

**Document Pack**  
**Committee and Members' Services Section**  
**3<sup>rd</sup> Floor, Adelaide Exchange**  
**24-26 Adelaide Street**  
**Belfast BT2 8GD**



3<sup>rd</sup> August, 2009

**MEETING OF STRATEGIC POLICY AND RESOURCES COMMITTEE**

Dear Councillor,

The above-named Committee will meet in the Council Chamber, 3rd Floor, Adelaide Exchange on Friday, 7th August, 2009 at 10.00 am for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

PETER McNANEY

Chief Executive

**AGENDA:**

1. **Routine Matters**
  - (a) Apologies
  - (b) Minutes
2. **Human Resources**
  - (a) Post of the Director of Finance and Resources  
Oral Report of Chief Executive
3. **Transition Committee Business**
  - (a) Review of Public Administration - Update (Pages 1 - 24)

- (b) Review of Public Administration - Consultation on Government (Miscellaneous Provisions) Bill (Pages 25 - 56)
- (c) Review of Public Administration - Consultation on Planning Reform Northern Ireland (Pages 57 - 76)

4. **Democratic Services and Governance**

- (a) Review of the Criteria for the Use of City Hall and the Provision of Hospitality (Pages 77 - 78)
- (b) Requests for the Use of the City Hall and Provision of Hospitality (Pages 79 - 84)
- (c) National Association of Councillors (Northern Ireland Region) Annual General Meeting and Conference (Pages 85 - 86)

5. **Cross-Cutting Issues**

- (a) Patient and Client Council: Request to make a Presentation (Pages 87 - 88)
- (b) Chartered Institute of Public Finance and Accountancy - On Board Training (Pages 89 - 90)
- (c) Council Policy and Procedures for the Protection of Children and Vulnerable Adults (Pages 91 - 134)
- (d) Proposal to join Leisurewatch (Pages 135 - 144)
- (e) Commemoration of Significant Historical Occasions  
(Councillor Rodgers to raise)
- (f) Council's Computer System  
(The Chairman, Councillor Hartley, to raise)

**Belfast City Council**

<b>Report to:</b>	Strategic Policy and Resources (Transition) Committee
<b>Subject:</b>	Review of Public Administration Update
<b>Date:</b>	7 <sup>th</sup> August, 2009
<b>Reporting Officer:</b>	Peter McNaney (ext. 6217)
<b>Contact Officer:</b>	Kevin Heaney, RPA Project Coordinator (ext. 6202)

<b>1.0</b>	<b><u>Relevant Background Information</u></b>
1.1	The RPA is now entering into a critical stage whereby necessary far-reaching and enabling legislation is being drafted and issued for consultation to enable the planned local government reform to take place by May 2011; outstanding policy and HR related issues are being worked through; revised delivery structures put in place for the purpose of preparing for, and giving full affect to, the reorganisation of local government and the establishment of the 11 new councils. The focus of the RPA is rapidly moving into implementation phase.
1.2	Since the last update provided to the Committee in June, there has been important developments in the RPA programme which Members need to be made aware of as they will inevitably impact upon how the local government reform and RPA transition process will be taken forward.
1.3	Members will note that, as agreed by the Committee at its meeting on 19 <sup>th</sup> June, an RPA Workshop has been scheduled for 17 <sup>th</sup> August @ 10am in Malone House. The purpose of the workshop is to explore the key issues which need to be addressed as part of the RPA transition process (a number of which are set out within this report) consider the roles and responsibilities of the Council's RPA Transition Committee (i.e. SP&R) and Transition Management Team in leading this process; and explore potential options in regard to the future engagement with the Transition Committee representing Lisburn and Castlereagh.
<b>2.0</b>	<b><u>Key Issues</u></b>
<b>2.1</b>	<b><u>Legislative Timetable</u></b>
2.1.1	The key driver over the next number of months will be the legislative timetable and the need to ensure that the Council is geared up and prepared to engage within this process (a copy of the legislative timetable is attached at <b>Appendix 1</b> ).
2.1.2	There have been three major RPA related consultation papers released in July which the Committee (as the Councils Transition Committee) will need to consider and respond to. These include:
	<p><b>1. Local Government (Miscellaneous Provisions) Bill</b> – refer to Agenda Item Agenda Item 2 (b)</p> <p>This Bill makes legislative provisions for the following:</p> <ul style="list-style-type: none"> <li>▪ to clarify the powers of district councils to enter into long-term service contracts with the private sector</li> <li>▪ to enable councils to vest land for waste management purposes</li> <li>▪ to enable the Department of the Environment (DOE) to issue directions to existing</li> </ul>

	<p>councils as a means of control, so that in the lead up to reorganisation, councils will not be able to dispose of land or enter into capital contracts above specified values</p> <ul style="list-style-type: none"> <li>▪ to enable the DOE to make regulations for the establishment of statutory transition committees for new councils, including regulations for the appointment of members to the committees, the functions of the committees, and the procedures to be followed by the committees</li> </ul> <p><b>2. Reform of the Planning System in Northern Ireland' - refer to Agenda Item Agenda Item 2 (c)</b></p> <p>Sets out proposals for the reform of the planning system in Northern Ireland in the medium to longer term. Far-reaching and will impact upon almost every aspect of the planning system, combined with the transfer of responsibility for the majority of the functions to councils in 2011</p> <p><b>3. The Draft Local Government (Finance) Bill –copy attached at Appendix 2</b></p> <ul style="list-style-type: none"> <li>▪ The Bill seeks to modernise the legislative framework for the finances of district councils and, in particular, proposes the introduction of a prudential regime of capital finance to ensure that finances are managed carefully as possible; giving councils more responsibility for the management of their own financial affairs through the removal of the need to obtain the prior approval of the DoE in most instances; and the introduction of new powers including the power to invest.</li> <li>▪ <b>Given the fact that the Bill has only been released, it would be the intention that a draft response to the consultation document will be submitted for the consideration of the Committee at its meeting on 26<sup>th</sup> September 2009.</b></li> </ul>
2.2	<p><b><u>Boundary Commissioner's Final Recommendations Report</u></b></p>
2.2.1	<p>Members will be aware that the Local Government Boundary Commissioner's Final Recommendations Report was published on the 26<sup>th</sup> June 2009 setting out his recommendations in regard to the new 11 District Council areas (copies of which has been circulated to members directly from the Boundary Commissioner). In terms of the Belfast position, the report currently recommends:</p> <ul style="list-style-type: none"> <li>▪ that the new Belfast local government district should incorporate the whole of the existing Belfast district as currently defined, together with parts of the current Castlereagh, Lisburn City and North Down districts.</li> <li>▪ From the area of the existing <u>Castlereagh district</u>, I recommend that the localities of Tullycarnet, Gilnahirk, Braniel, Hillfoot, Merok, Cregagh, Wynchurch, Glencreagh, and Belvoir should be incorporated in the Belfast district.</li> <li>▪ From the area of the existing <u>Lisburn City district</u>, I recommend that the localities of Collin Glen, Poleglass, Lagmore, Twinbrook, Kilwee and Dunmurry should be incorporated in the Belfast district.</li> <li>▪ From the area of the existing <u>North Down district</u>, I recommend that a relatively small area of housing at Cedar Grove, Knocknagoney should be incorporated in the Belfast district.</li> </ul>
2.2.3	<p>In term of next steps, the Department of the Environment and Minister will now consider the Final Recommendation Report before seeking agreement with both the Executive and the NI Assembly on a draft Order giving effect to the Commissioner's recommendations, with or without modifications. If modifications are proposed, a</p>

	statement must be prepared outlining the reasons for the modifications and laid at the same time as the draft Order. The draft Order must be debated by the Assembly and, if approved, is made and takes effect at the next local government election.
2.3	<b><u>Meeting of the NI Executive Sub-Committee</u></b>
2.3.1	<p>A meeting of the Local Government Reform Executive Sub Committee, which comprises of the Environment Minister and his Ministerial Colleagues responsible for transferring function Departments, had been scheduled for 20<sup>th</sup> July 2009 to consider and provide Ministerial direction in regard to the following outstanding issues:</p> <ul style="list-style-type: none"> <li>▪ the integration of work between councils and departments on Community Planning;</li> <li>▪ transfer of NICS staff to Local Government;</li> <li>▪ implementation funding; and</li> <li>▪ the finalisation of arrangements for transferring functions.</li> </ul> <p>Unfortunately, this meeting did not take place and will be reconvened for early September.</p>
2.4	<b><u>Update on the work of the Policy Development Panels</u></b>
2.4.1	Whilst work is continuing on the three Policy Development Panels (PDP) to finalise any outstanding policy related issues, this is being taken forward in the absence of any firm decisions being taken in regard to the aforementioned issues.
2.4.2	One particular area to note is the emerging policy proposals in regard to how Community Planning will be taken forward. Members will be aware that Policy Development Panel A had been charged with bringing forward policy proposals to shape the legislation and statutory guidance in regard to Community Planning. To this end, PDP A established a Community Planning Sub Group (including the Council's Director of Development) to take this forward.
2.4.3	The sub-group has raised early concerns in regard need to attract resources to support the development and roll-out of community planning. To this end the working group has been engaged in initial discussions with SEUPB with the view to testing if there is any scope to make a funding bid through PEACE III Measure 2.2. <i>"Developing key institutional capacities for a shared society"</i> .
2.4.4	In order to enable the submission of a funding bid, Liam Hannaway, Chief Executive of Banbridge District Council and Chair of the Community Planning Sub-Group, has written to all local government Chief Executives (copy of correspondence received is attached at <b>Appendix 3</b> ) seeking agreement by each Council to issue a letter of support for such a funding bid .
2.4.5	Accordingly, Members are asked to consider the request for support and agree in principle subject to further consultation and agreement with the Council on the detail of the submission.
2.5	<b><u>Review of Local Government Reform Organisational Structures</u></b>
2.5.1	Members will note that a review is currently underway of the established RPA structures (i.e. SLB, PDPs and RTCG. The review will, inter alia, make recommendations on appropriate structures and governance arrangements for

	securing greater integration between the policy development and implementation phases of the local government RPA reform programme.
2.5.2	The review is being taken forward by a Joint Secretariat Team comprising officers from NILGA and the Department of the Environment and supported by Dr Bill Smith, Senior Research Fellow with the Institute of Governance, Public Policy and Social Research at Queen's University Belfast. The Chair of SP&R had attended a workshop as part of the stakeholder engagement exercise undertaken as part of the review.
2.5.3	Without pre-empting the outcome of the review, it is likely that the proposals put forward will result in a greater direct involvement of Transition Committees in driving forward the overall RPA implementation process.
2.6	<b><u>Engagement with Lisburn/Castlereagh Transition Committee</u></b>
2.6.1	Members will note that confirmation is still to be received from the Lisburn/Castlereagh Transition Committee in regards to the request for a joint meeting with the Chair, Deputy Chair and Party Group Leaders on Belfast's Transition Committee (i.e. SP&R). This has been delayed as a result to the recent change in the Chair of the Lisburn/Castlereagh Transition Committee with Councillor Edwin Poots (outgoing Chair) taking up post as the Minister for the Environment and being replaced. The purpose of the meeting is to identify and discuss those transitional issues of mutual concern which need to be addressed and to explore how such issues could be taken forward through formal engagement between both Transition Committees.
2.7	<b><u>Establishment of HR Joint Forum</u></b>
2.7.1	Clearly there a number of very important HR related matters which need to be progressed as a matter of urgency (e.g the introduction of vacancy controls; process for filling posts in new organisations; staff transfers schemes; staff severance) with greater clarity required in regard to how and when such critical issues are to be addressed.
2.7.2	Whilst the Public Service Commission has released a series of Guiding Principles around such issues, a new HR Local Government Reform Joint Forum has been recently established (comprising of representatives from the Employers and Trade Union Sides) to take forward detailed consideration and negotiation on HR matters and to develop detailed guidance on how councils and Transition Committees should address such issues in the lead up to the RPA. Both Cllr Tom Hartley and the Director of Corporate Services are represented on this Forum nominated by the Joint National Council (JNC) and Northern Ireland Joint Council (NIJC) respectively. A copy of a communications bulletin recently released by the Joint Forum is attached at <b>Appendix 4</b> ).
2.8	<b><u>Assessment of Options for Local Government Service Delivery</u></b>
2.8.1	As Members will be aware, PricewaterhouseCoopers were appointed by the DoE to consider potential options for future local government service delivery (as part of Phase I of their work) and to undertake a detailed economic appraisal of the emerging options (as part of Phase II).

