

TRANSFER OF FUNCTIONS WORKING GROUP UPDATE

Agenda Item: 7(b)

Summary: This report provides details of strategic and cross-cutting issues relating to the Transfer of Functions together with recommendations for moving forward.

Action: The Strategic Leadership Board (SLB) is asked to:-

- discuss and agree the detail of the report;
- consider those key issues which require political direction;
and
- consider and agree the emerging recommendations contained within this report

BACKGROUND

1. Minister Foster's statement of 31 March 2008, on the future shape of local government, provided a high level summary of functions transferring to local government. Further to this an urgent need was identified for engagement between central and local government to develop further clarity on the detail of the functions transferring and to consider how such functions could be integrated and delivered by local government while ensuring service continuity and improvement for the citizen.
2. A Transfer of Functions Working Group (TFWG) with associated task and finish sub groups was established, initially reporting to Policy Development Panel C (PDPC) and subsequently to RTCG, comprising of senior officials from transferring function departments and local government.
3. Constructive discussions have been continuing over recent months to scope the transferring functions; the resources attached; and to identify those operational and implementation issues which need to be addressed or require further clarification prior to transfer.

INTRODUCTION

4. The ongoing work of the TFWG has raised a number of strategic issues for consideration by SLB. The following paper seeks to highlight those overarching strategic issues which will affect the overall transfer of functions from central to local government and, where appropriate, recommends a way forward. It also highlights those pertinent issues related to specific transferring functions which need further consideration. It should be noted that considerable work remains to clarify the detail on individual transferring functions.

STRATEGIC ISSUES

5. In considering the transfer of functions to local government it is important to reaffirm the shared commitment of the NI Executive to create 'Strong Local Government' and the associated agreed vision of: *"a strong, dynamic local government creating communities that are vibrant, healthy, prosperous, safe, sustainable and have the needs of all citizens at their core"*.
6. The vision recognises the requirement for citizens' needs to be at the centre of service delivery and the need to integrate these services to serve the public more effectively and efficiently. A joined up system of government with clarity of responsibility and alignment of purpose while ensuring that services are delivered by those parts of the system which are best placed to meet the needs of the citizen must be the long term aim.
7. With the increased financial demands and spending constraints on the NI public sector, there will undoubtedly be greater pressures for both central and local government to find more efficient and effective ways of commissioning and delivering services in the future. Therefore, within the context of considering transferring functions and the future role of local government in community planning, it is suggested that all efforts be taken to optimise any potential for aligning priorities, initiatives and resources.
8. Work is underway by Policy Development Panel A to finalise a draft Concordat which will underpin the future relationship between central and local government. A central-local concordat is an instrument designed to "establish a framework of principles for how central and local government work together to serve the public.

9. The TFWG would suggest that such a Concordat sets out a mechanism through which local government would be involved in the process of establishing future Programmes for Government and in setting priorities and agreeing targets for those relevant functions transferring to councils.
10. It will be equally important that local government work in partnership with Central Government on the imminent Comprehensive Spending Review (CSR) process to ensure that a compelling and robust case is put forward to secure adequate resources for the functions to transfer and minimise the potential impact on local rates. **The TFWG suggest that consideration be given to the potential of securing a single budget line within the CSR for RPA transfer of functions rather than individual transferring function departments bidding on a separate basis.**
11. It is suggested that there continues to be constructive engagement between individual transferring function departments and local government (under the auspices of the TFWG) to detail the funding requirements for the transferring functions and inform the CSR process.
12. Transferring function departments have indicated that given the current financial pressures facing the NI Executive it is unlikely that any additional resources would be secured as part of the CSR process and indicated that this will be the working assumption in moving forward.

PROCESS OF POLICY DEVELOPMENT

13. A key principle emerging with the transfer of functions to local government is the central retention of policy formulation and oversight. There is a requirement for formal effective engagement between central and local government in the development of such policy to ensure due consideration is given to the practicalities of implementation.
14. It is important to note that there are already a number of policy frameworks and programmes under development (e.g. Urban Regeneration and Community Development, Planning Reform) and strategic reviews and consultation processes underway or imminent (e.g. Barnett Review, midterm review of Neighbourhood Renewal, DFP's review of Noble Indices of Multiple Deprivation, review of the local

Enterprise Agency network) which are pertinent to discussions in relation to the transfer of functions and will inevitably impact upon the future delivery of such functions. Local government must be actively engaged as a key partner in these processes and again, the engagement of councils in the policy development processes of central government should be built into the Concordat referred to previously.

