

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

GOVERNANCE POLICY PROPOSALS

Agenda Item: 3

Summary: Providing further detail on aspects of the Panel's agreed proposals in relation to the governance arrangements for the new council's post 2011.

Action Required: For discussion and agreement.

Background

1. The policy proposals on governance arrangements tabled at the November meeting of Strategic Leadership Board indicated that further detailed work would be undertaken in relation to the 'call-in' procedure and the outworking of qualified majority voting. The Panel met on the 19 November 2008 to discuss these issues and members have agreed the following proposals.

Key Decisions

2. In examining the operation of a 'Call-in' procedure and Qualified Majority Voting members initially looked at which decisions would be excluded from the application of the procedures. They agreed that these should comprise decisions relating to statutory council duties e.g. making a rate, and those of a quasi-judicial nature, e.g. making bye-laws. It was further agreed that decisions on these matters would be taken on the basis of a simple majority vote. All other decisions would be open to the procedures, particularly if they are deemed to have a potential to raise equality issues.

Call-in procedure

3. Members consider that the 'call-in' procedure should be available for decisions to be taken by full council, including recommended decisions in the context of the

ratification of Minutes from a general Committee, and decisions taken under devolved arrangements. The criteria for the use of 'call-in', in both contexts, would cover procedural matters in relation to the decision, and issues in relation to the protection of minorities i.e. adverse impact on either the Nationalist or Unionist community. (The Alliance party representatives on the panel expressed the view that this wording does not take account of the much more diverse population in Northern Ireland.)

4. After considering the operation of the 'call-in' procedure in English local authorities there was consensus across the parties that it should operate in councils here in a similar manner to the 'petition of concern' in the Assembly. Members therefore propose that the facility should be provided for an agreed percentage of councillors to have a decision that gives rise to concern reviewed. There was consensus that the trigger for such a 'call-in' should be set at 15% of the total council membership, with the resultant figure always rounded up to the nearest integer. For example, in a 41 member council 6 members would only represent 14.6% of the total membership and thus the 15% trigger has not been achieved. In this case a minimum number of 7 members would be required.
5. Drawing on the experience in other jurisdictions, members propose that following a 'call-in' on procedural grounds an investigation would be initiated. The outcome of the investigation would then be considered by either the Scrutiny Committee (if established) or full Council, as appropriate. The Panel further propose that the Scrutiny Committee could only confirm the initial decision or refer it back to the initiating Committee for further consideration. It would have no authority to substitute a decision. The initiating Committee however shall have regard to any report from the Scrutiny Committee.
6. Where the 'call-in' procedure is used on the basis of the protection of minorities, i.e. adverse impact on either the Nationalist or Unionist community, members propose that an independent validation mechanism would be required, in order to avoid the potential for internal disputes. It is further proposed that all call-ins in this category would be referred to full council for final decision.

Qualified Majority Voting

7. Linked to the provision of a 'call-in' procedure members also propose that qualified majority voting (or weighted majority voting) should be made available within the governance arrangements for the new councils. The application of qualified majority voting to a limited number of specified strategic council decisions, and where deemed appropriate decisions that are the subject of 'call-in' is seen as providing additional protection for minorities.

8. In considering this proposal there was no support for the idea that the system of cross-community voting, as operates within the Assembly, be introduced into councils. It was argued that designation would work against the councils providing united, though diverse, civic leadership. Members acknowledged that it would be problematic to provide protection for those with limited representation on a council but that any system to provide checks and balances must allow for council business to proceed on an efficient and effective basis. Taking all these factors into consideration members propose that if and when required, the threshold for a qualified majority vote should be set at 80% of council members present and voting.

DOE/NILGA Policy Development Panel A Joint Secretariat

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