

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

Agenda Item: 3.1

Summary: **Outlining the Panel's agreed proposals in relation to the governance arrangement for the new councils, post 2011, the framework for the council-led community planning process, and the framework for the formalisation of relations between central and local government.**

Action required: **For discussion and agreement**

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 six occasions and this paper sets out members' agreed policy proposals in relation to governance arrangements, community planning and central / local relations. Further work is required to develop detailed proposals in relation to the outworking of certain aspects of the governance arrangements and community planning that may potentially be provided for in subordinate legislation.
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. Members agreed that any arrangements to satisfy these objectives should also be in keeping with the democratic process.

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

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 policy 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 are of the view that a short list of options should be provided in legislation. Individual councils would then 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 system**
- **Streamlined committee system**
- **Cabinet**

10. In the cabinet option membership could be decided through a Voluntary Coalition comprising one or more parties. Parties would reserve the right to choose to opt out of the cabinet in preference for other positions in accordance with their own Party priorities.

11. In order to protect the rights of minorities, to prevent any direct or indirect discrimination, and to promote the need of equality of opportunity, proportionality would be a key principle underpinning **each** of the available options. As a check and balance the selection of the decision making structure would be a Key Decision of the Council.

12. The streamlined committee system and cabinet style structures by their nature provide for the devolution of a range of decisions from full Council. The extent of the powers to be devolved would however be a matter to be agreed by individual

Councils. For these models members agree that provision must be made for effective scrutiny arrangements.

13. Whilst there is agreement amongst the members in relation to the political governance structures that would be available to the new councils there is nevertheless an acknowledgement that there could be circumstances where a council may not be able to agree on a specific model. In order to cover these circumstances provision would be made for a 'default model' that would contain the following key elements:
 - **based on the committee system;**
 - **the opportunity to devolve powers;**
 - **a Scrutiny Committee in the event that powers are devolved; and,**
 - **an overarching Central Policy committee.**
14. In relation to the decision making process it is the consensus view of members that there should be a specified list of Key Decisions which would be matters for full Council. Members are also of the view that certain of these decision could, if consensus cannot be reached, be subject to a Qualified Majority Vote (QMV). Further research and discussion will be undertaken by the Panel on this issue, and the threshold that would apply for the QMV.
15. In the context of the adoption of either the streamlined committee or cabinet structure there is the presumption that issues not defined as Key Decisions for Council would be devolved, within the framework of a Delegation Scheme. In these circumstances in addition to the provision of effective scrutiny arrangements, members propose that provision is made for the 'call-in' of decisions taken by a committee or the cabinet. The criteria for the 'call-in' provision would cover both procedural matters in relation to how the decision was reached, and issues in relation to the protection of minorities.
16. Further work will be taken forward, as a matter of urgency, to determine the arrangements that would be required to underpin the outworking of these arrangements. This will cover issues including the key features of how a

decision is reached and those issues which must be considered; who may call-in a decision; arrangements for the determination of whether a 'call-in' is valid; and the options for handling a valid 'call-in'.

17. In order to support the effectiveness of the 'call-in' procedure and ensure that all councils are in a position to perform their role effectively it is proposed that councils will develop a mechanism which will provide advance notice to all Councillors of decisions to be taken. It is also proposed that in all bar a limited range of circumstances there should be a short period after a decision is made but before it is implemented during which the 'call-in' procedure can be invoked.

Proportionality

18. As indicated above members agree that proportionality would be a key principle underpinning the new governance arrangements. In relation to the arrangements for the allocation of key positions, members consider that the following methodologies should be available:

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

The choice of methodology would be a Key Decision for the Council. In the absence of agreement on the methodology to be applied the default would be the application of D'Hondt over the council term.

19. The allocation methodology would be applied to a stipulated list of key positions, including those for membership of external bodies, over the full 4 year term of the Council. Each appointment would be for a single year unless otherwise stated. Any additional key positions identified over the 4 year period would be allocated by continuing the application of the proportionality model adopted by council. The list will include the Mayor / Deputy Mayor or Council Chair / Vice Chair; Chairs / Vice Chairs of Standing Committees; Cabinet Positions (where applicable); and all external appointments.

20. In relation to external bodies this approach would only apply to automatic appointments. When the external body is seeking the nomination of a number of representatives and the final selection would be subject to the 'public appointments' process, these would be excluded from the 'list system'. This would also apply when the external body stipulates geographic or other specific criteria in relation to the Council representation. The approach to the allocation of positions excluded from the list system will require further consideration.
21. In relation to the membership of committees, 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

22. 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. That 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 have 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 senior council officers.
23. Panel members acknowledge the requirement for a changed role for the Local Government Auditor, following the reorganisation and the transfer of functions from central government. Members take the view that the determination of this changed role would best be informed in the context of the development of the

proposed Performance Management framework which is being taken forward by the Policy Development Panel on service delivery.

Transparency

24. 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 recognise that openness can be a key element when seeking to ensure the engagement of local citizens in the democratic process.
25. In order to support the achievement of this objective, members express 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 agree 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, decision making processes, and an Annual Report. The detail on the content of each of these documents, and the development of a framework within which Councils would prepare their 'Constitution' will be the subject of further research and discussion.

Community Planning

26. The essence of Community Planning is recognition that the needs of individuals and communities – if they are to be addressed successfully – must be addressed collectively, not separately. The policy objective for this strand is the development of an effective statute-based community planning process, led and facilitated by local councils, that enhances civic leadership and that allows local councils, working in partnership with all sectors, to be at the heart of the provision of high quality, efficient services that respond to the needs of people and communities and which continuously improve over time.

27. The management Terms of Reference for this strand were defined as

‘To bring forward proposals to effect the implementation of the duty of “Community Planning” and a power of “Well Being” to district councils in Northern Ireland, recognising local diversity and the need to devise approaches suited to local circumstances’.
28. Members considered the work of the Taskforce Sub-group on Community Planning and held a workshop at which senior officers from a number of Scottish Councils and a former Councillor from an English local authority provided insights into the operation of community planning in these jurisdictions. Flowing from the workshop, members support the view that the statutory framework for the council-led community planning process should not be overly prescriptive to provide for flexible approaches at a local level.
29. This framework should place a duty on councils to make arrangements for community planning which provides for consultation and co-operation in the planning and provision of public services in their districts. While the effectiveness of the process will be grounded in the establishment of effective relationships with other public sector bodies it is considered that their support and participation should be underpinned in statute. A number of members express the view that this duty should be couched in the strongest terms possible.
30. Members recognise that the broad framework approach will need to be supported by detailed guidance and further work will be taken forward on this during the next phase of the project.

Central / Local Relations

31. 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.’

32. 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. This model provides for a formal partnership comprising Ministers and representatives from local government. It is further proposed that a framework of key principles should be developed to underpin the relations.

DOE/NILGA Policy Development Panel A Joint Secretariat