SERVICE DESIGN

15. As the focus of the RPA reform process now shifts from policy development to the implementation phase, there needs to be greater clarity of roles and responsibilities of all key stakeholders in the reform process and to distinguish between the strategic and operational levels. It is also important that there is recognition of the strategic role of Transition Committees in driving the process forward at the local level. It will be the Transition Committees and councils who will be responsible for the resources, accountable for ensuring service continuity and the delivery of outcomes.
16. There are clearly a range of issues, particularly pertaining to funding (e.g. funding transfer methodology referred to later in the report), which need to be considered and negotiated at a regional level and which will undoubtedly set the broad parameters/framework for the transfer of functions to local government and any future consideration given to potential service delivery models.
17. There is also a requirement for wider engagement between the TFWG and across the sector in relation to the transferring functions. This is necessary to draw out the potential linkages and synergies between functions transferring and those functions already delivered by Councils.
18. It would be the intention that the agreed establishment of a Regional Transition Committee (RTC) comprising of political representation from each of the Transition Committees would provide a necessary mechanism to progress such issues; supported by the proposed Regional Transition Management Team.
19. With the anticipated delay until June 2010 for the necessary legislation which will create the Statutory Transition Committees, it is unlikely that the statutory RTC and

RTMT would be in place until some time thereafter. It is important to recognise the vacuum that this would create in the process and the potential to undermine the feasibility of meeting the May 2011 deadline for transferring functions to the new Councils.

20. It is recommended for the consideration of the Minister and SLB, that a voluntary RTC and RTMT be put in place as an interim measure to progress regional issues.

21. It is recommended also that a Task&Finish joint officer team comprising of representatives from transferring function departments and local government be established, under the direction of the RTCG, to develop 3 working examples (based on a local, sub-regional and regional delivery model, as to how the functions could transfer and be integrated within local government.

FUNDING & IMPLICATIONS FOR SERVICE DELIVERY OF TRANSFERRING FUNCTIONS

22. The development of service delivery models for transferring functions cannot be progressed in isolation from crucial decisions yet to be finalised on:-

- a. Funding the reform programme
- b. Timetable for the transfer of functions
- c. Confirmation on how services will transfer to local government on Day1
- d. Establishing the true costs of the transferring functions
- e. Future sustainability of funding for transferring functions
- f. The disaggregation of funding and resources
- g. Confirmation of transferring staff numbers and grades where possible

In the absence of any firm decisions and clarity regarding each of the aforementioned issues it will be impossible for local government and Transition Committees to undertake any due diligence review of the potential resource implications resulting from the transfer of functions and enable them to consider within the context of the incoming financial planning cycle for 2011/2012.

Funding the Reform Programme

23. The TFWG is conscious that given the current financial climate and the budgetary constraints facing the NI Executive, it is highly probable that local government will be expected to fund a proportion of the costs of the RPA reform programme. While recognising the strong lobby from local government that the reform programme should be centrally funded and the ongoing discussion with Ministers, it is unlikely that this position remains viable or realistic.
24. There also needs to be a recognition and acceptance that there are potential efficiencies and benefits to be gained by local government in the medium/longer term through the transition and reform process (e.g. rationalisation of assets; rightsizing of staff, convergence of processes and systems etc). There is no doubt, however, that Transition Committees will require initial up-front central government funding to support the transition process and enable the potential efficiencies to be realised.
25. It is suggested that consideration be given to the potential for central government to fund the necessary up-front costs while securing the necessary assurances that local government will fund specific elements of the reform process over the medium/longer term. This will enable councils to plan for, manage and moderate any potential impact on the rate base.
26. Local Government now need to enter into a process of conversation and negotiation with the Environment Minister, the DoE and DFP in relation to the funding of the RPA and, in particular, how councils may fund elements of the reform programme whilst ensuring that any impact upon the rate is moderated and planned for. One potential funding option (not definitive) which should be examined further include:
- Introduction of a loan regime by central government with conditions for repayment negotiated and agreed, possibly linked to an efficiency statement, with individual Transition Committees
27. In considering the funding contribution which may be made by local government towards the overall reform programme, local government would contend that the following principles should apply.