2.8.2	<p>Phase I of the PwC work is now complete and has been agreed by the Strategic Leadership Board on 3<sup>rd</sup> July (copy of summary proposals are attached at <b>Appendix 5</b>). The report promotes the need to adopt a design lead approach to future local government service delivery and recommends that:</p> <ul style="list-style-type: none"> <li>• there is no 'one size fits all' model – the new councils need to be designed to address the needs and preferences of the citizens they serve;</li> <li>• there is no 'best' model - analysis of operating models for service delivery in other jurisdictions are based on a marriage of political leadership and accountability and efficient and effective service delivery to meet local need</li> <li>• the following recommended options be taken forward for consideration as part of Phase II detailed Economic Appraisal.</li> <li>• <b>Option 1</b> – Do Nothing (baseline position)</li> <li>• <b>Option 2</b> – Do Minimum (transition)</li> <li>• <b>Option 3</b> – Transformation within council functional areas</li> <li>• <b>Option 4</b> – Transformation across council functional areas</li> <li>• <b>Option 5</b> – As Option 4 but with an exploration of functions which could be delivered on a shared services basis</li> <li>• <b>Option 6</b> – Option 4 with the addition of a regional support organisation operating on behalf of local government delivering a range of shared services, within or apart from a LGA</li> </ul> <p>PwC are scheduled to report back on Phase II by the end of August 2009.</p>
2.9	<p><b><u>Transition Committee workshop on Planning and Programme Management for the Reform Programme</u></b></p>
2.9.1	<p>The Department of the Environment and the Northern Ireland Local Government Association (NILGA) recently appointed PA Consulting Services Ltd. to act as a strategic advisor on planning and programme management for the RPA Reform Programme.</p>
2.9.2	<p>As part of this process PA Consulting are keen to seek the views of Transition Committees in regards to the effectiveness of the programme management procedures and a workshop has been arranged for Monday 10<sup>th</sup> August with representatives from each of the 11 Transition Committees.</p>
2.9.3	<p>Accordingly, Members are asked to approve the attendance of the Chair and Deputy Chair (or that of a nominee) of the Strategic Policy and Resources Committee and the Director of Improvement (or a nominee) to this workshop.</p>

### 3.0 Resource Implications

There are no financial or Human Resources implications contained within this report.

### 4.0 Recommendations

Members are asked to:

- a) note the contents of this report and, in particular, that the RPA Workshop for Members of the Council's Strategic Policy and Resources Committee has been confirmed for 17<sup>th</sup> August, 10am in Malone House;
- b) consider the request from the Chair of the RPA Community Planning Sub-Group and approve, in principle, the issuing of a letter of support for the submission of a community planning funding bid to SEUPB subject to further consultation and agreement with the Council on the detail of the submission; and
- c) approve the attendance of the Chair, Vice-Chair (or that of a nominee) and the Director of Improvement (or a nominee) to the scheduled RPA programme management Workshop scheduled for 10<sup>th</sup> August.

## 5.0 Appendices

**Appendix 1:** RPA Legislative Timetable

**Appendix 2:** Local Government (Finance) Bill

**Appendix 3:** Request for support for submission of Community Planning funding bid to SEUPB

**Appendix 4:** HR Local Government Joint Forum Communications Bulletin

**Appendix 5:** PwC Phase I Report – Executive Summary



# *APPENDIX 1*

**Appendix 1: LOCAL GOVERNMENT POLICY DIVISION - PRIMARY LEGISLATION PROGRAMME**

Jul-09

Bill									2010												2011				
	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
<b>Local Government (Miscellaneous Provisions) Bill:</b> • local government contracts; • vesting land for waste management purposes; • severance arrangements; • statutory transition committees.				14th		1st																			
<b>Local Government (Finance) Bill:</b> • local government finance arrangements; • councillors' remuneration.						31st												1st							
<b>Local Government (Reorganisation) Bill:</b> • establishing new councils and bringing old districts to an end; • governance arrangements; • ethical standards; • central/local government relations; • community planning and well-being; • performance management; • transitional arrangements.																									

- Consultation
- Consideration of consultation responses and, where necessary, redrafting
- Drafting
- Assembly Stages
- Royal Assent & Commencement

**THE DRAFT LOCAL GOVERNMENT**

**(FINANCE) BILL**

**Executive Summary**

**July 2009**

**DEPARTMENT OF THE ENVIRONMENT**

## **EXECUTIVE SUMMARY OF THE DRAFT LOCAL GOVERNMENT (FINANCE) BILL**

### **Background**

1. The Department of the Environment (the Department) proposes to modernise the legislative framework relating to local government finance and councillors' remuneration in Northern Ireland through the introduction of a Local Government (Finance) Bill.

### **Proposed Finance Provisions**

2. The greater part of the legislative framework concerning local government finance is in Part V of the Local Government Act (Northern Ireland) 1972. Although this has been updated by subsequent legislation, the provisions on borrowing and council funds are mostly unchanged.
3. The proposed Bill will modernise the legislative framework for local government finance by making provision:
  - to remove the requirements for district councils to gain departmental approval for borrowings and the application of their funds or any proceeds from the sale of capital assets;
  - to introduce certain new powers, including the power to invest;
  - to introduce a prudential regime for capital finance;

- to clarify the nature of the general grant by replacing the two elements of the grant (the resources element and the de-rating element) with two separate grants – a rates support grant and a de-rating grant; and
- to extend to all departments the general power which allows the Department of the Environment to pay grants to councils.

### **Financial Administration**

4. It has been recognised for some time that the legislation for local government finance needs to be updated to reflect modern accounting practices and to bring it in line, where appropriate, with best practice observed by local authorities in Great Britain.
5. This need was identified by the Local Government Taskforce Finance Sub-group in its final report submitted in July 2006, as one of a number of areas for future work. The sub-group suggested that consideration could be given to a system of directions from the Department, based on the Statement of Recommended Practice for Local Authorities (SORP) issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). Membership of the sub-group included elected members and officers from local government and officials from central government.
6. The new capital finance system sets out the legal framework within which a district council may manage its finances and central government may regulate that activity.

7. The innovative feature of the new system is that district councils will have greater freedom to manage their own financial affairs without having to obtain consent from the Department, and control by central government will be retained through regulations and guidance.

### **Grants to Councils**

8. The Department currently pays a general grant to councils, consisting of a de-rating element and a resources element.
9. The separation of the general grant into two elements has caused some confusion in the past, which the Department aims to remove by replacing the two elements of the general grant with the proposed de-rating and rates support grants. The statutory formulae currently used to calculate the separate elements of the general grant will be applied subsequently, without amendment, to the calculation of the de-rating and rates support grants.
10. The power to pay grants for other purposes currently applies only to the Department of the Environment. This means that, if another department wants to make payments of grants to councils for its own purposes, those payments have to be made through the Department.
11. The current arrangement is unsatisfactory, as the Department has had to pay out grants over which it had no control in respect of policies for which it had no responsibility.

12. This situation has attracted comment from auditors in the past. The Department now intends to address this by extending a power to all departments that will enable them to pay grants in relation to their areas of responsibility.

### **Proposed provisions on Councillors' Remuneration**

13. In March 2005 the then Minister with responsibility for local government, Angela Smith, announced the setting up of an independent review of councillors' remuneration in Northern Ireland. The Department established a Councillors' Remuneration Working Group (CRWG), which included in its membership representatives from the National Association of Councillors, the Northern Ireland Local Government Association, trade unions, business and voluntary sectors together with an independent member.
14. When conducting its review, the CRWG received views, both orally and in writing, from a number of councils and local government organisations. In June 2006, a copy of the CRWG's final report was sent to all councils and to each councillor for comment.
15. The Department has already taken forward most of the recommendations of the CRWG through regulations, made under the Local Government Act (Northern Ireland) 1972. The remaining recommendations will require primary legislation.

16. The proposed Bill will introduce new powers enabling the Department to make regulations:
- to require councils to make and publish a scheme of allowances; and
  - to establish an independent remuneration panel to advise the Minister of the Environment on councillors' allowances.

### **Miscellaneous**

17. In order to ensure that all provisions relating to local government finance arrangements and payments by councils are consolidated into one piece of legislation, the Department proposes to repeal and re-enact some provisions of the 1972 Act.

### **Equality**

18. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups. A copy of the screening form can be viewed on the Department's website <http://www.doeni.gov.uk/index/information> .

### **Human Rights**

10. The Department believes that the proposed legislation is compatible with the Human Rights Act 1998.



## Consultation

11. The consultation document, which includes a draft of the Bill is available to view at:  
[http://www.doeni.gov.uk/index/local\\_government/local\\_government\\_consultations.htm](http://www.doeni.gov.uk/index/local_government/local_government_consultations.htm)
12. The closing date for submitting a response to the consultation is 31 October 2009.
13. If you have any queries in relation to the proposals, or would like to receive a copy of the consultation document, you should contact:

Dickson Holliday

[dickson.holliday@doeni.gov.uk](mailto:dickson.holliday@doeni.gov.uk)

Tel: 02890 256091

Marie Cochrane

[marie.cochrane@doeni.gov.uk](mailto:marie.cochrane@doeni.gov.uk)

Tel: 02890 256093

The above persons can also be contacted via the Department's textphone on 02890 540642.

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## **APPENDIX 3**



9 July 2009

**To: All Chief Executives**

Dear Colleague

As you are aware, it is proposed as part of the RPA process to introduce legislation to enable Councils to lead and facilitate Community Planning. To this end PDP A has been charged with bringing forward policy proposals to shape the legislation and statutory guidance in regard to Community Planning.

PDP A has set up a sub group to take this forward. The sub group consists of the DOE/NILGA secretariat and officers from Council who have knowledge of community planning initiatives. It was originally proposed to run community planning pilots but due to timescale and lack of immediate resources we have proposed, and the Strategic Leadership Board agreed, that this should be a programme of activities from which Transition Councils can select actions. This will address the short term needs of the community planning process and enable us to evaluate what the guidance should contain. However we are conscious if this work is to progress we need to attract resources in the medium term. To this end we have had discussion with SEUPB with the view to submitting an application through PEACE III Measure 2.2. We hope to submit this in the autumn.

As this will be an application which will include all Councils we require a letter of support from all 26 Councils. Can you please seek the agreement of your Council to issue a letter of support for the application? We will of course agree the content of the application with all Councils prior to submission.

Thank you for your co-operation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Liam', followed by a stylized flourish that extends to the right and then curves downwards.

Liam Hannaway  
Chief Executive

# LGRJF

Local Government Reform Joint Forum

## JOINT COMMUNICATION BULLETIN

### LOCAL GOVERNMENT RPA NEGOTIATING BODY ESTABLISHED

The Local Government Reform Joint Forum (the Joint Forum) held its Inaugural Meeting on 22 July 2009.

The purpose of the Joint Forum, as agreed by the SLB in May 2009, is to:

*"... facilitate consultation and negotiation between Employer and Employee representatives on a range of Human Resource (HR) related issues that are cross-sectoral in nature ..."*

The Scope of the Joint Forum will extend to:

- ◇ staff employed in the 26 district councils (inc. Group Committee staff, arc21 and SWaMP 2008)
- ◇ All identified staff employed in the transferring functions

Each Side of the Joint Forum i.e. Employers' and Trade Unions will have 7 members representing those under the scope of the Joint Forum.

The Joint Forum will have an Independent Facilitator to Chair the meetings. Members have agreed the Paul O'Brien, Chief Executive of APSE be appointed to this role.

The Joint Forum was established by the Local Government Staff Commission for NI following an instruction from the Minister and the Commission will provide Independent Secretariat facilities to the Joint Forum.

