

Councillor Representation on Public Bodies

Discussion Paper, August 2008

1. Introduction

The NI Executive is in the process of developing new organisational arrangements in the context of the Review of Public Administration. NILGA members at the Strategic Leadership Board meeting expressed concern that there should be a clear and consistent approach to the appointment of councillors to non-governmental public bodies and that these should sit within the context of the new statutory arrangements between central and local government.

The purpose of this paper is to facilitate a wider discussion with a view to informing the development of a consistent approach in relation to the role of councillors on public bodies.

2. Current Arrangements to Make Public Appointments

There are a variety of mechanisms which departments use to appoint councillors to the boards of their Non Departmental Public Bodies. These mechanisms have been developed in line with Guidance from the Commissioner for Public Appointments and in consultation with her office. It should be noted that the guidance promotes the merit principle and does not allow for a political balance to be considered; indeed to discriminate on political grounds is unlawful.

Some examples of the practices used are set out below.

DE - Education and Library Boards (40% of places reserved for councillors nominated by Councils). There is no competition in this instance as the positions for councillors are set in legislation and are nominated by councils.

DSD

- NI Housing Council (one representative nominated by each council)
- NIHE - 8 members of the NI Housing Council are proposed annually by the NI Housing Council, two from each of the four main parties. The Minister selects four members to sit on the Board. The four members are appointed using the merit principle assessed using the 'conversation with a purpose' system recommended in the guidance.

DHSSPS – NILGA nominates 4 councillors to sit on the Board of the NI Fire and Rescue Service per electoral period. As this is a nomination process, no further assessments are made and NILGA ensures political balance.

DOE

- NI Local Government Officers' Superannuation Committee (5 nominations from Employers' Organisations and 5 from Employees' Representatives). These are publically advertised positions and appointments are made on merit.

- NI Local Government Staff Commission: These are publically advertised positions and appointments are made on merit.

3. RPA Decisions

The Minister for the Environment announced the Executive's decisions on the review of local government on 31 March 2008. In this context Ministers are considering the structural arrangements to support the delivery of their departmental responsibilities. Proposals include:

DE – Education and Skills Authority to have a majority of councillors on the board. (Local area based groups may also have local representation)

DSD – NI Housing Council is to have a strengthened role

DCAL – Libraries Authority is to have a majority of councillors on the Board

DHSSPS - Role for councillors on the Regional Health and Social Care Board [?] and on Local Commissioning groups

DOE – Currently reviewing the composition of NILGOSC

Post 2011

Subsequent to local government reorganisation in May 2011, it is proposed that there will be a statutory relationship between central and local government supported by a Partnership Council. Additionally, there will be formal mechanisms in place to support the development of Community Plans and Local Area or Outcome Agreements.

4. The role of Councillors

It can be seen from the role specifications detailed in Annex A that the role of councillors is primarily to oversee the effective management of the body and support it in the effective discharge of its functions. In the case of the NI Housing Council, the role of the body is slightly different in that the purpose of the Council specified in legislation is an 'advisory and consultative forum'.

However, in the future there may also be a role for councillors to represent their councils or the local government sector as a whole in the case when the body is dealing with local issues. For example it is likely that Local Health Commissioning Groups or Area Planning Groups in Education may want a level of representation to reflect the views of local communities.

5. Local Government Stated Position

NILGA has consistently lobbied for councillor involvement on the Boards of non-governmental public bodies. In the response to the initial RPA consultation, NILGA stated:

Local authorities should deliver local services.

- There should be a presumption that the maximum number of powers exercised by unelected bodies should be returned to Local Government or the Assembly.
- Where a decision is made to retain a public body or tribunal, clear lines of democratic accountability to Local Government or to the Assembly should be established in legislation.
- Where the boundaries are ill defined between regional and local delivery, there should be flexibility in delivery systems.

This view has been reiterated in subsequent policy documents and in summer 2007, NILGA wrote to the First and Deputy First Ministers reinforcing this view.

NILGA believes that it is crucial that local people, through their elected representatives, have the opportunity to contribute directly to the running of public bodies which provide such vital services to the people of Northern Ireland. Elected representatives bring knowledge of the local area that is of significant importance to the development of services which are responsive to the needs of local people. Rather than eroding the involvement of elected representatives on public bodies, we believe there is a strong case for increasing this involvement.

6. Key Issues and Questions

It is clear from the variety of procedures across government that there are a range of different practices emerging. These give rise to a variety of issues and questions.