- The reform process should be cost neutral to the rate payer and any potential impact should be managed and moderated. It is crucial that financial modelling is undertaken to ascertain how the process can be cost neutral.
- Where there is no financial benefit to local government, costs should be met by Central Government.
- Councils may make a contribution where benefits will be accrued. Contribution will be apportioned based on the level of benefit that is to be gained.
- Central Government should provide up-front funding on a conditional loan basis (e.g. established payback model), however, such conditions should be discussed and agreed with local government and Transition Committees
- Central Government should fund activities where equity across the sector is required (e.g. Elected Member severance)
- Any funding provided by central government will not jeopardise the financial autonomy of local government.
- The final programme costs and the apportionment must be negotiated based on a robust and mutually agreed business case.
- The final programme costs must be affordable.
- Repayment of any loans from central government to local government should only be considered when councils have made demonstrable savings.

28. A paper is to be submitted by NILGA to the Strategic Leadership Board meeting on 25th February outlining Local Government's initial view on funding the reform programme and the outcome will be fed into ongoing discussions between DoE and DFP. It is understood that DoE are preparing a paper for the consideration of the Executive Sub-Committee on potential funding options.

Timetable for the transfer of functions

29. Detailed consideration needs to be given to the timetable for the transfer of functions to local government and the road map and critical milestones for taking this forward. This information needs to be articulated as a matter of urgency by each individual

transferring function departments and brought together by the TOFWG into an overall transfer of functions scheme. This must be communicated to Transition Committees.

Confirmation on how services will transfer to local government on Day1

30. Clarity is required on the working assumptions on which the proposed functions will transfer to local government. For example, the TFWG have been working on the premise that the Planning function will be transferred on an 11 council delivery model. Would ask the Minister to confirm with his Ministerial colleagues within the Executive Sub-Committee the basis on which functions are to transfer.

Establishing accurate costs of the transferring functions

31. Issues around the transfer of resources and budgets are becoming increasingly complex as the process of due diligence continues to highlight the lack of clarity/detail on the true cost of delivering the services. For example: corporate support costs such as ICT and necessary infrastructure and business support; notional on-costs; accommodation costs; staff costs.

32. Such costs should not only be quantified in terms of the current steady state of delivering the functions, it will be important that they are also considered within the context of the future service delivery models within councils post transfer and key decisions (still yet to be taken) with regard to the staff transfer scheme and the funding methodology for those functions transferring to local government..

33. The TFWG would suggest that within this context there is an opportunity to identify potential areas for efficiency at point of transfer (e.g. identification of synergies and rightsizing). Such savings could be realigned to support the delivery of the functions. Consideration should also be given ability to identify and validate liabilities at the point of transfer. Clearly there needs to be a consistent approach applied in capturing this information to ensure that all efforts are taken to minimise the marginal impact on councils

34. The TFWG is aware that a number of these finance issues are being considered by the Finance and Estates Implementation Group. TFWG is meeting with FEIG soon to explore how best to take forward cross-cutting issues.

Future sustainability of funding for transferring functions

35. As referred to above, there remain significant uncertainties around the future level and sustainability of funding attached to the transferring functions given the fact that a large number of the proposed functions to transfer will be subject to the new CSR in 2011.

The disaggregation of funding and resources

36. The TFWG is aware there has been limited bilateral engagement and negotiation within central government including DFP, on the future funding regime for transferring functions and the impact this might have on local rates.

37. It is understood that there has been a decision taken by the Executive Sub-Committee that the majority of the funding to transfer to local government will be on a grant basis possibly for the 1st 3 years. This proposition has not yet been discussed in detail with local government.

38. The TFWG would contend that there is a need for early engagement and negotiation with central government and, in particular, DFP regarding the future funding regime for transferring functions and the means by which budgets and resources are to be disaggregated across the 11 new councils. It is suggested that the two core principles for going forward should be:

- i. there should be no adverse impact on the rate at point of transfer; and
- ii. service continuity is paramount

39. It should be noted that the transfer of funding by way of grant, may necessitate Departments/NDPBs retaining some accountability functions for the monies being transferred and this may have an impact on the level of funding for staff transferring to local government.

