

Agenda Item: 6

Summary: **Panel C Recommendations on the Finance and Estates Working Group Initial Implementation Paper**

Action Required: **(i) To note and agree Panel C's recommendations on the Finance and Estates Working Group Initial Implementation Recommendations and
(ii) To note Panel C's views on members' ongoing role in these matters**

Background and Recommendations

The Finance and Estates Working Group (FEWG) provided an initial implementation paper to the 14 May meeting of Panel C (attached as an Annex). The Panel agrees that these are implementation issues and should therefore pass to the Regional Transition Co-ordination Group (RTCG) which is responsible to the SLB for co-ordinating and supporting the consistent implementation of regional reform policies. All of the issues were previously accepted by SLB in January 2009.

Panel C agrees with the FEWG view that the RTCG should utilise the expertise of the central and local government officials who are currently members of the FEWG as necessary. This would bring the relevant expertise and an element of continuity to the process.

The Panel also recommends that given the expertise that has been built up during the process of policy development, there should be an ongoing role for Panel C in monitoring, reviewing and commenting to the SLB on the progress made by the RTCG as implementation advances. This would assist SLB by providing them with an ongoing detailed analysis and commentary on the tasks assigned to the RTCG.

It is the strongly held view of Panel C that locally elected representatives should have a direct and ongoing role during the implementation process ie similar to the

role elected members will have in the work of the Forum that is being established on HR issues. Panel C would recommend that the SLB and the Minister take these views into account as they embark on the review of the existing organisation structure in place for managing and integrating the implementation stage of the Local Government reform programme.

Policy Development Panel C

May 2009

AGENDA ITEM: 6b

SUMMARY: Finance and Estates Working Group
Initial Implementation Recommendations

ACTION REQUIRED: To note and agree the Finance and Estates Working Group Recommendations

BACKGROUND

The issues in this paper have been previously brought to the Panel's attention in a Finance and Estates Working Group (FEWG) report which formed part of the Panel's 'Policy Proposals' paper and accepted by SLB in January 2009 (extract from SLB paper 57/2008 below).

IMPLEMENTATION

The implementation issues and recommendations are outlined below. References in brackets refer to the location in the SLB paper 57/2008 where the issues originated.

1. Model Transfer Scheme(s)

Panel C recommended (2.2) that primary legislation would be required to enable the transfer of designated property, rights and liabilities from existing councils, central government (and others bodies as appropriate) to the new councils, as part of the reform of local government.

The FEWG understands that this recommendation will be taken forward by way of a provision in the Reorganisation Bill. It is also understood that this provision would enable the transfer of assets and liabilities through a Transfer Scheme or Schemes and the consultation document will make recommendation that a model scheme(s) should be prepared.

Recommendation: Consultation has yet to take place on the policy relating to the Reorganisation Bill and therefore the need for a model transfer scheme(s) is currently a proposal only. Nevertheless, the FEWG recommends that the requirement to produce a model transfer scheme or schemes, in consultation with local and central government and representatives of the receiving councils,

is passed to the RTCG for consideration and future implementation when appropriate.

2. Cost of Transferring Services

Panel C recommended (2.4) that at the time of setting the rate for 2011/2012 the full cost of the services being transferred from central government would have to be known in sufficient time in order for councils to build into the calculation of rates.

Recommendation: The FEWG recommends this issue should be passed to the RTCG to take responsibility for ensuring that a breakdown of all the associated costs both direct and indirect are provided to local government in sufficient time to be included in the calculation of rates.

3. Financial Planning

Panel C recommended (3.9) that, for the first year of the new councils, guidance should be issued relating to the preparation of estimates, agreeing budgets and setting district rates for 2011/2012.

Recommendation: The FEWG recommends that this requirement is passed to the RTCG for consideration and implementation.

4. VAT / Stamp Duty / Other Taxation Liabilities

In the Panel's paper to SLB (3.10) it was recommended that legislative provision should be made to ensure that no VAT or Stamp Duty would be payable as part of the reform of local government. The Panel recognised that liaison with HMRC on this matter would be necessary.

To facilitate consideration of the taxation implications by the FEWG, Brendan Hegarty, Fermanagh District Council and Brigitte Worth, DFP met with HRMC in April 2009 and the issue of VAT, Stamp Duty and other taxation liabilities was raised. It was the view of HMRC, that depending on how the legislation was drafted, HMRC could facilitate the transition process on taxation matters. Feedback from that meeting has reinforced the view that there is a need for early liaison and review of the draft legislation, with HRMC.