### MEMBERSHIP OF THE JOINT FORUM

#### Employers' Side

Local Government - Councillor Allan Ewart, Councillor Tom Hartley, Trevor Salmon & Roger Wilson

#### DoE & Transferring Functions -

Ian Maye (DoE), Maureen Taggart (NIHE & DSD) & Grace Nesbitt (DFP)

#### Trade Union Side

NIPSA - Bumper Graham, Paddy Mackel, Pat Baker & Connor Haughey

Unite - Albert Mills & Jim Parker

GMB - John Dawson

*Each Side can nominate substitutes as necessary*

### OPERATING ARRANGEMENTS FOR THE FORUM

- Meetings will normally be held every 2 weeks. An initial Schedule of Meetings has been agreed i.e. 05 August, 19 August & 02 September 2009
- All decisions of the Joint Forum will be issued to the RCTG to ensure the appropriate dissemination and monitoring mechanisms are employed to ensure consistency of application across local government and the transferring functions
- A Joint Communication Note will be issued promptly after each meeting of the Joint Forum

*"...facilitating local government reorganisation...."*

#### Priority Issues for the Joint Forum:

- Introduction of Vacancy Controls
- Filling Posts in the New Organisations
- Staff Severance Arrangements
- Local Consultation and Negotiation Arrangements for Transition Committees
- Staff Transfer Arrangements

#### Contact Details:

Independent Secretariat (LGSC):  
Commission House  
18-22 Gordon Street  
Belfast, BT1 2LG  
Tel No. (028) 90313200  
Email: lgrjf@lgsc.org.uk



## FUNCTIONS OF THE JOINT FORUM

- Agreeing principles and arrangements for the transfer of staff
- Exercising oversight of the application of the Guiding Principles
- Consulting and negotiating on HR policies and implementation decisions
- Developing Terms of Reference for consultation and negotiating machinery for post-2011
- Ensuring that all decisions of the Joint Forum adhere to Section 75 obligations
- Actively promoting and encouraging training and development programmes

## JOINT COMMUNICATION BULLETIN

### At the Inaugural meeting on 22nd July 2009 the following progress was made:

- The role, remit and operating arrangements for the Joint Forum were discussed and amendments suggested. These will be considered again at the next meeting.
- Both Sides appointed a Lead Person:
  - Trade Union Side - Bumper Graham
  - Employers Side - Maureen Taggart
- Agreement was reached that Paul O'Brien, Chief Executive, Association for Public Service Excellence (APSE) be appointed as Independent Facilitator to the Joint Forum. The role of the Independent Facilitator will include:
  - ◇ Overseeing and chairing the meetings, and providing leadership to enable the Joint Forum to act effectively
  - ◇ Fostering and maintaining a disciplined approach having regard to high standards of procedure, behavior and ethics
  - ◇ Ensuring effective and proper conduct of business.
- The following HR implementation issues were prioritised for immediate action:
  - ◇ System for Filling Posts in New Organisations (in particular Chief Executive posts)
  - ◇ Staff Severance Arrangements
  - ◇ Introduction of Vacancy Control System
  - ◇ Developing a protocol on local negotiations for RPA issues at Transition Committee level
- The Joint Forum can establish short-life task groups or sub group as required to consider specific issues. Independent expertise may be engaged to assist with these tasks.
- Communications issued from the Joint Forum will be agreed by both Sides and disseminated to all affected groups in line with overall RPA Communications Policy.

*“ ...facilitating local government reorganisation... ”*

LGRJF LOCAL GOVERNMENT REFORM JOINT FORUM

*facilitating local government reorganisation*

Independent Secretariat (LGSC)

Adrian Kerr

Linda Leahy

Diana Stewart

Lisa O'Neill

Appendix 5

**Options for Local Government Service Delivery**  
23 July 2009  
*Moving Forward – an update for RTCG*

23 July 2009



PricewaterhouseCoopers LLP  
Strictly Confidential  
July 2009

**Phase 1 – Key Conclusion**

The right answer is not to prescribe a single 'operating model' or, indeed, a set of models for local government service delivery in Northern Ireland.

- There is no 'one size fits all' model – the new councils need to be designed to address the needs and preferences of the citizens they serve;
- There is no 'best' model - analysis of operating models for service delivery in other jurisdictions are based on a marriage of political leadership and accountability and efficient and effective service delivery to meet local need; and
- Certain elements of the operating model of the new councils is a matter for Transition Committees to agree.

*Best practice suggests that a consistent "approach" to the design of service delivery should be applied to each council.*

PricewaterhouseCoopers LLP  
Strictly Confidential  
July 2009

**Phase 1 – Key Recommendation**

A common design approach is adopted for the development of a consistent council operating model for all new councils, consisting of the following elements:

- **Design framework** – a standard approach to the development of a council operating model based on a shared set of guidelines and principles;
- **Design 'toolbox'** – a set of shared processes (data recording), technologies (ICT infrastructure), and enabling initiatives (capacity building) which are designed collectively and deployed as common building blocks across all councils; and
- **Design resource** – subject matter experts working with councils to provide advice, assistance and assurance on the design and build activities within individual councils.

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**Phase 1 – Next Steps**

How do we determine the optimum 'scale and scope' of this Design Approach?

- The design approach and a number of options around it have been discussed with the main political parties and SOLACE
- Objective was to agree a consensual approach to the development of the 11 new councils based around :
  - Achievability by 2011;
  - Cost;
  - Value added to the citizen;
  - Future opportunities for collaborative working, including shared services; and
  - Agreed regional arrangements at local government level to facilitate political leadership and service delivery.

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Phase 1 – Options for Economic

The following recommended options were agreed by SLB (3rd July 2009) as a basis for a detailed Economic

- **Option 1** – Do Nothing (baseline position)
- **Option 2** – Do Minimum (transition)
- **Option 3** – Transformation within council functional areas
- **Option 4** – Transformation across council functional areas
- **Option 5** – As Option 4 but with an exploration of functions which could be delivered on a shared services basis
- **Option 6** – Option 4 with the addition of a regional support organisation operating on behalf of local government delivering a range of shared services, within or apart from a LGA

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Phase 1 – Supporting Recommendations

A number of supporting recommendations were also accepted by SLB (3rd July 2009)

- **Enhanced guidance and support for Transition Committees**
  - The design approach places a greater emphasis on the direction, scope and support for the work of Transition Committees and their Transition Management Teams.
- **Assessment of options for appropriate future regional structures for local government**
  - Collaborative decision making;
  - Strong central/local government voice;
  - Managing or delivering shared support services; and
  - The role of a Local Government Association.

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Phase 2 – Developing the Economic Appraisal

The key deliverables from Phase 2 are an Economic Appraisal and an associated Implementation Plan (for the preferred option)

- **Economic Appraisal will:**
  - be complete by end August 2009 (draft to be released for review w/c 31<sup>st</sup> August);
  - provide both monetary and non-monetary costs and benefits for each option (including resource implications for Transition Committees and existing councils); and
  - be used to assess and agree an option as the basis for bid(s) to DFP.
- **Implementation Plan will:**
  - Set out activities, timescales and resources for preferred option; and
  - Define dependencies, risks and issues.

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Phase 2 – Next Steps

The key deliverables from Phase 2 are an Economic Appraisal and an associated Implementation Plan (for the preferred option)

- **We are currently in process of:**
  - reviewing information and data gathered to date (e.g. Transfer of Function papers submitted to PDP C);
  - arranging meetings with owning Departments to confirm costs and issues;
  - arranging meetings with DFP and DOE; and
  - arranging meetings with SOLACE and NILGA to get senior officer and political perspective.

***While draft for review will be available at end of August, we are keen to drip-feed progress to RTCG (both to flag issues and to allow a sense check on where we are going) – how should we do this?***

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This report has been prepared for and only for the Department of the Environment (DfE) in accordance with the terms of our proposal dated December 2009 and for no other party and/or purpose. We do not accept or assume any liability or duty of care for any other purpose or to any other person to whom this report is shown or into whose hands it may come save where expressly agreed by our prior consent in writing.

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In the event that, pursuant to a request which the Department of the Environment has received under the Freedom of Information Act 2000, it is required to disclose any information contained in the Project Information document or any documents prepared by us, it will notify PwC promptly and control with PwC prior to disclosing such information. The Department of the Environment agrees to pay due regard to any representations which PwC may make in connection with such disclosure and the Department of the Environment shall apply any relevant exemptions which may exist under the Act to such information.

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**Belfast City Council**

<b>Report to:</b>	Strategic Policy and Resources (Transition) Committee
<b>Subject:</b>	RPA - Consultation on Local Government (Miscellaneous Provisions) Bill
<b>Date:</b>	7 <sup>th</sup> August, 2009
<b>Reporting Officer:</b>	Peter McNaney, Chief Executive
<b>Contact Officer:</b>	Kevin Heaney (ext. 6202)

<b>1.0</b>	<b><u>Relevant Background Information</u></b>
1.1	The Northern Ireland Assembly's Committee for the Environment is taking forward the 'Committee Stage' (i.e. detailed investigation) of the Local Government (Miscellaneous Provisions) Bill with a view to submitting a final recommendations report to the Assembly in due course. As part of this process the Committee have issued a copy of the draft legislative Bill and accompanying Explanatory Memorandum (copy attached at Appendix 1) for consultation. The deadline for the submission of written responses to the draft Bill is 14 <sup>th</sup> August 2009.
1.2	The Bill is structured in three parts with Part 1 referring to Contracts of Councils, Part 2 dealing with Local Government Reorganisation and Part 3 dealing with Supplementary issues.
1.3	Members will note that Part 1 of the Bill originated as the Local Government (Contracts and Compulsory Purchase) Bill which sought to clarify the powers of district councils to enter into long-term service contracts with the private sector (e.g Public Private Partnerships or Private Finance Initiatives type contracts). The Bill also sought to give councils the power to vest land for waste management purposes.
1.4	The need for the Bill has arisen because of an EC Landfill Directive (1999/31/EC) which requires Member States to meet recycling targets from 2010 through to 2020 to reduce the volume of biodegradable waste being sent to landfill. District councils are responsible for the collection and disposal of waste and it is imperative that they meet the Landfill Directive targets to avoid possible infraction proceedings and associated fines. The Bill provides enabling provisions to allow councils to enter into PPP/PFI type contracts with private sector contractors to build necessary waste facilities and provide recycling services.
1.5	In order to ensure that the tight RPA implementation programme was deliverable and to fast-track necessary legislation, the DoE recently extended the scope of the Bill, adding Parts 2 and 3 which deal with Local Government Reorganisation. A summary of the provisions contained within the Bill is outlined below: <ol style="list-style-type: none"> <li>1. to enable councils to vest land for waste management purposes</li> <li>2. to enable the Department of the Environment (DOE) to issue directions to existing councils as a means of control, so that in the lead up to the establishment of the 11 new district councils as part of the RPA reorganisation of local government, councils will not be able to dispose of land or enter into long-term financial commitments (e.g. capital contracts) above specified values</li> <li>3. to enable the DOE to make regulations for the establishment of statutory transition committees for the purpose of preparing for, and giving full effect to, the reorganisation of local government and the establishment of the 11 new councils.</li> <li>4. to enable the DOE to make regulations for the introduction of severance arrangements for elected members</li> </ol>

2.0	<b><u>Key Issues</u></b>
2.1	It is important to recognise that the draft Local Government Miscellaneous Provisions Bill (attached at Appendix 1) is largely enabling legislation and the detail around the specific provisions referred to above will be outlined in subsequent subordinate legislation (i.e. detailed regulations). The Explanatory Memorandum attached to the draft Bill (refer to paragraph 10-14) states that separate consultation has taken place in respect of the establishment of statutory transition committees and the introduction of a Members' severance scheme and indicates that the comments received as part of these consultation exercises will be used to inform the drafting of regulations around these issues. In the Explanatory Memorandum the DoE accepts that there has been no formal consultation undertaken in regard to the proposals for the introduction of interim financial controls on councils.
2.2	Members will recall that the SP&R Committee previously considered DoE consultation proposals in relation to the establishment of statutory transition committees and the introduction of a severance scheme for Elected Members and submitted its formal views to the DoE.
2.3	Given the previous consultation undertaken by the Department, it is unclear what level of consultation/engagement will be undertaken with local government in relation to the drafting of the detailed regulations which will underpin the primary Bill.
2.4	Whilst the Council will clearly seek assurances, as part of its consultation response, from the Committee for the Environment that further engagement with the Council will be undertaken as part of the drafting of regulations, there is a potential risk that any consideration/consultation on the emerging regulations could be limited to the NI Assembly, the Executive and the Committee for the Environment. At present, there are no Belfast City Council members on the Committee for the Environment which could reduce the ability of the Council to impact on the drafting of any related regulations.
2.5	<p>Therefore, it is necessary for the Council to reinforce, in its response to the Committee for the Environment on the Miscellaneous Provisions Bill and the <b>relevant</b> Clauses contained therein, those pertinent issues and policy positions previously agreed by the SP&amp;R Committee. The key issues, which have been addressed in detail within the draft response attached at <b>Appendix 2</b>, are listed below for reference:</p> <ul style="list-style-type: none"> <li>▪ that local government should be further engaged in the drafting of any subsequent regulations and, in particular, those pertaining to <b>Clause 14</b> (i.e. constitution of statutory transition committees; <b>Clause 15</b> (i.e. functions to be undertaken by statutory transition committees; <b>Clause 17</b> (i.e. severance payments for councillors).</li> <li>▪ that arc 21 has already provided a response on behalf of member councils in respect of Part 1 of the Bill (Contracts of Councils) and Part 3 (compulsory acquisition of land for waste management purposes)</li> <li>▪ whilst recognising the potential need to introduce interim controls on specified financial activities undertaken by those existing councils which are to merge in the period leading up to their dissolution and the establishment of the new 11 councils, such controls should not apply to Belfast City Council given its unique position.</li> <li>▪ In relation to the Department's powers to give direction and make regulations in Chapters 2 and 3, that it is clear that the Department has the power to do so with specific reference to any particular Council or transition committee. This will be necessary for the Department to make particular provision in relation to the case of Belfast and/or the Lisburn/Castlereagh Transition Committee</li> <li>▪ In respect of disposals and contracts of existing councils, that the specified transition committee referred to is the transitional committee that would otherwise hold or have responsibility for the subject land / capital contract post RPA.</li> </ul>
2.6	An initial draft response to the consultation document is set out at Appendix 2 for Members' consideration and comment. It would be the intention that a revised draft response, taking account

of comments raised by Members, would be submitted to the Committee for the Environment by 14<sup>th</sup> August 2009 (on the basis that it would be subject to ratification by Council on 1<sup>st</sup> September).

