

EMERGING PROPOSALS – POLICY DEVELOPMENT PANEL C

Agenda Item: 3.3

Summary: To provide details of the emerging policy proposals relating to the structural reform elements of local government reform which may require primary legislative provisions.

Action required: that the SLB

- Agrees the emerging policy proposals for structural reform; and,
- Notes that further detailed policy on these proposals will be presented to the SLB for discussion and agreement at their meeting on 5 December 2008.

Overview

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. Panel C has been charged with the development of recommendations on policy and implementation proposals in relation to 6 structural reform work strands. These embrace Human Resources, Capacity Building, Finance, Estates, Transfer of Functions and Service Delivery (i.e. on a Regional/Sub Regional basis).
2. At the inaugural meeting Panel C, on 31st July 2008, it was agreed that working groups should be established to assist in the development of policy and implementation proposals for each of these work strands or projects as listed below:
 - Assessment of Options for Local Government Service Delivery
 - Human Resources
 - Finance/Estates
 - Capacity Building
3. The Assessment of Options for the Local Government Service Delivery project, which embraces the transfer of functions, is being taken forward by way of a consultancy assignment. The other three projects were taken forward mainly by Working Groups comprising central and local government officers.
4. Panel C has met on 6 occasions and this paper sets out members' agreed policy proposals in relation to Human Resources, Capacity Building and Finance/Estates. Further work is required to develop detailed proposals in relation to the outworking of certain aspects of these areas that may potentially be provided for in subordinate legislation/guidance.

5. This report provides the SLB with details of the structural reform policy proposals which have primary legislative implications.
6. It should be noted that the remit of Panel C will require further policy proposals to be developed which have no legislative implications. This will be addressed as part of the Panel's future work programme and presented to SLB at a later date.

Timetable

7. Each of the Panel's working groups was tasked with identifying, by 30 October 2008, policy proposals which will require primary legislation. Following this, the working groups will prepare more detailed policy on each of the legislative proposals to allow Panel C to present a final legislative policy paper for clearance by the SLB
8. These proposals along with those identified by Panels A and B will issue for public consultation in spring 2009 with a view to being included in the Local Government Reorganisation Bill.

Introduction

9. The objectives of Policy Development Panel C, as agreed with SLB, are: -

“To lead the development of policy, for the structural reform work strands of the local government modernisation programme, to facilitate the effective and smooth transition from the current configuration of 26 council areas to the 11 new council areas which are to be in place in 2011. These structural reform work strands embrace Human Resources, Capacity Building, Finance, Estates, Regional and Sub Regional Design and the Transfer of Functions from central to local government.”

Detail

10. Panel C has made a number of initial legislative proposals in relation to structural reform which are attached at Annex A.
11. If the SLB agrees with these policy proposals then further details will be developed by the Panel and presented to SLB for further discussion and agreement at their meeting scheduled for 5 December 2008.

Recommendation

12. It is recommended that SLB:

- Agrees the initial policy proposals for structural reform; and
- Notes that further detailed policy on each proposal will be presented to SLB for discussion and agreement at their meeting on 5 December 2008.

**POLICY DEVELOPMENT PANEL C
(Structural Reform)
EMERGING POLICY PROPOSALS**

Policy proposals which will require primary legislation

1. Taking account of the Public Service Commission Guiding Principles, TUPE , additional commitments given in relation to the transfer of pensions (TUPE Plus), and following the principles for the Scheme of Transfer of Officers as outlined in the Libraries Act 2008, it is recommended by Policy Development Panel C (Structural Reform) that legislation should include provisions to: .
 - a) enable the transfer of staff from central government to the new councils;
 - b) enable the transfer of staff from the existing 26 councils to the new councils;
 - c) enable the transfer of staff from the other bodies, e.g. NIHE, to the 11 councils.

Please note that The Local Government Staff Commission is currently developing a model Scheme of Transfer which will take account, for example, of staff affected by the redefined council boundaries.