Staffing

40. Further detail should be provided by transferring function departments with regard to the staff proposed to transfer including grades, locations etc. This is necessary to inform any future consideration to be given to potential organisation design and service delivery models.
41. In particular, the TFWG is acutely aware of the impact on transferring staff of the remaining uncertainty over funding regimes and service delivery models.
42. From the outset, the TFWG has emphasised the importance of communicating with and ensuring that staff are considered in all key decisions affecting them. With local government reform now just over 14 months away it is absolutely critical that progress is made in order to maintain the confidence, motivation and good will of staff

SPECIFIC ISSUES RELATING TO INDIVIDUAL TRANSFERRING FUNCTIONS

DARD

Integrated approach to community development and rural development / regeneration

43. The Reform proposals provide an opportunity to build integration between DARD's role in Rural Development and rural community development, the current DSD role in Urban Regeneration and community development, and the various new and existing functions of councils post 2011.
44. Under current policy, DSD has a remit for towns of 4,500 populations plus while DARD has responsibility for the EU Rural Development Programme which is targeted on smaller towns and settlements. RPA provides the opportunity to provide a more integrated approach to regeneration of urban and rural areas.
45. A major part of a place shaping agenda is the ability to work with local towns and villages to enhance their environment and therefore regenerate the town and enhance its economic fabric. There will be opportunities for better co-ordination post 2011 when, with new powers, Councils can maximise the opportunities provided under the village renewal aspects of the DARD Rural Development Programme led by Local Government.

46. There is a similar opportunity for community development. To date, DARD has been using the Rural Community Network, Sub Regional Networks and the NI Rural Women's Network to deliver rural community development activity. Again, RPA provides the opportunity to build integration between DARD, DSD and local government towards a long term strategy for community development.
47. While it is recognised that some early work on integrated working has been started this needs to continue on a formal basis.
48. Similarly, Rural Tourism and Rural Business Support cannot be delivered in isolation of the tourism and business networks at a district and regional level. Local Government can deliver improved co-ordination and integration with its revised powers post 2011.
49. The TFWG suggests that a formal mechanism to be put in place, under the sponsorship of the TFWG, to enable detailed consideration to be given to how greater synergies could be achieved within the area of rural development, regeneration, and community development (and associated initiatives/programmes) through the integration of the functions within councils.

DoE: Planning Service

50. The transfer of planning functions to local government is the single largest transfer in staff terms, and will place the bulk of planning decisions within the remit of the new Councils.
51. The transfer of planning powers to Councils and their integration and alignment with wider urban regeneration, local economic development, roads and community planning powers would give councils greater capacity to impact upon the quality of life within an area. Planning Service (PS) has committed to working closely with local government colleagues through the implementation structures, and specifically by focusing effort through the TFWG and Planning Sub Group.

52. It is important to note that there is a large amount of work still to be progressed in a very short timescale in regards to both the reform of Planning and the transfer of functions to local government.

53. PS is currently preparing the Key Principles document for circulation to the Planning Sub-Group, for discussion and agreement prior to forwarding to SLB. It is intended that this document would set the agreed context of the planning reform and transfer. Planning Service has indicated also that they are currently in the process of developing a high level implementation milestones/key tasks document, and will share the draft with TFWG to further develop it. A workshop of the senior management team within the Planning Service has been scheduled for the 9th March 2010.

54. This document will set out the task list, responsible owners, milestones/checkpoints, interdependencies and delivery dates for all the implementation tasks set out in this paper. At this stage, and subject to finalisation of the detailed implementation plan, we are aiming to have the major tasks implemented by end February 2011 or earlier if possible.

55. At this stage, while PS is not yet aware of either the final Organisational Design structures of local government, nor of the final agreed PS transfer model, the PS has stated that they are planning on the assumption of 11 local councils delivering planning as a local function.

56. Consideration is given to arranging a planning event which brings together representation from the TFWG, Joint Forum and FEIG together to develop a detailed implementation plan.

DSD

57. Investment Fund: DSD has indicated that consideration is currently being given to the possible establishment of an investment fund (N.B. also referred to within the PwC draft report) which would administer funds partly generated from some central government assets to priority regeneration projects across N. Ireland.

58. Consideration is also being given by DSD to the possible retention of a large proportion of capital funding (subject to CSR bids being secured this potentially may be in excess of £25m) against which councils would submit bids for projects. Funding would be allocated on the basis of agreed criteria which remain to be finalised but are likely to include a project's impact on the relevant Council area and the wider region, contribution to meeting PSA targets and on its leverage of other funding.
59. The TFWG considers it critical that if such a fund is put in place, caution should be taken not to over bureaucratise the process which will be costly and cause delays. It is considered that further clarification is required from the DSD Minister on the current proposals for the creation of an investment fund and how it would be created, governed, administered and evaluated as well as any views regarding possible impact upon the transfer of assets to local Government.