### 3.0 Resource Implications

There are no financial or Human Resource implications contained within this report

### 4.0 Recommendations

Members are asked to:

- i) note the contents of this report and the draft response attached at Appendix 2; and
- ii) approve the submission of the draft response to the NI Assembly Committee for the Environment, subject to the incorporation of any comments received by Members;

### 5.0 Decision Tracking

Following approval by the Council's Strategic Policy and resources Committee, at its meeting on 7<sup>th</sup> August, Kevin Heaney, RPA Programme Coordinator will submit the Council's response to NI Assembly's Committee for the Environment, subject to ratification to ratification by Council on 1<sup>st</sup> September 2009.

### 6.0 Documents Attached

<b>Appendix 1</b>	Local Government (Miscellaneous Provisions) Bill and Explanatory Memorandum
<b>Appendix 2</b>	Belfast City Council Draft Response

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## **Appendix 1**

# **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) BILL**

## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared by the Department of the Environment in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The EC Landfill Directive (1999/31/EC) aims to prevent or reduce, so far as possible, negative effects on the environment from the landfilling of waste. The Directive requires Member States to meet recycling targets from 2010 through to 2020 and reduce the volume of biodegradable waste being sent to landfill.
4. District councils are responsible for the collection and disposal of waste and it is imperative that they meet the Landfill Directive targets to avoid possible infraction proceedings. To do so will require the construction of significant new waste facilities (e.g. Mechanical Biological Treatment plants, Energy from Waste facilities and other recycling measures). One of the options under consideration by councils involves the private sector building the facilities and providing recycling services to councils by means of Public Private Partnership (PPP)/Private Finance Initiative (PFI) contracts. At present, however, there are some doubts about the powers of councils to enter into such contracts.
5. The Bill aims to clarify the powers of district councils to enter into long-term service contracts with the private sector and so remove any concerns contractors and financiers might have about such contracts. The proposed legislation needs to be in place as soon as possible so that the necessary contracts can be awarded and the infrastructure provided in time to meet the Landfill Directive targets.
6. The Bill will also enable councils to acquire land otherwise than by agreement (i.e. to vest land) for waste management purposes.
7. The Bill will make preliminary arrangements for the reorganisation of local government. It will introduce controls on specified financial activities by the current 26 district councils in the period leading up to their dissolution and the establishment of the 11 new district councils as part of the reorganisation of local government. The aim is 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. The Bill will give the Department powers enabling it to introduce the system of controls by direction.

8. The Bill will establish statutory transition committees for the purpose of preparing for, and giving full effect to, the reorganisation of local government.
9. The Bill will enable the Department to make regulations to provide for severance payments to be made to councillors who resign during a specified period.

## **CONSULTATION**

10. In 2005, the Department established a Waste Infrastructure Task Force – a partnership between central and local government – to elicit the views of key stakeholders on proposals for delivering a new waste infrastructure for Northern Ireland. Those stakeholders were generally in agreement with the Department's proposals.
11. The Department also carried out a formal consultation exercise with interested parties on its contracts and compulsory purchase proposals over a 3-month period between December 2008 and March 2009. While the 14 respondents who commented generally welcomed the Bill and were supportive of the Department's proposals, 7 mentioned that it did not cover all of the legislative issues that would arise in the waste infrastructure procurement process. The Department proposes to address those issues in subsequent legislation.
12. There has been no formal consultation on control of disposals, etc. by existing councils; however, the Local Government Taskforce Finance Sub-group, which submitted its final report to the Taskforce in July 2006, flagged this up as an issue to be addressed. Membership of the sub-group included elected members and officers from local government and officials from central government.
13. Proposals in relation to the composition, governance arrangements and functions of the statutory transition committees were developed through the Strategic Leadership Board, chaired by the Minister, and including elected representatives from the five main political parties. A formal consultation exercise was carried out from 6 April to 31 May 2009 on the composition, role and governance arrangements for statutory transition committees. The consultation will largely inform the subsequent subordinate legislation.
14. Severance arrangements for councillors was one of the areas considered by the Councillors' Remuneration Working Group which reported in June 2006. Membership of the Group included representatives of the Northern Ireland Local Government Association, the National Association of Councillors, the business sector, the voluntary sector, trade unions, the Department and an independent. The report was issued to councils and local government representative bodies for comment. A formal consultation exercise was carried out from 6 April to 31 May 2009. The consultation will largely inform the detail of the severance scheme which will be set out in regulations.

## **OPTIONS CONSIDERED**

15. There is a lack of private sector confidence concerning the powers of councils to enter into long-term service contracts. To do nothing would run the risk of EC Landfill Directive targets not being met and possible infraction proceedings. The Department is therefore proposing to clarify the contractual powers of councils in the Bill so that contractors are encouraged to compete for contracts for the construction of the necessary waste infrastructure in Northern Ireland.
16. Consideration was given to whether it would be prudent to introduce a system of controls on existing councils in the run up to reorganisation. It was concluded



that such an approach would be desirable to ensure that the new councils would not be bound into long-term and significant financial commitments over which they have no control. Consideration was also given to a wider range of controls, but the conclusion reached was that this would be too restrictive, and that controls should apply only to disposals of land and contracts in excess of specified thresholds, with additional scope for exemptions in certain cases.

17. Consideration was given to whether the new councils should operate in shadow form for a period after the 2011 elections before assuming full powers and responsibilities. The public will, however, expect to see modern, effective public services in place as soon as possible. It was therefore decided that statutory transition committees should be established and be responsible for a significant programme of work in the run up to the elections to ensure that the new councils will be in a position to take full executive control for services from the outset.
18. Following an Executive meeting on the Review of Public Administration in relation to local government, the then Minister of the Environment, Arlene Foster, announced, on 31 March 2008, that she would introduce a severance scheme in order to recognise the contribution of long-standing councillors who opt not to stand for re-election. No other options were considered.

## **OVERVIEW**

19. The Bill has 23 clauses and comprises 3 Parts. Part 1 contains 8 clauses concerning contracts of councils; Part 2 contains 9 clauses concerning local government reorganisation matters (control of disposals, etc. by existing councils, transition committees and severance payments to councillors); and Part 3 contains 6 clauses on miscellaneous and supplementary matters.

## **COMMENTARY ON CLAUSES**

A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

### **Clause 1: Functions to include power to enter contracts**

This clause clarifies the power of councils to enter into contracts for the provision of assets or services (or both) for the purpose of discharging any of their functions. Although this provision will enable councils to enter into PPP/PFI type contracts, it is not restricted to such contracts. The clause also enables councils to enter into separate or collateral contracts with the financiers, or insurers of or trustees for the financiers, of the contracts. This will give a third party, who provided finance to a contractor, "step-in" rights in the event that the contractor produces an unacceptably poor performance, becomes insolvent or is otherwise unable to honour the contract.

### **Clause 2: Certified contracts to be intra vires**

This clause is the first of a two-staged approach providing "safe harbour" protection from legal challenge to private sector contractors and their financiers. It does so by introducing a presumption that a certified contract is legal for private law purposes. The clause provides that, even if a council had no power at all to enter into a contract or had abused a power it did have, a certified contract is presumed to be legal unless it is successfully challenged by means of a public law review (i.e. by judicial or audit review).

### **Clauses 3: The certification requirements**

This clause sets out the certification requirements a council must satisfy for a contract to be a certified contract. One of the requirements is that the contract will operate, or is intended to operate, for a period of at least five years. The clause also provides that the Department may make regulations concerning certain certification requirements.

### **Clause 4: Certified contracts: supplementary**

This clause provides that, where a council has satisfied the certification requirements in respect of a certified contract, the certificate that is issued will have effect and is not invalidated by anything in the certificate which is inaccurate or untrue.

### **Clause 5: Special provision for judicial reviews and audit reviews**

While clause 2 introduces the presumption that a certified contract is lawful, this clause preserves the right to challenge the lawfulness of such a contract. Such a challenge is restricted to public law challenge by means of judicial review or audit review. Clause 5 also provides the second stage in giving "safe harbour" protection to private sector contractors and their financiers. It does so by providing that where, on public challenge, a court takes the view that a certified contract is unlawful (because the council did not have the power to enter into the contract or had exercised any power improperly), the court may nevertheless decide that the contract can continue to have effect. In reaching such a decision, the court may take into account a number of factors, in particular the likely consequences for the financial position of the council and the provision of services to the public if a decision were made that the contract should not have effect.

### **Clauses 6 and 7: Relevant discharge terms and Absence of relevant discharge terms**

These clauses provide for special terms (i.e. relevant discharge terms) of a certified contract, whether the main or collateral contract, which come into play in the event that a court finds the contract to be unlawful and that it should be set aside. Clause 6 provides for terms to be agreed between the parties for this eventuality and clause 7 provides for the situation where no discharge terms have been agreed or where the court finds that such terms are unenforceable.

### **Clause 10: Control of disposals and contracts of existing councils**

This clause sets out a system of controls on disposals of land, and capital and non-capital contracts being entered into, by the current 26 district councils in the period leading up to their dissolution and the establishment of the 11 new district councils. The Department will have powers to direct that councils must obtain consent from their statutory transition committees before engaging in the specified activities, subject to minimum thresholds.

### **Clause 12: Consideration to be taken into account for purposes of direction**

This clause provides that a transition committee considering an application from a council for a disposal or a contract shall take into consideration any other disposals or contracts undertaken by the council from a date specified in a direction from the Department.

**Clause 14: Statutory transition committees: constitution**

This clause makes provision about the establishment of statutory transition committees to manage, at a local level, the transition from the current configuration of 26 local government districts to the new 11 districts as set out in the Local Government (Boundaries) Act (Northern Ireland) 2008. The clause also provides the Department with the power to specify in regulations the level of membership of the statutory transition committees, the process to be adopted by the current councils to determine their representation on the relevant transition committee, and the governance arrangements for the committees. It also provides for the regulations to make provision in relation to making payments to and facilities available to statutory transition committees.

**Clause 15: Statutory transition committees: functions**

This clause provides the Department with the power to specify in regulations the functions and powers of a statutory transition committee in relation to delivering the transition process. It is intended that the functions of a statutory transition committee will include the development and management of the convergence of the plans and programmes of the current local government districts that will form the new districts; the development of strategies for estates and accommodation; the management of the transfer of assets and liabilities; the development of a preliminary staff structure for the new council; the appointment of a Chief Executive designate and key senior managers designate, and the preparation of a budget and the fixing of the rate for the new council district.

**Clause 16: Power to modify existing legislation**

While clauses 14 and 15 set out specific provisions in relation to the making of regulations for the establishment and operation of statutory transition committees, this clause provides a power for the regulations to apply (with or without modification) or disapply the provisions of relevant local government or rating legislation.

**Clause 17: Severance payments to councillors**

The clause confers a power on the Department to make regulations providing for the making of severance payments to councillors who resign as councillors before the end of a specified period and who meet such other criteria as the Department may specify. The clause also amends section 4 of the Local Government Act (Northern Ireland) 1972 to provide that a person who has received a severance payment is disqualified from being elected, or being, a councillor.

**Clause 18: Acquisition of land otherwise than by agreement**

This clause provides that councils may vest land for any of their purposes in Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 – a provision that had been inadvertently omitted from that Order.

**Clause 19: Application of certain provisions to certain joint committees constituted as bodies corporate**

Northern Ireland councils have formed themselves into 3 joint committees (Waste Management Groups) to address waste management issues. Two of the joint committees have been constituted as bodies corporate by orders made by the Department. This clause amends those orders to apply certain provisions of the Bill to those bodies. The amendments will permit arc21 and SWaMP2008 to enter into certified contracts and vest land for waste management purposes.

### **Clause 20: Regulations and orders**

This clause essentially sets out the means by which the Department may make different regulations as provided for in the Bill.

### **FINANCIAL EFFECTS OF THE BILL**

20. The contracts provisions will not have any direct impact on public sector costs. They will, however, give confidence to the private sector concerning the powers of councils to enter into long-term service contracts and should enable councils to enter into contracts to improve the waste infrastructure in Northern Ireland.
21. The introduction of the controls regime does not place additional demands on public sector financial costs or manpower.
22. The cost of the statutory transition committees is estimated to be £1.5M to £2M per annum up until the new councils come into operation.
23. The cost of the severance payments to councillors will depend on the number of councillors who apply and meet the criteria to receive an award. The Department estimates that it could cost approximately £5.25m. The detail of the severance arrangements will be set out in the subordinate legislation and more detailed information about the costs of scheme, including whether the cost will be met by local or central government, will be available then.

### **HUMAN RIGHTS ISSUES**

24. The Department believes that provisions in the Bill are compatible with the Human Rights Act 1998.

### **EQUALITY IMPACT ASSESSMENT**

25. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the provisions in the Bill will not lead to discriminatory or negative differential impact on any of the section 75 groups.

