 'Constitution', which would set out details on how the Council operates, including its Standing Orders and decision making processes, and an Annual Report. The detail on the content of each of these documents will be the subject of further research and discussion.

Central / Local Relations

21. For this strand of the Panel's deliberations members considered the policy objective to be the development of appropriate mechanisms to provide for the optimum partnership between central and local government in carrying out their separate but inter-related functions in the provision of efficient and effective citizen centred services. Flowing from this members agreed the following management Terms of Reference:

'To develop the framework to underpin the formalisation of relations between the Northern Ireland Executive and local government on matters of mutual interest and concern.'

22. Members considered the report from the Taskforce's Sub-group on Central / Local Relations finalised in July 2006 and agreed that the establishment of a statute based Partnership Panel, along the lines of the Welsh model, remains an appropriate mechanism for the formalisation of relations. It was further agreed that a framework of key principles should be developed to underpin the relations.

APPENDIX 1

Comments received from Panel members

DUP

- Para 4 At the end insert 'in accordance with the democratic process.'
- Para 7 Remove 'civic representative'. Use of the term civic in LG circles often implies ceremony rather than substance.
- Para 9 Cabinet style bullet point– after 'parties' insert 'Parties reserve the right to choose to opt out of the cabinet in preference for other positions in accordance with their own Party priorities.'
- Para 10 Helpful if 'each' was in bold type.
- Para 11 We should stipulate that the extent of powers devolved will be agreed by the council itself.
- Para 12 Insert additional bullet point, placed first, 'Based on the committee system'.
- Para 12 Current Second bullet point. To avoid confusion we should remove the 'where' and replace it with 'in the event that'.
- Para 15 'Key positions would be agreed by council.' It was our understanding that the PDP had agreed what the key positions to be included were and that they should be stipulated. This would, by and large, ensure there were no large variances between councils using the same structure and also renders D'Hondt as proportionate as possible.
- Key positions were agreed as being and should be stipulated as: Council Chair / Vice Chair / Mayor / Deputy Mayor; Chairs and Vice Chairs of council committees; cabinet positions (where applicable); all external appointments.
- Para 17 There may be confusion between the Code of Code of Conduct Working group and PDP A. At the start of the second sentence, 'This group' should be changed to 'That group'.
- Para 17 References to protocols between Councillors and Council Officers should always read 'Senior Council Officers' as was agreed at the last meeting. The more junior officers are covered by their contracts.
- Para 18 'Enhanced' role for the Auditor. This is misleading. Enhanced implies that the powers remain the same but he/she is given additional powers. It is my understanding that we are looking at **changes** to the role to make it more appropriate for what is required.

SDLP

Para 9 Cabinet style in this option membership would be decided through a Voluntary Coalition----is it not could be decided-----also Voluntary Coalition needs to be explained i.e. a party or parties may choose not to take up seats but be on Scrutiny instead. A cabinet can be set up using D'Hondt or St. Lague

Alliance

Para 14 We would like to see it made explicit that the posts of Mayor and Deputy Mayor must be rotated every year. This was clearly the consensus view of last week's meeting of Policy Development Panel A but is not reflected in the Emerging Issues Paper.