DETI

60. **Regional Coordination Mechanism:** Several of the programmes transferring may require some form of regional coordination. Options considered include selection of a lead Council, a consortium approach or establishing an agreement (whether informal or via an SLA) with a third party organisation. Invest NI have indicated that they would be willing to undertake a degree of coordination in the initial period should Councils request them to do so. It should be noted any significant role to be undertaken by Invest NI in the interim will have resource consequences. TFWG will consider the proposition made by Invest NI which will be considered within the generic debate on-going on the most appropriate mechanism for regional coordination of services where applicable.
61. **European / Match Funding potential:** Contained within the INI programmes transferring is the sum of £1m ERDF which presently forms part of the 'Go for It' programme. Given the revision of EU programmes, this sum cannot be guaranteed beyond 2011. The baseline of £7.38m is the total core budget for all the INI programmes transferring. Since this is 'core' budget, there is the potential for this to be used to attract other match funding through leverage of other funds including European sources. For this to be a meaningful possibility, TFWG will consider the ring-fencing of appropriate monies in future European programmes agreed at NI / DFP level to permit subsequent bidding by Councils for additional resources.

DCAL

62. There is currently a consultation on Arts Funding which proposes that funding will be allocated to councils on a per-capita basis with weightings for deprivation and an additional weighting for Belfast and Londonderry on the basis that an approved Culture/Arts Plan is in place. The consultation also proposes that the Arts Council would manage the process provide oversight and monitoring.
63. The consultation has issued to all district council Chief Executives, Transition Committees, ACNI, SOLACE, CLOA, NILGA and FLGA. There will be further consultation with arts organisations commencing around April/May 2010. The Department hopes to finalise proposals after the consultations and obtain approval on the way forward from Minister McCausland around September 2010. The TFWG will continue to liaise with DCAL on this through the Task and Finish Sub Group.

DRD

64. Panel C met in December to discuss the TFWG's recommendation that DRD's external contracts for car parking enforcement should be extended until October 2012. The Panel's recommendation that the contracts should be extended, was agreed at the SLB meeting on 9 December. Action to extend the contracts has now been completed by DRD.
65. Local Government now needs to consider the future delivery of the parking enforcement function. Options for this may include a central body or lead council delivering the function on behalf of the 11 councils. Key issues that, inter alia, will be taken into account are that, from May 2011, the sector needs to be in position to begin procuring new enforcement contracts so they are in place by October 2012, requirement on how to deal with issue of income received from parking in some areas cross-subsidising parking across other council areas; and whether or not the cost of the adjudication service would be managed via central or local government.

CONCLUSION

66. While the work undertaken by TFWG and its associated sub groups to date has clarified some key issues, it has also identified a number of areas that require further work. It is clear that discussions around the transfer of functions will continue over the next 6-12 months.
67. The outcome from further work can only be productive if immediate decisions are taken on a number of cross cutting strategic issues such as funding, the future relationship between local and central government and other governance issues.
68. While it is recognised that discussion and agreement on the way forward may not always be straightforward and that there are complex and possibly difficult decisions to be taken, the TFWG remains committed to the concept of a 'Strong Local Government' and the opportunity that this first stage local government reform offers to citizens. It is worth reiterating the Ministerial commitment that the strengthening of local government is "a process and not an event" and that a further review will be carried out 12 months after the new councils become operational.

RECOMMENDATIONS

69. It is recommended that SLB :-
- a. discuss and agree the detail of the report;
 - b. note the impact of delays in decisions with regard to both the overall RPA reform programme and the funding regime for transfer of functions
 - c. considers the proposal that a voluntary Regional Transition Committee and Transition Management Team be established as an interim measure to take forward consideration of regional issues;
 - d. consider the proposal that a Task & Finish joint officer team comprising of representatives from transferring function departments and local government be established, under the direction of the RTCG, to develop 3 working examples (based on a local, sub-regional and regional delivery model), as to how the functions could transfer and be integrated within local government.
 - e. agrees the timely development of central local Concordat
 - f. notes specific issue relating to transferring function and proposed way forward; and

- g. considers requirement for further clarification from DSD on the current proposals for the creation of an investment fund.

TFWG Joint Secretariat

February 2010