### **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

26. The Department did not complete a regulatory impact assessment in respect of provisions in the Bill as they do not give rise to any associated costs or savings on business, charities, social economy enterprises or the voluntary sector.

### **LEGISLATIVE COMPETENCE**

26. The Minister for the Environment had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Local Government (Miscellaneous Provisions) Bill would be within the legislative competence of the Northern Ireland Assembly."

## **Local Government (Miscellaneous Provisions) Bill**

[AS INTRODUCED]

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TO

Make provision about the powers of district councils to enter into contracts and to acquire land otherwise than by agreement; to make provision in connection with the reorganisation of local government, including provision for controls on existing councils, for statutory transition committees and for the payment of severance allowances to councillors; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

CONTRACTS OF COUNCILS

Contracts for provision of assets or services

**Functions to include power to enter contracts**

1.— (1) Every statutory provision conferring or imposing a function on a district council confers power on the district council to enter into a contract with another person for the provision or making available of assets or services, or both, for the purposes of, or in connection with, the discharge of the function by the district council.

(2) Where—

(a) a district council enters into a contract such as is mentioned in subsection (1) ("the provision contract") under any statutory provision, and

(b) in connection with the provision contract, a person ("the financier") makes a loan to, or provides any other form of finance for, a party to the provision contract other than the district council,

the statutory provision also confers power on the district council to enter into a contract with the financier, or any insurer of or trustee for the financier, in connection with the provision contract.

(3) This Part applies to any contract which a district council enters into after 22nd June 2009.

Certified contracts

**Certified contracts to be intra vires**

2.— (1) Where a district council has entered into a contract, the contract shall, if it is a certified contract, have effect (and be deemed always to have had effect) as if the district council had had power to enter into it (and had exercised that power properly in entering into it).

(2) For the purposes of this Part a contract entered into by a district council is a certified contract if (and, subject to subsections (3) and (4), only if) the certification requirements have been satisfied by the district council with respect to the contract and they were so satisfied before the end of the certification period.

(3) A contract entered into by a district council shall be treated as a certified contract during the certification period if the contract provides that the certification requirements are intended to be satisfied by the district council with respect to the contract before the end of that period.

(4) Where a district council has entered into a contract which is a certified contract ("the existing contract") and the existing contract is replaced by a contract entered into by it with a person or persons not identical with the person or persons with whom it entered into the existing contract, the replacement contract is also a certified contract if—

(a) the period for which it operates or is intended to operate ends at the same time as the period for which the existing contract was to operate, and

(b) apart from that, its provisions are the same as those of the existing contract.

(5) In this Part "the certification period", in relation to a contract entered into by a district council, means—

(a) in the case of a contract entered into before the day on which this section comes into operation, the period of 6 weeks beginning with that day;

(b) in every other case, the period of 6 weeks beginning with the day on which the district council entered into the contract.

(6) Subsection (1) is subject to section 5 (special provisions about judicial reviews and audit reviews).

(7) The application of subsection (1) in relation to a contract entered into by a district council does not affect any claim for damages made by a person who is not (and has never been) a party to the contract in respect of a breach by the district council of any duty to do, or not to do, something before entering into the contract, including, in particular, any such duty imposed by—

(a) a statutory provision for giving effect to any Community obligation relating to public procurement; or



(b) Article 19(1) of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6).

### **The certification requirements**

3.— (1) In this Part "the certification requirements", in relation to a contract entered into by a district council, means the requirements specified in subsections (2) to (4).

(2) The requirement specified in this subsection is that the district council must have issued a certificate (whether before or after the contract is entered into)—

(a) including details of the period for which the contract operates or is to operate;

(b) describing the purpose of the contract;

(c) containing a statement that the contract is or is to be a contract falling within subsection (5) or (6);

(d) stating that the district council had or has power to enter into the contract and specifying the statutory provision, or each of the statutory provisions, conferring the power;

(e) stating that a copy of the certificate has been or is to be given to each person to whom a copy is required to be given by regulations;

(f) dealing in the prescribed manner with any matters required by regulations to be dealt with in certificates under this section; and

(g) confirming that the district council has complied with or is to comply with any requirement imposed by regulations with respect to the issue of certificates under this section.

(3) The requirement specified in this subsection is that the district council must have secured that the certificate is signed by any person who is required by regulations to sign it.

(4) The requirement specified in this subsection is that the district council must have obtained consent to the issue of a certificate under this section from each of the persons with whom the district council has entered, or is to enter, into the contract.

(5) A contract entered into by a district council falls within this subsection if—

(a) it is entered into with another person for the provision or making available of services (whether or not together with assets) for the purposes of, or in connection with, the discharge by the district council of any of its functions; and

(b) it operates, or is intended to operate, for a period of at least 5 years.

(6) A contract entered into by a district council falls within this subsection if it is entered into, in connection with a contract falling within subsection (5), with—

(a) a person who, in connection with that contract, makes a loan to, or provides any other form of finance for, a party to that contract other than the district council; or

(b) any insurer of or trustee for such a person.

(7) The Department may by regulations amend subsection (5) or (6).

**Certified contracts: supplementary**

4.— (1) This section applies where the certification requirements have been satisfied by a district council.

(2) The certificate which has been issued shall have effect (and be deemed always to have had effect) as if the district council had had power to issue it (and had exercised that power properly in issuing it); and a certificate which has been so issued is not invalidated by reason that anything in the certificate is inaccurate or untrue.

(3) The district council shall secure that throughout the period for which the contract operates—

(a) a copy of the certificate which has been issued is open to inspection by members of the public at all reasonable times without payment; and

(b) members of the public are afforded facilities for obtaining copies of that certificate on payment of a reasonable fee.

**Special provision for judicial reviews and audit reviews**

5.— (1) Section 2(1) does not apply for the purposes of determining any question arising on—

(a) an application for judicial review, or

(b) an audit review,

as to whether a district council had power to enter into a contract (or exercised any power properly in entering into a contract).

(2) Section 2(1) has effect subject to any determination or order made in relation to a certified contract on—

(a) an application for judicial review, or

(b) an audit review.

(3) Where, on an application for judicial review or an audit review relating to a certified contract entered into by a district council, a court—

(a) is of the opinion that the district council did not have power to enter into the contract (or exercised any power improperly in entering into it), but

(b) (having regard in particular to the likely consequences for the financial position of the district council, and for the provision of services to the public, of a decision that the contract should not have effect) considers that the contract should have effect

the court may determine that the contract has (and always has had) effect as if the district council had had power to enter into it (and had exercised that power properly in entering into it).

(4) In this section and sections 6 and 7 references to an application for judicial review include any appeal (or further appeal) against a determination or order made on such an application.

### **Relevant discharge terms**

6.— (1) No determination or order made in relation to a certified contract on—

(a) an application for judicial review, or

(b) an audit review,

shall affect the enforceability of any relevant discharge terms relating to the contract.

(2) In this section and section 7 "relevant discharge terms", in relation to a contract entered into by a district council, means terms—

(a) which have been agreed by the district council and any person with whom the district council entered into the contract;

(b) which either form part of the contract or constitute or form part of another agreement entered into by them not later than the day on which the contract was entered into; and

(c) which provide for a consequence mentioned in subsection (3) to ensue in the event of the making of a determination or order in relation to the contract on an application for judicial review or an audit review.

(3) Those consequences are—

(a) the payment of compensatory damages (measured by reference to loss incurred or loss of profits or to any other circumstances) by one of the parties to the other;

(b) the adjustment between the parties of rights and liabilities relating to any assets provided or made available under the contract; or

(c) both of those things.

(4) Where a district council has agreed relevant discharge terms with any person with whom it has entered into a contract and the contract is a certified contract, the relevant discharge terms shall have effect (and be deemed always to have had effect) as if the district council had had power to agree them (and had exercised that power properly in agreeing them).

**Absence of relevant discharge terms**

7.— (1) Subsection (2) applies where—

(a) the result of a determination or order made by a court on an application for judicial review or an audit review is that a certified contract does not have effect; and

(b) there are no relevant discharge terms having effect between the district council and a person who is a party to the contract.

(2) That person shall be entitled to be paid by the district council such sums (if any) as that person would have been entitled to be paid by the district council if the contract—

(a) had had effect until the time when the determination or order was made; but

(b) had been terminated at that time by acceptance by that person of a repudiatory breach by the district council.

(3) For the purposes of this section the circumstances in which there are no relevant discharge terms having effect between the district council and a person who is a party to the contract include (as well as circumstances in which no such terms have been agreed) circumstances in which the result of a determination or order of a court, made (despite section 6(4)) on an application for judicial review or an audit review, is that such terms do not have effect.

**Interpretation of this Part**

8. In this Part—

"an audit review" means—

(a) an application or appeal under Article 19 of the Local Government (Northern Ireland) Order 2005 (NI 18) (application by auditor, or appeal by person objecting to accounts, for declaration as to unlawful item of account);

(b) consideration by an auditor of whether to give a certificate under Article 20 of that Order (certificate about sum not accounted for or loss or deficiency caused by wilful misconduct) or an appeal under that Article; or

(c) any appeal (or further appeal) against a decision made on an application referred to in paragraph (a) or on an appeal referred to in paragraph (a) or (b);

"the certification period" has the meaning given by section 2(5);

"the certification requirements" has the meaning given by section 3(1).

PART 2  
LOCAL GOVERNMENT REORGANISATION

CHAPTER 1  
INTRODUCTORY

**Introductory**

9.— (1) In this Part—

"existing council" means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972 (c. 9) as in force on the date on which this section comes into operation;

"new council" means a district council to be constituted under that section as amended by section 3(1) of the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7).

(2) For the purposes of this Part—

(a) "successor council", in relation to an existing council, means the new council whose district is, in accordance with section 1 of the Local Government (Boundaries) Act (Northern Ireland) 2008, to incorporate the whole or the major part of the district of the existing council; and

(b) in relation to a new council, an existing council is a "predecessor council" if the whole or the major part of the district of the existing council is, in accordance with that section, to be incorporated in the district of the new council.

CHAPTER 2  
CONTROL OF DISPOSALS AND CONTRACTS OF EXISTING COUNCILS

**Control of disposals and contracts of existing councils**

10.— (1) The Department may direct that, with effect from a specified date, an existing council shall not, without the written consent of a specified statutory transition committee—

(a) dispose of any land if the consideration for the disposal exceeds a specified sum;

(b) enter into any capital contract—

(i) under which the consideration payable by the council exceeds a specified sum; or

(ii) which includes a term allowing the consideration payable by the council to be varied;

(c) enter into any non-capital contract under which the consideration payable by the council exceeds a specified sum, where—

(i) the period of the contract extends beyond a specified date; or

(ii) under the terms of the contract, that period may be extended beyond that date.

(2) In subsection (1)—

"capital contract" means a contract as regards which the consideration payable by the council is capital expenditure;

"capital expenditure" means expenditure which falls to be capitalised in accordance with proper practices (within the meaning of Article 6(3) of the Local Government (Northern Ireland) Order 2005 (NI 18));

"non-capital contract" means a contract which is not a capital contract.

(3) A direction under subsection (1)(b) or (c) may provide that the consent of a specified statutory transition committee is not required in relation to a contract of a specified description.

(4) A direction—

(a) shall be in writing;

(b) may make different provision in relation to different matters for which consent is required;

(c) may be varied or revoked by a subsequent direction.

(5) In this Chapter—

"direction" means a direction under this section;

"specified", in relation to a direction, means specified in the direction;

"statutory transition committee" means a committee established under section 14.

(6) References in this Chapter to disposing of land include references to—

(a) dealing with land in any way mentioned in section 45(3) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

(b) entering into a contract to dispose of land;

(c) granting an option to acquire land.

### **Directions: supplementary**

11.— (1) A consent for the purposes of a direction may be given—

(a) in respect of a particular disposal or contract, or in respect of disposals or contracts of any description;

(b) unconditionally or subject to conditions.

(2) The consent required by a direction is in addition to any consent required by any other statutory provision.

(3) Where the consideration or any of the consideration under a contract is not in money, the limits specified in a direction by virtue of section 10(1)(a) to (c) apply to the value of the consideration.

(4) Where—

(a) a question arises in relation to a direction as to the value of any consideration, and

(b) the existing council concerned and the specified statutory transition committee fail to reach agreement,

the value is to be determined by the Department.

#### **Consideration to be taken into account for purposes of direction**

12.— (1) In determining whether the limit specified by virtue of section 10(1)(a) is exceeded in the case of a disposal of land by an existing council, the consideration with respect to any other disposal of land made by the council after a specified date is to be taken into account.

(2) In determining whether the limit specified by virtue of section 10(1)(b) or (c) is exceeded in the case of a contract entered into by an existing council ("the contract in question"), the consideration payable by the council under any other relevant contract shall be taken into account.