1. The context of councillors serving on the Boards of Non Departmental Public Bodies is changing and there needs to be a consistent approach across Departments.
2. The new context of central/local government relationships is yet to be defined. The final model agreed for a statutory system may have an impact on the role of the councillors serving on Boards.
3. There is a need to have a clear understanding of the purpose and role of councillors on each body.
4. It is likely that on some of the new sub-regional bodies, there is a clear intention that local councillors should have a greater representational role as opposed to the more traditional role of public accountability only e.g. the Local Commissioning Groups and Area Based planning groups within Education. Where there is a representational role involved, it would be helpful if councillors were supported to represent the views of the body they are appointed from.
5. The mechanisms to support and train councillors to perform in these roles are extremely weak and the desirability of establishing support systems should be explored.
6. Where there are 11 appointees to a body it may be appropriate to seek one nomination from each of the new councils. If there are less than 11 appointees alternative appointing mechanisms could be explored. These could include nominations from NILGA, Groups of Councils etc.

7. Is there a need to secure political, geographic and gender balance for councillors serving on these bodies?.
8. Councils in GB are providing a useful scrutiny role at local level. While councillors sitting on boards will provide a level of scrutiny, local government should also explore further opportunities to enhance a greater scrutiny role within the new arrangements.

7. Developing a way forward

NILGA members discussed paragraphs 1-6 of this paper at the RPA working Group on the 18th June 2008. Members felt that the involvement of councillors in NDPBs was a significant issue which should be fully considered in a strategic manner across government.

NILGA affirmed the suggestion by the then Minister of the Environment Arlene Foster, that NILGA, in liaison with the DOE, should explore the issues and develop a paper as a framework to be agreed by the NI Executive. The final paper would then act as a framework document to inform the future involvement of councillors in Non Departmental Public Bodies.

Further work would include;

- Liaison with DE, DHSSPS and DCAL in relation to the proposed appointments to the Education and Skills Authority (and Area Based Planning Groups), Health Bodies, including Health Commissioning Groups, and the Libraries Board.
- Consultation with the Commissioner of Public Appointments
- Further discussion and consultation with local government representatives/Councils

The Minister is invited to support NILGA's proposals to take forward further work as set out above, and to write to colleagues in the Northern Ireland Executive to encourage Departments to consult fully with NILGA when considering the issue of local government representation on public bodies, in the spirit of partnership between central and local government.

Annex A Extract from Role Specifications

LGSC – Role of Members

Members have a personal responsibility to subscribe to the objectives and to the Code of Practice for Members of the Local Government Staff Commission. They also have corporate responsibility to ensure that the Commission discharges its statutory obligations.

The main tasks involved are:-

- to attend and participate in regular meetings of the Commission
- to chair/attend other related committee meetings as appropriate
- to carry out an observer role on appointment panels for district council senior officer posts
- to support the professional work of the Commission by assisting in the development of initiatives and related projects
- to act in the best interests of the Commission

NILGOSC Role of Members

The main tasks attached to the position of members are as follows:-

- to contribute to the development of strategies for the management of the fund and the promotion of policies for the safeguarding of assets;
- to contribute to the determination of procedures for the effective administration of the Scheme and compliance with the Regulations;
- to promote the efficient and effective use of staff and other resources;
- to encourage high standards of propriety and policies of openness and accountability;
- to maintain policies of equality of opportunity;
- to evaluate the advice, recommendations and performance of a wide range of professional advisers and managers in the areas of pension fund management and pension scheme administration.

Education and Library Boards - Role of Members

The Boards are mainly funded by the Department of Education; the Department of Culture, Arts and Leisure and the Department for Employment and Learning. Board members have a duty to ensure that Board activities are consistent with its functions as set out in the legislation and that it complies with all relevant statutes including Equality and Human Rights and ensuring the safeguarding of public funds including the promotion of propriety and value for money. Board members are required to:

- establish the overall strategic direction of the organisation within an agreed policy and resources framework;
- ensure that all activities are within the limits of statutory authority and of any delegated authority agreed with each Department and in accordance with any other conditions relating to the use of public funds;
- ensure that, in reaching decisions, the Board has taken into account any guidance issued by the relevant Department;
- participate in any departmental review of the Board;
- represent the Board on other bodies;

- appoint with the approval of the relevant Department, a Chief Executive and a Chief Librarian.

NIHE - Role of members

Members are expected to contribute to:-

- Formulating the Board's strategy for discharging its statutory duties;
- Evaluate and challenge existing policy on the basis of sound analysis;
- Set challenging performance standards and targets for the organisation;
- Ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Minister or the Department;
- Work successfully with others in small or large groups to achieve a common goal in set timeframes;
- Promote the good image of the organisation; and
- Commit the time required to represent the organisation and attend meetings

NI Housing Council – Role of Members

No formal role specification identified