2. It is also recommended by Policy Development Panel C (Structural Reform) that legislation should include provisions to:-
 - a) enable the transfer of functions, assets and liabilities (including assets under construction/lease commitments) from central government to the new councils;

- b) enable the transfer of functions, assets and liabilities (including assets under construction/lease commitments) from the existing 26 Councils to the new councils;
- c) enable the transfer of existing functions, assets and liabilities (including assets under construction/lease commitments) from the other bodies, e.g. NIHE, to the 11 councils;
- d) protect local government from liabilities arising from the services transferring from central government;
- e) create a general definition for estate assets and liabilities, defined in legislation to avoid any ambiguity over which assets and liabilities are covered by the proposals and any subsequent controls;
- f) allow existing councils, (in the interest of good accounting practice) to incur expenditure on behalf of the new councils, prior to their establishment, and to subsequently recover that expenditure from the new councils e.g. expenditure associated with the funding of the local government elections 2011;
- g) provide the new councils with the power to acquire, hold, manage, develop and dispose of land and buildings in connection with their range of functions, including environmental and social improvement or well being of their districts or in connection with their other statutory functions. It is recommended that central government, in conjunction with the transferring departments, reviews and updates the legislation on vesting land and makes reference to statutory limits relating to the change of use.

Policy proposals which will require amendment to legislation

3. It is recommended by Policy Development Panel C that existing legislation is reviewed as outlined below:

- a) Sections 81 and 82 of the Local Government Act (NI) 1972 (which were repealed and replaced by Articles 19 and 20 of the Local Government (NI) Order 2005) enable a surcharge to be imposed when a local councillor or officer is held to have cost the ratepayer money either by incurring unlawful expenditure or by wilful misconduct which causes a loss to be incurred. The provision of a Code of Conduct for Councillors is currently under consideration by Panel A. When legislation is introduced, the Code of Conduct will provide for a separate mechanism for declaring that certain actions by councillors may be unlawful. Sections 81 and 82 will need reviewed to reflect this.

- b) Sections 41 of the Local Government Act (NI) 1972 relating to the specification of qualifications of officers by the Department should be repealed as the provision is considered to be out of date and of little value.

- c) Section 42 of the Local Government Act (NI) 1972 relating to the requirement for Councillors not to be appointed officers of any Council, could be amended to reflect similar provisions in Scotland, and England and Wales where Councillors cannot be appointed Officers only in their own council area.

Emerging Policy Proposals which may require primary legislation

4. Striking of the Regional and District Rates

- a) Legislation may be required to achieve a transfer of funds from central to local government to cover those functions transferring to district councils.

It has previously been agreed that the overall rate burden should not increase simply as a consequence of transferring functions under RPA. It had been anticipated that the regional rates income would reduce, with a corresponding increase in the income from district rates. Initial financial modelling, suggests that there may be an imbalance in the rate to be determined for functions transferring to the individual new councils.

Before a final decision can be taken on how to address this anomaly, further work is required on:

- the costs of transferring functions across the new council boundaries;
- further detailed modelling on the generation of revenue through district rates; and
- how grants may operate under the new council structures.

It should be noted that this work cannot be completed prior to the publication of the final recommendations of the Local Government Boundaries Commissioner.

The Panel recommends providing powers to allow Councils to:

- d) strike differential rates for domestic and non domestic properties; and
- e) introduce a discretionary provision for district rate relief on specified non-domestic properties, which would be at a cost to the Council.

Depending on decisions yet to be taken by the Executive: -

5. **Compensation**

- a) Legislation may be required to provide for the payment of compensation in relation to the early release of staff. It is considered that legislation should provide for compensation from central government and not the existing 26 councils.

Cross cutting issues

6. **Role of Chief Executive and Chief Finance Officer**

- a) The Group recommends that, in accordance with CIPFA guidance, legislation is made to enable the separation of roles between that of the Chief Executive and the Chief Financial Officer of the new councils. This is a governance issue and has, therefore, been passed to Panel A for consideration.

7. **Grants**

- a) A power is required which will enable departments to make grants to fund certain functions transferring to the new councils. Each department will need to examine its current policy and legislation for those functions and consider how it should be amended.

8. **Interim Controls**

- a) It is understood that the Local Government (Finance) Bill will include provisions to ensure that financial controls in the areas of capital programmes, borrowings and reserves are in place in the lead up to 2011.

9. **Other**

- a) In line with the previous 2003 Taskforce recommendation, a review and consultation should take place on whether to provide the new councils with powers to dispose of land and property “at less than best consideration”, without reference to the Department, subject to capital limits and conditions. Current legislation requires Departmental approval for the disposal of land “at less than best price”.