(3) For the purposes of subsection (2) a "relevant contract" means a contract which is either or both—

(a) a contract entered into after a specified date by the council and the person with whom the contract in question is entered into;

(b) a contract entered into after that date by the council which relates to the same or a similar description of matter as that to which the contract in question relates.

#### **Contravention of direction**

13.— (1) A disposal made in contravention of a direction is void.

(2) A contract entered into by an existing council in contravention of a direction is not enforceable against a successor council.

(3) A contract which apart from this subsection would be a certified contract for the purposes of Part 1 is not a certified contract for those purposes if it is entered into in contravention of a direction.

CHAPTER 3  
STATUTORY TRANSITION COMMITTEES

**Statutory transition committees: constitution**

14.— (1) In relation to each new council there shall be a body called a statutory transition committee.

(2) A statutory transition committee shall be a body corporate to which, subject to the provisions of this Chapter, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply.

(3) The Department shall by regulations provide for the establishment of statutory transition committees.

(4) Those regulations shall ensure that the statutory transition committee in relation to a new council consists of members of the predecessor council or councils.

(5) Those regulations may make provision as to—

(a) the appointment of the Chair and other members of a statutory transition committee (including the number of members to be appointed from each predecessor council and any conditions to be fulfilled for appointment);

(b) the tenure of office of the Chair and other members (including the circumstances in which they cease to hold office or may be removed or suspended from office).

(6) Regulations may make provision for, or in connection with—

(a) the procedure to be followed by statutory transition committees;

(b) the payment of allowances to members of statutory transition committees;

(c) the making available to statutory transition committees of the facilities, staff and premises of existing councils;

(d) such other matters in connection with the efficient and effective discharge by statutory transition committees of their functions as the Department thinks appropriate.

(7) The Department may make payments to statutory transition committees on such terms and conditions as the Department may determine.

(8) Except to the extent to which regulations otherwise provide, a statutory transition committee—



(a) is a local government body for the purposes of Part 2 of the Local Government (Northern Ireland) Order 2005 (NI 18); but

(b) is not to be treated as a joint committee of any existing councils.

### **Statutory transition committees: functions**

15.— (1) The functions of a statutory transition committee are exercisable for the purpose of preparing for, and giving full effect to, the reorganisation of local government provided for by the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7) and, in particular for facilitating—

(a) the exercise of their functions by new councils as from their initial constitution; and

(b) the winding-up of existing councils and the transfer of their assets, liabilities and staff.

(2) Subject to any provision made by regulations, a statutory transition committee may do anything which appears to it to be necessary or expedient for the purpose mentioned in subsection (1).

(3) The Department may by regulations make provision for, or in connection with, conferring powers or imposing duties on statutory transition committees.

(4) In particular, regulations may make provision for, or in connection with, conferring powers or imposing duties on a statutory transition committee to—

(a) make a district rate (within the meaning of Article 6(3) of the Rates (Northern Ireland) Order 1977 (NI 28));

(b) appoint staff for the purposes of a new council.

### **Power to modify existing legislation**

16.— (1) Regulations under section 14 or 15 may—

(a) provide for any local government or rating legislation which applies in relation to an existing council to apply, with or without modifications, in relation to a statutory transition committee;

(b) provide for any local government or rating legislation which (but for the regulations) would apply in relation to an existing council not to apply in relation to that council or to apply with modifications.

(2) In subsection (1)—

"local government legislation" means—

(a) the Local Government Act (Northern Ireland) 1972 (c. 9);

(b) Part 2 of the Local Government (Northern Ireland) Order 2005 (NI 18);

(c) Chapter 2; and

(d) any regulations or orders made under any of the above;

"rating legislation" means—

(a) the Rates (Northern Ireland) Order 1977 (NI 28); and

(b) any regulations or orders made under that Order.

#### CHAPTER 4 SEVERANCE PAYMENTS TO COUNCILLORS

##### **Severance payments to councillors**

17.— (1) The Department may, by regulations, provide for the making by an existing district council of payments ("severance payments") to, or in respect of, persons who—

(a) immediately prior to the start of the prescribed period were members of the council,

(b) ceased, by resignation, to be members of the council before the end of that period, and

(c) satisfy such other conditions as may be prescribed.

(2) The regulations may include provision as to—

(a) the amounts of severance payments and the methods of calculating those amounts;

(b) the procedure for applying for severance payments and for dealing with such applications.

(3) In section 4(1) (disqualifications for being elected, or being, a councillor) of the Local Government Act (Northern Ireland) 1972 (c. 9), after paragraph (e) add—

"(f) he has received a severance payment (within the meaning of section 17 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2009)."

#### PART 3 MISCELLANEOUS AND SUPPLEMENTARY

Acquisition of land otherwise than by agreement

##### **Acquisition of land otherwise than by agreement**

18. A district council may acquire land otherwise than by agreement for the purposes of Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19).

Joint committees

**Application of certain provisions to certain joint committees constituted as bodies corporate**

19.— (1) In the Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2004 (No. 49) after Article 6 insert—

"6A. The following provisions of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2009 shall apply to arc21 as they apply to a council—

(a) Part 1 (contracts); and

(b) section 18 (acquisition of land otherwise than by agreement)."

(2) In the Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (No. 310) after Article 6 insert—

"6A. The following provisions of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2009 shall apply to SWaMP2008 as they apply to a council—

(a) Part 1 (contracts); and

(b) section 18 (acquisition of land otherwise than by agreement)."

(3) This section does not affect any power to amend or revoke the orders mentioned in subsections (1) and (2).

Supplementary

**Regulations and orders**

20.— (1) No regulations shall be made under—

(a) section 3(7), or

(b) Chapter 3 of Part 2,

unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(2) Any other regulations under this Act shall be subject to negative resolution.

(3) Regulations and orders under this Act may contain such incidental, supplementary, consequential, transitory or saving provisions as the Department thinks necessary or expedient.

### **Interpretation of this Act**

21. In this Act—

"the Department" means the Department of the Environment;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Department;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

### **Commencement**

22.— (1) The following provisions come into operation on the day after the day on which this Act receives Royal Assent—

(a) section 3 insofar as it confers power to make regulations;

(b) Part 2; and

(c) this Part.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

### **Short title**

23. This Act may be cited as the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2009.

**Consultation on the Local Government (Miscellaneous Provisions) Bill**

**Belfast City Council Draft Response**

<b>1.0</b>	<b><u>Introduction</u></b>
1.1	Belfast City Council welcomes the opportunity to respond to the Local Government (Miscellaneous Provisions) Bill issued for consultation by the Committee for the Environment and would hope that the comments outlined within this response are constructive in nature and add value to the future drafting of necessary subordinate legislation.
1.2	The Council have a number of general comments to make in regard to the content of the draft legislation as well as specific feedback on individual clauses where appropriate. The
<b>2.0</b>	<b><u>General Comments</u></b>
2.1	Whilst the Council would have no major issues, in principle, with the Bill, it is conscious that much of the detail around the out workings of this legislation will be set out within the subsequent subordinate legislation (regulations). Whilst the explanatory memorandum suggests that such regulations will take account of previous consultation exercises undertaken by the Department of the Environment (DoE) on the establishment of statutory transition committees and the introduction of a severance scheme for elected Members (both of which Belfast City Council has formally submitted consultation responses to the severance and statutory transition committees (on which Belfast City Council has formally responded to the DoE), it is unclear what level of further engagement will take place between the Department, the Committee for the Environment and local councils during the Committee stage and the subsequent drafting of any subordinate legislation (regulations).
2.2	Belfast City Council feel that in accordance with good practice, the Department should ensure that local councils are consulted in the drafting of the relevant detailed subordinate regulations and, in particular, with respect to <b>Clause 14</b> (constitution of statutory transition committees; <b>Clause 15</b> (functions to be undertaken by Statutory Transition Committees; <b>Clause 17</b> (severance payments for councillors).
2.3	Furthermore, the Council supports the intention that Clauses 14, 15 and 16 (and parts of Clause 3) be subject to affirmative resolution (i.e. to be debated) by the NI Assembly and would reiterate the need for the Minister, the Department and the Committee for the Environment to consult with all interested parties including local government in the drafting phase of any subordinate legislation related to these clauses.
3.0	<b><u>Specific Comments on Clauses</u></b> - It should be noted that Belfast City Council have not commented on all Clauses set out within the Bill.
<b>Clauses 1-8: Contracts of Councils</b>	
<b>Explanatory Memorandum Overview:</b> <i>These provisions replicate existing legislation in Great Britain in the form of the Local Government (Contracts) Act 1997 and essentially clarify the powers of district councils to enter into PFI/PPP contracts with the private sector. In Northern Ireland, these provisions started life in the shape of the Local Government (Contracts and Compulsory Purchase) Bill, the title of which has now been changed to the Local Government (Miscellaneous Provisions) Bill to reflect the additional provisions which have been introduced in relation to certain RPA Transition issues.</i>	
<b>Belfast City Council comments:</b> <ul style="list-style-type: none"> <li>▪ In relation to the provisions set out in Part 1 'Contracts of Councils', arc21 has already responded to these on behalf of its member councils and Belfast City Council do not see the need to make any further response. arc21 had a number of concerns in relation to the provisions but these are not concerns in relation to any RPA issue and have, in any event, now been picked up by the Executive in the shape of the draft Waste Bill which is now also out for consultation and to which arc21 has again made a response on behalf of its member councils.</li> </ul>	

## Clause 9: Introductory section to Part 2 – Local Government Reorganisation

### Explanatory Memorandum Overview:

*This clause outlines the meaning of the phrases “existing council”; “new council”; “successor council” and “predecessor council” in respect of Part 2 of the Bill.*

### Belfast City Council comments:

- The Council has concerns that in relation to both the power to give directions and the power to make regulations, it is not sufficiently clear that the Department has the power to do so with specific reference to any particular council or transition committee. It may therefore be necessary for the Department to make particular provision in relation to the case of Belfast and/or the Lisburn/Castlereagh Transition Committee.
- It is recommended that the legislation should therefore be clear that the Department has such a power to make specific regulations and this could be achieved by including a new sub-paragraph under Clause 9 (2)(c) to the effect that the power of the Department to give directions in Chapter 2 and to make regulations in Chapter 3 will include the power to do so in relation to the circumstances of one or more specified Councils.

## Clause 10: Control of disposals and contracts of existing councils

### Explanatory Memorandum Overview:

*This clause sets out a system of controls on disposals of land, and capital and non-capital contracts being entered into, by the current 26 district councils in the period leading up to their dissolution and the establishment of the 11 new district councils. The Department will have powers to direct that councils must obtain consent from their statutory transition committees before engaging in the specified activities, subject to minimum thresholds.*

### Belfast City Council comments:

- The specified statutory transition committee referred to should be the transitional committee(s) that would otherwise hold or have responsibility for the subject land /capital contract post RPA.
- However, as Belfast City Council have assets outside their current boundary the legislation should provide for the Belfast Transition Committee being the specified transition committee responsible for consenting to any disposals /contracts in respect of these assets.
- References to specified sums, specified date and specified description will all require more detail as to amounts, thresholds etc, and district councils should be consulted on this whilst the detail is being developed in subordinate legislation.
- **Clause 10 (4) (c)** provides that a direction may be varied or revoked by a subsequent direction. However, clarity will be required around the proposed mechanism for varying or revoking the direction. **Belfast City Council would recommend that Councils be consulted in any such instances and any variation or revoking of the direction will need to be agreed by Councils.**

## Clause 13: Contravention of direction

**Explanatory Memorandum Overview:**

This clause defines when a disposal of land made in contravention of a direction is to be declared void.

**Belfast City Council comments:**

Clause 13 (1) Disposals made in contravention of directions being void – clarification will be required around the enforcement of this clause. In particular, when a disposal has taken place and a 3<sup>rd</sup> party is in occupation as the new legal owner, clarification will be required as to the legal effect of this clause.

**Clause 14: Statutory transition committees: constitution****Explanatory Memorandum Overview:**

This clause makes provision about the establishment of statutory transition committees to manage, at a local level, the transition from the current configuration of 26 local government districts to the new 11 districts as set out in the Local Government (Boundaries) Act (Northern Ireland) 2008. The clause also provides the Department with the power to specify in regulations\* the level of membership of the statutory transition committees, the process to be adopted by the current councils to determine their representation on the relevant transition committee, and the governance arrangements for the committees. It also provides for the regulations to make provision in relation to making payments to and facilities available to statutory transition committees.

