

**LOCAL GOVERNMENT REFORM PRIMARY LEGISLATION PROGRAMME
UPDATE**

Agenda Item: 8

Summary: This paper provides an update on the legislative programme.

Action Required: Presented for the information of members

BACKGROUND

1. The Department is taking forward 3 local government Bills in the Assembly's legislative programme. These are the:-
 - Local Government (Miscellaneous Provisions) Bill which received Royal Assent on 26 March 2010 (now the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010);
 - Local Government (Finance) Bill; and
 - Local Government (Reorganisation) Bill.
2. A summary of the content of each of these Bills is attached at Annex A. Details of the legislation being taken forward by Departments, to transfer functions to local government, are set out at Annex B.

UPDATE ON DOE LEGISLATION

Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010

3. The Bill was introduced to the Assembly on 22 June 2009 and completed Committee Stage in October. During Consideration Stage a number of amendments (most of which had been recommended by the Environment

Committee) were agreed. The Bill completed Final Stage on 23 February 2010 and received Royal Assent on 26 March 2010.

Local Government (Finance) Bill

4. At its meeting on 5 March 2009, the Executive gave policy approval for the Bill and on 2 July agreed to it being issued for consultation.
5. On 25 March 2010, the Executive cleared the Bill for introduction to the Assembly. It is anticipated that the Bill will be introduced in the Assembly in April 2010.

Local Government (Reorganisation) Bill

6. The draft Executive Paper setting out the policy proposals for the reorganisation of local government was circulated to Executive Ministers for consideration in June 2009.
7. Subject to Executive agreement, it is anticipated that policy consultation on the Bill will commence in May 2010.
8. The timescales for the Bill are extremely challenging - the Bill cannot now be introduced in the Assembly before the Summer recess.

UPDATE ON TRANSFERRING FUNCTIONS LEGISLATION

9. It is the responsibility of each Department transferring functions to local government to take forward, if necessary, its own transfer legislation. Regular meetings of the legislation teams (chaired by DOE) are held following each Strategic Leadership Board meeting.

The Planning Reform Bill

10. The Planning Reform consultation ended on 2 October 2009; responses have been analysed and a full report produced. The draft Executive Paper outlining the final planning reform policy proposals was circulated to Executive Ministers for consideration on 7 January 2010. The Executive cleared the final policy proposals for reform on 25 February 2010 and work is advancing by OLC to draft the new Planning Bill. The government response to the public consultation and the final Equality Impact Assessment (EQIA) at a strategic level were both published on the Planning Service website on 26 March 2010.
11. Subject to drafting and Executive agreement, it is anticipated that the Planning Bill will be introduced to the Assembly in June 2010.
12. The timescales remain extremely challenging

Urban Regeneration and Housing Bill

13. Executive agreement to commence public consultation on the draft Urban Regeneration and Housing Bill was received on 25 February 2010.
14. An eight week public consultation on the draft Bill commenced on 1 March 2010 and will end on 26 April 2010.
15. Subject to Executive agreement, it is anticipated that the Regeneration and Housing Bill will be introduced to the Assembly in June 2010.

Roads (Functions of District Councils) Bill

(formerly the Local Government (Transfer of Roads Functions) Bill)

16. Resolution of outstanding policy issues proved to be more problematic and time consuming than anticipated. However, a final draft of the Bill was agreed with the Office of Legislative Counsel on 9 March 2010.

17. Subject to Executive agreement, which it is hoped will be obtained at the first available meeting following Easter Recess, consultation on the Bill will commence in April 2010 for 13 weeks.
18. The Bill will not now be introduced prior to Summer recess leading to some concern that it may not be enacted in time.
19. A transfer of assets from the Department (largely off-street car parks) to district councils is to be provided for in DOE's Local Government (Reorganisation) Bill.

LOCAL GOVERNMENT POLICY DIVISION

Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010

Main purposes

1. The main purposes of the Act are:
 - to clarify the powers of councils to enter into long-term service contracts with the private sector (e.g. Public Private Partnerships or Private Finance Initiative contracts) and so remove any concerns which contractors and their financiers might have about entering into such contracts;
 - to enable councils (and arc21 and SWaMP2008 - the two Waste Management Groups that have been constituted as bodies corporate) to acquire land otherwise than by agreement (i.e. to vest land) for any of their waste management purposes;
 - to make preliminary arrangements for the reorganisation of local government;
 - to clarify the power of district councils in relation to the provision of warranties, indemnities and the acceptance of joint and several liability in relation to their waste functions.

Local Government Contracts

2. The provisions on local government contracts are needed because of an EC Landfill Directive which requires Member States to meet recycling targets by 2010, 2013 and 2020. One of the options open to councils, through their Waste Management Groups, is for the private sector to build the necessary waste infrastructure and provide recycling services to them. It was imperative that the legislation was in place this year so that tendering processes can proceed, contracts can be awarded and plant and facilities can be constructed in order to meet the EC Landfill Directive targets and thereby avoid infraction proceedings.