Recommendation: The requirement for legislation to ensure exemption from Stamp Duty and VAT was supported by SLB and it is understood that this will be taken forward for inclusion in the Reorganisation Bill. The FEWG considers that early liaison with HMRC on this matter and on wider taxation is an implementation issue and as such should be passed to RTCG for consideration and action. It is also recommended that HMRC have an opportunity to review the draft legislation to ensure that it facilitates a smooth transition on taxation matters.

5. Insurance

It was the Panel's view (3.11) that further work is required on insurance issues relating to transferring functions in order to assess the options available, including self-insurance, for local government. The Panel was keen to get actuarial figures for this and suggested that the Finance and Estates Working Group would explore this further as part of its future work programme.

DPF made initial enquiries on behalf of the FEWG into how best to approach the case for and against self-insurance. Contact was made with the Government Actuary's Department and on the basis of this it was concluded that the complexity of the issue was beyond the capacity of the FEWG to undertake this work itself. It was considered that, in order to develop any such business case, professional advisors may be required.

Some local government members of the FEWG considered that there might be other routes which would avoid the need to involve experts, and perhaps simpler options of calculation could be explored. Nevertheless it is the FEWG view that all options would need to be considered as part of a larger implementation exercise and as such RTCG would need to consider.

Recommendation: The FEWG recommend that the issue on insurance in relation to transferring functions is passed to RTCG for consideration. This issue should also include consideration of known and unknown claims that could potentially be inherited by local government.

The FEWG proposes that whilst RTCG take responsibility for ensuring finance and estates related issues are implemented, they may wish to call upon the expertise of the central and local government officials who are currently members of the Finance and Estates Working Group when work is required or advice sought. This would bring the relevant expertise and an element of continuity to the process.

FINANCE AND ESTATES WORKING GROUP
May 2009

**FINANCE AND ESTATES WORKING GROUP
EMERGING POLICY PROPOSALS**

EXTRACT FROM SLB 57/2008

Categories of Transfer

2.1 Functions of the new 11 council structure will fall into various categories e.g. those transferring from:

- the existing 26 councils to the new 11 council structure;
- central government to local government; and
- other bodies (e.g. NIHE)

2.2 Primary legislation will be required to enable the transfer of functions, assets and liabilities (including assets under construction/lease commitments) in the three categories mentioned above. The legislation should enable existing councils, central government departments and other bodies to make one or more schemes for the transfer of designated property, rights and liabilities to the 11 new councils. This would provide a mechanism whereby any ambiguity could be clarified over whether or not interests in, or rights over property should have transferred.

The Panel notes the comments in 2.1 - 2.2 and endorses the recommendations made.

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## **Cost of Services**

- 2.4 At the time of setting the rate for 2011/2012 the full cost of the service being provided would have to be known to councils in order for this to be built into the calculation of rates.

*The Panel notes the point made at 2.4 but would wish to query whether the full costs will be known in sufficient time. If this is not achieved, a financial assistance package would be required, from central government, to meet any shortfall in district rates income for 2011/2012 that has occurred as a result of this lack of information.*

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Financial Planning

- 3.9 For the first year of the new councils, guidance should be issued relating to the preparation of estimates, agreeing budgets and setting district rates for 2011/2012.

The Panel endorses the recommendations in 3.9.

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## **VAT**

- 3.10 In the transfer of assets and liabilities between councils and from central government and others, there could potentially be significant VAT implications for councils. It would, therefore, be necessary to engage with HM Customs and Excise to ensure that the transfer of assets to the new council structure does not adversely impact financially on any of the bodies concerned as a result of VAT.

*The Panel endorses the comments made in 3.10 and understands that this engagement with HM Customs and Excise would be undertaken by the Department of Finance and Personnel (DFP). The Panel understands that DFP have given assurances that Stamp Duty would not be an issue during reorganisation. However, the Panel recommends that a reference to Stamp Duty is included in legislation along the same lines as in the Local Government (NI) 1972 whereby it states that “Stamp duty shall not be chargeable on this Act or on an order made under this section .....” This would ensure that the issue of Stamp Duty is clear.*

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## **Insurance**

- 3.11 Central Government self insures whilst local government is more risk averse and tends towards insurance. Within local government various degrees of policy excess exist and some councils accept a higher risk than others. It is accepted by the Group that the requirement to insure by local government could create additional costs for the new councils as a result of the transfer of functions. It is recognised that this is an area that requires more detailed consideration to clarify the budget implications for transferring functions and also to consider whether there is a requirement, and the extent to which, local government could self insure.

*The Panel notes the comments made in 3.11 and agrees that further work is required. There is a need to establish the cost of self-insuring for local government and the Panel would be keen to get actuarial figures for this. The Finance and Estates Working Group will be asked to explore this further as part of their future work programme and the Panel will make recommendations on this at a later date.*