**Belfast City Council comments:**

- It is important to highlight that Belfast City Council stands in somewhat of a different position to that of the other 25 Councils in regard to the RPA transition process, since all the other Councils are to be abolished and replaced by 10 new Councils. As a result, the 25 Councils are to merge together in clusters and have formed voluntary Transition Committees, made up of elected Members from constituent Councils, for the purposes of managing the transition and convergence process.
- Whilst Belfast City Council will clearly become a new legal entity post RPA, it is not merging with any other council but rather assimilating, within its boundary, geographical areas from the current Castlereagh Borough and Lisburn City Council areas as set out within the Local Government Boundaries Commissioner's Final Recommendations report published on 26<sup>th</sup> June 2009.
- Accordingly, the previous Environment Minister Sammy Wilson supported the proposition that Belfast City Council manages its own transition process and that the Council's Strategic Policy and Resources Committee be designated as the Belfast's Transition Committee. The Committee would comprise of twenty Members appointed on the basis of proportionality applying the D'hondt procedure, with an additional monthly meeting of the Committee to be designated for the purpose of RPA transition and associated change management business.
- The Minister's approval to this proposal was conveyed to the Council by letter of 2 February and accordingly the Strategic Policy and Resources Committee had met as a Transition Committee from March onwards. The Belfast Transition Committee recognises the need to put in place formal engagement mechanisms between the Lisburn/Castlereagh Transition Committee and the Belfast Transition Committee to identify and resolve transitional related matters and to ensure service continuity for the citizen.
- Belfast City Council would recommend that the current governance arrangements for Belfast's

Transition Committee be retained with further consideration given, in drafting any subordinate legislation, to the introduction of a formal engagement mechanism between the Lisburn/Castlereagh Transition Committee and the Belfast Transition Committee to discuss transitional related matters.

- **Belfast City Council feel that in accordance with good practice, the Department should ensure that local councils are consulted in the drafting of the relevant detailed subordinate legislation which emerges from this Clause.**

### **Clause 15: Statutory transition committees: functions**

#### **Explanatory Memorandum Overview:**

*This clause provides the Department with the power to specify in regulations the functions and powers of a statutory transition committee in relation to delivering the transition process. It is intended that the functions of a statutory transition committee will include the development and management of the convergence of the plans and programmes of the current local government districts that will form the new districts; the development of strategies for estates and accommodation; the management of the transfer of assets and liabilities; the development of a preliminary staff structure for the new council; the appointment of a Chief Executive designate and key senior managers designate, and the preparation of a budget and the fixing of the rate for the new council district.*

#### **Belfast City Council comments:**

- Belfast City Council would recommend that consideration is given to the inclusion of the following additional provisions either within this Clause or within the regulations developed by the Department in relation to this Clause:-
  - enabling Statutory Transition Committees to establish Sub-Committees to consider specific issues as they feel appropriate. It would be better to have this enabling provision in place from the outset rather than a Transition Committee finding that it would be necessary to establish a Sub-Committee and had no statutory powers to do so.
- **Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local council's are consulted during the development phase of any subordinate legislation relating to this clause**

### **Clause 16: Power to modify existing legislation**

#### **Explanatory Memorandum Overview:**

*While clauses 14 and 15 set out specific provisions in relation to the making of regulations\* for the establishment and operation of statutory transition committees, this clause provides a power for the regulations to apply (with or without modification) or dis-apply the provisions of relevant local government or rating legislation.*

#### **Belfast City Council comments:**

- Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local councils are consulted during the development phase of any subordinate



legislation relating to this clause.

## **Clause 17: Severance payments to councillors**

### **Explanatory Memorandum Overview:**

*The clause confers a power on the Department to make regulations providing for the making of severance payments to councillors who resign as councillors before the end of a specified period and who meet such other criteria as the Department may specify. The clause also amends section 4 of the Local Government Act (Northern Ireland) 1972 to provide that a person who has received a severance payment is disqualified from being elected, or being, a councillor.*

### **Belfast City Council comments:**

Belfast City Council are supportive of the provisions outlined in Clause 17 in respect to Severance payments but would reiterate that requirement for local councils to be consulted during the development phase of any secondary legislation relating to this clause.

The Council have already formally responded in April 2009 to the Department of the Environment's consultation exercise in regard to proposals for the introduction of a Severance Arrangements and in accordance with that response would recommend that the following issues be taken into consideration in the drafting of any subordinate legislation.

1. A set amount of £1,000 per year being payable up to a maximum of 38 years;
2. eligibility for severance being restricted to Members who have served a minimum of two Council terms;
3. the inclusion of Members of the House of Lords in the severance scheme and also the inclusion of MLAs, MPs, and MEPs but on the basis that their entitlement to an award would be calculated only on those years of Local Government service which they have acquired prior to their election to another tier of Government;
4. the next of kin of a Member being entitled to severance in the event that a Councillor dies after applying for severance but before the payment has been made;
5. a recipient of severance having to repay it in full in the event that they return subsequently to serve in Local Government before a period of two Council terms has elapsed;
6. Central Government being responsible for meeting the costs associated with the introduction of a severance scheme;
7. the scheme should apply during the period from January, 2010 until the date of the Local Government elections in May, 2011, providing that the necessary legislation on co-option is implemented so as to avoid the potential risk of multiple bi-elections.

- **Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local council's are consulted during the development phase of any subordinate legislation relating to this clause.**

## **Clause 18: Acquisition of land otherwise than by agreement**

### **Explanatory Memorandum Overview:**

*This clause provides that councils may vest land for any of their purposes in Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 – a provision that had been inadvertently omitted from that Order.*

### **Belfast City Council comments:**

Belfast City Council would recommend that the power for a district council to acquire land

otherwise than by agreement should not be limited only to waste management purposes but should provide for district councils having a more general power to acquire land otherwise than by agreement exercisable in connection with their functions.

## **Clause 20: Regulations and orders**

### **Explanatory Memorandum Overview:**

*This clause essentially sets out the means by which the Department may make different regulations as provided for in the Bill.*

### **Belfast City Council comments:**

- Belfast City Council would recommend that in accordance with good practice, the Department should ensure that local council's are consulted during the development phase of any secondary legislation which has a direct impact upon them.
- The Council supports the intention that Clauses 14, 15 and 16 (and parts of Clause 3) be subject to affirmative resolution by the NI Assembly and would reiterate the need for the Minister and the Committee for the Environment to consult with all interested parties in the drafting phase of any secondary legislation related to these clauses.



**Belfast City Council**

Report to:	<b>Strategic Policy and Resources (Transition) Committee</b>
Date:	<b>Friday, 7<sup>th</sup> August, 2009</b>
Subject:	<b>Department of the Environment Consultation on Planning Reform</b>
Reporting Officer:	<b>Gerry Millar, Director of Improvement</b>
Contact Officers:	<b>Kevin Heaney, RPA Co-ordinator</b>

**Purpose of Report**

To inform the Committee of the consultation document which has been issued by the Department of the Environment entitled '*Reform of the Planning System in Northern Ireland*' and to seek approval for proposals on how the Council will formulate a response to the consultation.

**Background Information**

In July this year the Department of the Environment published the '*Reform of the Planning System in Northern Ireland*' consultation which sets out the measures the Department proposes to take to reform the planning system in Northern Ireland in the medium to longer term. The consultation sets out proposals to make the changes required to implement the decisions taken under the Review of Public Administration which will result in the majority of planning functions returning to local government.

A copy of the consultation paper is available on the Department's website:-  
[www.planningni.gov.uk/index/news/news\\_consultation/consultation\\_paper\\_final\\_200709.pdf](http://www.planningni.gov.uk/index/news/news_consultation/consultation_paper_final_200709.pdf)

Members are asked to note that the Department is also holding a series of stakeholder events across Northern Ireland in relation to this consultation. The Belfast event is taking place on **Friday 11<sup>th</sup> September at 10.30am in Grosvenor House, Glengall Street**. It is proposed that the Council is represented at this event by both Members and officers.

Consultation responses must be received by the DoE no later than **2<sup>nd</sup> October, 2009**.

The key issues raised in the consultation are set out below for the attention of Members.

### **Key Issues**

On initial review of the consultation document, the main strategic issues for the committee to consider at this stage are as follows:

- There is the potential for the NI planning system to become more fragmented with the regional planning function remaining with two central governments departments (DRD and DOE) while local planning is transferred to the new councils.
- The Department is proposing a new local development plan system along with a number of other reforms which will be determined by the new council's. This will have significant resource and capacity implications for the new councils which is not addressed in the document.
- The Department proposes a high level of scrutiny of local council planning functions through a number of measures including:
  - the statement of community involvement must be agreed by central government;
  - local councils programme for the review of the local development plan must be agreed through a Programme Management Scheme by central government;
  - it is proposed that regionally significant developments will be determined by the Department and its minister; and
  - the proposed thresholds set for regionally significant applications indicates a high level of call in by the Department.
- The proposal for a tier system to determine planning applications means that planning applications will be determined by either central government or local councils which potentially could cause confusion.

A more detailed initial review of the main proposals and associated issues, which follows the format of the consultation document, is attached in Appendix 1.

### **Proposed Actions**

The reforms proposed in the consultation paper are intended to underpin the transfer of planning functions to Local Authorities and to set the framework under which the planning role will be undertaken by the eleven new councils. Members are aware that the role of the Transition committee is to ensure continuity of service delivery across the new council area from 2011 and to integrate transferred services and new functions into the new council's operations. Accordingly, it is proposed that the council's Strategic Policy and Resources (Transition) Committee is the most appropriate vehicle to determine the Council's response to this consultation.

Since the '*Reform of the Planning System in Northern Ireland*' consultation covers a wide range of areas, comments are being sought currently from all council departments to inform the response. In addition, any comments which Party Groups or individual Members may wish to make will be welcomed and will inform the preparation of the draft response which will be submitted to the September meeting of the Strategic Policy and Resources (Transition) Committee.

Responsibility for the areas addressed in the consultation paper fall principally within the remits of the Development and Town Planning Committees. It is intended that both Committees will be informed of the aforementioned proposals and invited to attend the appropriate meeting of the Transition Committee in September at which a response is to be determined.

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**Resource Implications**

None.

**Recommendations**

It is recommended that the Committee agrees:

1. to approve the above arrangements for the formulation of a corporate response to the '*Reform of the Planning System in Northern Ireland*' consultation
2. that any Party Group or Member may provide initial input to the formulation of the draft response by contacting Kevin Heaney, RPA Co-ordinator, prior to 21<sup>st</sup> August;
3. to authorise the attendance of Members of the Town Planning and Development Committees at the September meeting of the Strategic Policy and Resources (Transition) Committee at which the draft response to the consultation will be considered
4. to approve the attendance of the Chairman, Deputy Chairman of the Strategic Policy and Resources Committee (or their nominees) and a representative from each of the Party Groups not represented by the aforementioned Members, together with appropriate officers at the Belfast consultation event on **Friday 11<sup>th</sup> September** at 10.30am in Grosvenor House, Glengall Street. Members are asked to note that this event will last approx. 2½hours. Places at the event must be reserved and any Member interested in attending is asked to contact Kevin Heaney, RPA Co-ordinator, to arrange this.

**Decision Tracking**

Following approval at Council on 1<sup>st</sup> October the Director of Improvement will submit the Council's response to the Department of the Environment.

**Attachments**

Appendix 1 – Summary of the main issues from the Department of the Environment's consultation paper - '*Reform of the Planning System in Northern Ireland*'.

Appendix 2 – Executive Summary - '*Reform of the Planning System in Northern Ireland*'

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# **APPENDIX 1**

**Summary of the main issues from the Department of the Environment's consultation paper – 'Reform of the Planning System in Northern Ireland'.**

**Planning Policy**

The Department is proposing that Planning Policy Statements (PPS's) should move from providing operational guidance and advice to providing strategic direction and regional policy advice, which would then be interpreted locally in development plans. The aim is to produce shorter, more focused documents, in a shorter timescale.

Issues

- The responsibility of preparing PPS's will remain with the Department. There may be potential for conflict between local and central government where a district council wishes to depart from regional policy advice
- The proposed changes will require a complete overhaul of each of the current PPS's, this may be a lengthy process which will impact on the local councils local development plan process

**Development Plan**

Under RPA it is proposed that responsibility for local planning will transfer to local councils. The Department proposes to introduce a new local development plan system to speed up the process. The new Local Development plans are to consist of two separate but related documents: A plan strategy and Site Specific Policies and Proposals.

Council's will be required by proposed new legislation to create a Statement of Community Involvement and also prepare Programme Management Scheme which will set out the programme for production of the key documents in the process. It is proposed that the Department will have power to secure delivery of local development plans where a district authority is not making process. A faster more effective independent examination process is proposed and will remain the responsibility of Planning Appeals Commission. Representations to the Development Plan will follow a standard template and must demonstrate why the plan is not robust and suggest a solution.