Preliminary Arrangements for Reorganisation

3. The Act contains enabling provisions which will allow preliminary arrangements for the reorganisation of local government to be taken forward in advance of the

main reorganisation legislation. The Act makes provision to enable the Department:

- to introduce a system of controls, by direction, on specified financial activities by the current 26 district councils in the period leading up to reorganisation to ensure that the new councils are not constrained by being bound to long-term financial commitments entered into on their behalf by the current councils;
- to establish statutory transition committees for the purpose of preparing for the reorganisation of local government; and
- to make a severance scheme for councillors.

Warranties and indemnities

4. District councils do not currently have the express power to guarantee the obligations of other councils and incorporated joint committees. It is likely that in connection with any contract award, relating to waste infrastructure/ management, the contractor and/or financiers will seek to have cross guarantees with each of the councils for the obligations of the contracting party under the contract. This is because it will be the individual councils which are the bodies of substance in the arrangement.
5. District councils will also be required to provide warranties, indemnities and cross-indemnities in their waste management contracts in order to provide reassurance to prospective contractors and financiers. These powers will need to be exercisable whether a council is acting simply in its own right, or on behalf of other councils in a Waste Management Group. Similarly, incorporated joint committees will require the power to provide such assurances.

Consultations

6. A Consultation Document on the Department's proposals regarding local government contracts and vesting for waste management purposes was issued for consultation from 13 December 2008 to 12 March 2009.
7. Consultation documents on the Department's proposals for:
 - severance arrangements for councillors, and

- statutory transition committees
- were issued for consultation from 6 April – 31 May 2009.

8. Copies of the consultation documents, together with a synopsis of responses to the consultations can be found on the Department's website:
http://www.doeni.gov.uk/index/local_government/local_government_consultations/archived-consultations.htm.
9. The Department also conducted a consultation exercise on its proposal for a Waste Bill from April 2009 to July 2009. That Bill included a proposal to provide additional powers to district councils and certain joint committees in relation to the granting of joint and several liabilities, warranties and indemnities in connection with their waste management functions. These provisions were moved into the Local Government (Miscellaneous Provisions) Bill at Consideration Stage in the Assembly.

Local Government (Finance) Bill

Main Purposes

10. The main purposes of the Bill are to update the provisions:
- for the financial management of district councils;
 - for the payment of grants to councils;
 - on councillors' remuneration (including the setting up of an independent remuneration panel for Northern Ireland); and
 - on other payments by councils.

Consultation

11. A Consultation Document on the draft Local Government (Finance) Bill was issued on 24 July 2009, seeking responses by 31 October 2009.
12. A copy of the Consultation Document, together with a synopsis of responses and the Department's response to the comments received, can be found on the Department's website:

http://www.doeni.gov.uk/index/local_government/local_government_consultations/archived-consultations.htm.

Local Government (Reorganisation) Bill

Main Purposes

13. The main purpose of the Bill is to update the local government legislative framework to reflect and give effect to the Executive's decisions on the reorganisation of local government in Northern Ireland in order to provide more modern powers for the 11 new district councils.

14. The Bill will:
 - establish the new councils and bring the old local government districts to an end;
 - provide new governance arrangements for councils;
 - introduce a new ethical standards regime and a new Code of Conduct;
 - make provision for central/local government relations;
 - introduce community planning and well-being;
 - introduce a new service delivery & performance improvement system;
 - deal with the transitional arrangements from the old council structure to the new structure i.e. by transferring the current functions; staff; contracts; assets; liabilities etc.

Transferring Functions Legislation

1. The Planning Reform Bill

The purpose of the Bill is to deliver a reformed planning system and transfer the majority of planning functions to district councils by 2011.

The proposed Bill will provide for:

- a more responsive planning system delivered at a local level with enhanced local political accountability;
- a streamlined development plan system, with a more meaningful level of community involvement;
- a more effective development management system with a greater focus given to economically and socially important developments;
- improved efficiency of processing and greater certainty about timescales;
- a change in the culture of the planning system: seeking to 'front load' the development plan consultation process, make plans more strategic in nature, and to facilitate and manage development, rather than mainly controlling undesirable forms of development;
- stronger collaborative working across a range of stakeholders; and
- a better match of resources and processes to priorities and improved value for money for all users of the planning system through more proportionate decision-making mechanisms.

2. Urban Regeneration and Housing Bill

The main purpose of the Bill is to enable the transfer of certain urban regeneration, community development and housing functions from DSD and the Northern Ireland Housing Executive to the 11 newly created local councils under the Review of Public Administration. The legislation will make provision for DSD to retain a role in relation to projects of regional significance and in the creation of statutory guidance to reflect departmental policy.

Functions transferring;

- operational responsibility for urban regeneration (including neighbourhood renewal);
- the delivery of support for the voluntary and community sector at local level;
- some housing functions relating to houses in multiple occupation (HMO), housing unfitness (including repair and demolition notices) and local energy conservation; and
- responsibility for the Living Over the Shop Scheme.

3. Roads (Functions of District Councils) Bill

(formerly the Local Government (Transfer of Roads Functions) Bill

A Roads (Functions of District Councils) Bill will be required to create or transfer a number of powers from the Department for Regional Development to the new district councils to give legislative effect to their new functions.

The list of functions that the new councils will be responsible for are:

- permitting local events on roads;
- alleygating;
- pedestrian Permits;
- off-street parking; and
- on-street parking enforcement.