Issues

- the Council will need to develop the capacity to create local development plans but there is no discussion on resources needed to carry out this function
- The examination process is to change which will have implications for legal services
- If there is a time lag from the production of revised PPS, it may impact on the local development plan process
- Council's capacity to develop Statement of Community Involvement and the need for it to be agreed by central government

**Development Management (Control)**

Development management is the new name proposed for development control and its responsibility will be shared between the Department and local councils. The main differences are summarised in Table 1. A three tier hierarchy for applications is proposed for applications: regional significant development, major development, local development. (Diagram 1) It is proposed that regionally significant developments will be determined by the Department and its minister and major developments will be determined by the new councils and will include major developments with important economic, social or environmental implications for an area of an individual district council. The definition of what constitutes a major development is outlined in Table 2

Other proposed changes include:



- The retention of regionally significant planning application with central government and the proposed threshold level for call ins
- To front load the planning application system with early engagement and pre application discussions
- Extend the permitted development rights
- Schemes of delegated decision making
- An extended list of consultee's with new statutory obligation for a timeframe for reply

### Issues

- The council will have to decide on its own scheme of delegated decision making
- A extended list of statutory consultees may result in lengthening in the process

### **Development Management in Conservation Areas, ATCs/AVC's**

A House of Lords Judgement (Shimizu (UK) Ltd v Westminster City Council 1997) established that, in conservations areas, the demolition of part of an unlisted building, which might previously have been considered to require conservation area consent, no longer needs such consent, i.e. partial demolition of buildings in conservation areas is not subject to conservation control. The Department aims to amend the legislation to clarify that conservation area consent/planning permission is required to partially demolish any part of an unlisted building in a conservation area/ATC/AVC

### Issues

- This proposal has an impact on the operational side of the planning system and should provide clarity to local authorities

### **Duration of Permissions and consents**

The Department view that the current timescales for development (usually 5 years) can lead to developers 'land-banking' which can result in development uncertainty in an area. The five year duration also has potential to lead to delays in policies taking effect on the ground as it will only apply to new development proposals

The Department proposes to

- Reduce the normal default duration of planning permission, listed building and conservation area consents from five years to three;
- For outline permission removal of the condition requiring development to start no later than five years from approval. Requirement to submit Reserved Matters within three years to be retained.

### Issues

- As identified in the reform document this could potentially lead to an increase in 'technical starts' whereby enough development has commenced to meet the commencement date condition but then development is stopped. The installation of foundations of the development is a common way to meet the time condition at low expense.

### **Non material changes**

It is the Department view that the current, non statutory, system of planning officers allowing non-material changes, or minor amendments, to existing approvals on a case-by-case basis may be open to a successful challenge by a third party.

The Department proposes specific legislative provisions to enable non-material changes to planning permissions to be made. These provisions could:

- Allow planning authority to change any planning permission where it is satisfied the change is not material;

- Enable planning authority to impose new conditions and remove or alter existing conditions;
- Make the power available only after application by a person with interest in the land;

This will result in the current process whereby developers can request a minor amendment to an existing proposal replaced by a system that allows changes by the authority with legislative backing.

#### Issues

- This will give local councils the power to impose new conditions and remove or alter existing conditions
- These new powers may reduce the number of new planning applications being submitted to the new local councils

#### **Correction of Errors in Decision Notices**

The Department proposes changes in legislation to allow the planning authority to correct errors in planning decision documents without the consent of the applicant/landowner. Article 20(3) of Planning Reform Order 2006 defines correctable error as an error contained in any part of the decision document which is not part of any reasons given for the decision.

#### Issues

Clarification will be required as to what consists the decision document, is it the decision certificate itself or does it include the Case Officers Report?

#### **Appeals**

The Department proposes the following:

- Reduce the time limit for lodging planning appeals to two months (including appeals into certificate of lawful use or development)
- Provide PAC with the statutory powers to decide the appeal method
- Provide in statute that appeal parties may not raise matters that were not in front of the planning authority when the decision was made.
- To extend the power to determine a parallel planning application if the same development is subject of a 'deemed application' to the PAC
- Introduce a power to allow the PAC to award costs where a party has been put to unnecessary expense and where the PAC has established that the other party has acted unreasonably
- Seek views on providing new councils the ability to determine certain minor appeals by a local member review body (LMRB)

#### Issues

- Some of the proposals may result in an increased work load for the PAC eg the new 2 month time limit. However other proposals are aimed at reducing PAC work load eg restriction on new material, and power to decide the appeal method.
- Award of costs may increase the financial burden on local councils
- Post RPA the major impact of these proposals will be the Local Member Review Body proposal whereby elected councillors on the LMRB would have the power to uphold, reverse or vary any decision which is subject to their review. This, in addition to a reduced PAC case load, would give councils increased powers which would impact on council resources as the LMRB would need professional planning guidance.

#### **Third Party Appeals**

The Department has decided to re-examine the issue in light of previous and continued interest in third party rights of appeal, however the Department is not proposing to make provision for third party appeals in this reform.

The Case for Third Party Appeals:

- Equity/natural justice;
- Enhanced third party participation in planning system
- More accessible/relevant than Judicial Review;
- Enhanced decision making;
- An incentive to good practice in relation to greater consultation by applicants;
- Swifter decisions in the knowledge of the availability of third party appeals;
- Increased public confidence

Implications of third party appeals:

- Net cost to the public purse;
- There would be a time lag on all decisions in order to allow third parties to appeal;
- Additional staff resources required by local authorities and PAC;
- Greater uncertainty as to the outcome of planning process;
- Potential adverse impact upon investment and the economy.

Issues

- Third party appeals may lead to the development management process being more accountable. However it would result in the need to increase resources and lengthen the development management process.
- Is the Statement of Community Involvement adequate?

## **Enforcement and criminalisation**

Increased Fees for Retrospective Applications

The Department is considering charging a greater or multiple of the normal fee for retrospective planning applications.

Issue

- This could be a contentious issue as some breaches of planning control are genuine.

Criminalisation of Development without Planning Permission

The Department is giving consideration to making it an immediate criminal offence to commence any development without planning permission.

Issue

- This may result in the need for Local council's to increase their legal services capacity

## **Developer Contributions**

The Department identifies two options for securing increased levels of developer contributions:

- The extended use of existing Article 40 powers; or
- Development of a CIL-type (Community Infrastructure Levy) levy on a regional or sub-regional basis

The extension of the use of Article 40 powers could provide an increased level of funding for infrastructure provision within existing legislative powers. PPS1 would likely need to be reviewed. In the case of the Community Infrastructure Levy (CIL) in England

and Wales, under CIL, local planning authorities will be empowered to introduce a statutory planning charge on development and to use the resulting money to support infrastructure provision.

Issues

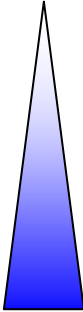
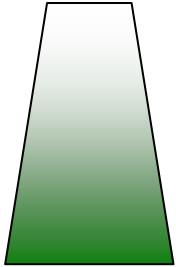
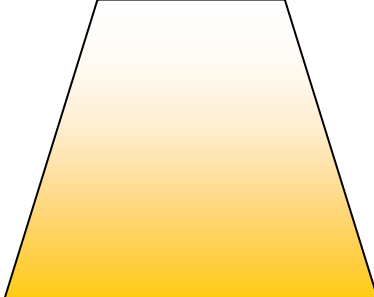
- The time required to develop and effective system;
- Determining a suitable plan or framework to determine infrastructure requirements and costings;
- The development of a mechanism to calculate and assign financial liabilities on developers;
- Flexibility to cope with different market trends or economic conditions at regional or local level;
- Legislative provision to underpin the system; and
- Agreement as to which department(s) should lead this work
- Contributions could be used to enhance or develop open space, parks and community/play facilities

**Table 1**

<b>Comparison of development control with development management</b>	<b>Development Management</b>
Purpose is focus on processing applications to control development and minimise harm with limited enhancement to quality of the final development	Purpose is to manage development with a focus on pre-application discussion to maximise achievement of desired outcomes for government, district councils and their communities
Asks at submission of formal application stage if the proposal is contrary to plans and policy and therefore likely to be refused	Asks at pre-application stage what are the key policy issues that need to be addressed if the proposal is to be acceptable in principle and how it can help to deliver regional policy and better quality places for district councils and their communities
Seeks views of communities after submission of application	Seeks views of communities at pre-application stage for significant developments, in addition to application stage
Other agencies are consultees in the process	Seeks to work in partnership to secure agreed development, particularly with key consultees and relevant stakeholders
Handles all applications with predominantly 'one size fits all' process	Develops proportionate processes for all applications appropriate to the scale and impact of individual developments

**Diagram 1**

The following diagram shows the new procedures and processes for applications within the hierarchy (post-RPA).

<p><b>Regionally Significant Developments</b></p> <p><b>Instrument:</b> Programme for Government; Regional Policies and Regional Plan(s); Local Development Plan  <b>Decision Maker:</b> Department with Minister to make final decision  <b>Process Route:</b> Pre-Application screening notice (statutory); pre-application community consultation (statutory); Planning application with performance agreement (non-statutory); either 1) Notice of Opinion, or 2) Public Local Inquiry (option to appoint Independent Examiners);  <b>Appeal:</b> Hearing procedures for Notice of Opinion</p>	
<p><b>Major Developments</b></p> <p><b>Instrument:</b> Local Development Plan  <b>Decision Maker:</b> District councils  <b>Process Route:</b> Pre-application community consultation (statutory); Planning application with performance agreement (non-statutory);  <b>Appeal:</b> To PAC</p>	
<p><b>Local Developments</b></p> <p><b>Instrument:</b> Local Development Plan  <b>Decision Maker:</b> District councils (including schemes of delegated decision-making)  <b>Process Route:</b> Planning application  <b>Appeal:</b> To PAC (option for Local Member Review Bodies)</p>	

**Table 2**

Major development is one that falls within the minimum and maximum thresholds of the following classes of development

<b>Major Developments Description of Development</b>	<b>Threshold or criteria</b>
1. Housing	Urban areas: a) brownfield development that comprises or exceeds 50 residential units or where the site area is or exceeds 0.5 hectares, but is not greater than 500 units or 4 hectares; or b) greenfield development that comprises or exceeds 100 residential units or where the site area is or exceeds 2 hectares, but is not greater than 500 units or 4 hectares. Within villages and other small rural settlements: a) any development which comprises or exceeds 20 residential units, but is not greater than 100 units.
2. Retailing	a) food - where gross floor space of the development comprises or exceeds 1,000 square metres, but is not greater than 3000 square metres; or b) non food – where the gross floor space comprises 3000 square metres, but is not greater than 10,000 square metres; or c) the site area is or exceeds 1 hectare, but is not greater than 2 hectares.
3. Business, Industry (Light and General), Storage and Distribution	a) where the gross floor space of the development comprises or exceeds 5,000 square metres, but is not greater than 15,000 sq metres; or b) the site area is or exceeds 1 hectare, but is not greater than 2 hectares.
4. Energy Generation	Development that generates energy from renewable resources where the capacity is 5 megawatts, but does not exceed 20 megawatts.
5. Waste Management Facilities	a) construction or use of land or buildings for the purpose of waste management, deposit, recovery and/or disposal of household,

## **APPENDIX 2**

## **Reform of the Planning System in Northern Ireland: Your Chance to Influence Change Consultation Paper**

### **Executive Summary**

1. In November 2007, the then Minister of the Environment, Arlene Foster, announced that she intended to take forward a programme of planning reform, with the key aim of developing proposals that would enable the planning system to play its part in delivering the Executive's Programme for Government (PfG)<sup>1</sup> priorities and, in particular, by contributing to growing a dynamic, innovative and sustainable economy, while promoting inclusion and equality of opportunity. Professor Greg Lloyd, an expert on planning, was appointed to provide the Minister with an independent opinion on the direction that planning reform would need to take to best achieve its aim and to work with officials to develop proposals for the key measures necessary to deliver an improved planning system.
2. This consultation paper sets out the measures the Department of the Environment (the Department) proposes to take to reform the planning system in Northern Ireland and to make the changes required to implement the decisions taken under the Review of Public Administration (RPA), which will see the majority of planning functions returning to local government. Together, these proposals represent the most fundamental change to the planning system in Northern Ireland in over 30 years.
3. The paper also sets out certain related issues on which the Department is seeking views, including criminalisation of development without planning permission, developer contributions and enhancing the capacity of the planning system.

### **Stakeholder Engagement**

4. In order to fully inform the proposals the Department has been involved in a number of different engagement activities, including a major conference in November 2007, attended by approximately 200 delegates and addressed by the Environment Minister. A questionnaire developed for the conference was posted on the Planning Service website for 10 weeks, with over 240 responses submitted and considered. Officials have also been engaged in research and have been in liaison with their counterparts in planning throughout the UK and Ireland. In addition, a series of meetings, involving Professor Lloyd, have been held with internal and external stakeholders, including other government departments, the Planning Appeals Commission, representative bodies such as Community Places, Northern Ireland Environmental Link, the Construction Employers Federation, the Institute of Directors, the Confederation of British Industry, the Northern Ireland Local Government Association and others.
5. The planning system is fundamentally about ensuring the effective and efficient use of land in the public interest, contributing to achieving sustainable development in cities, towns and rural areas. Land use and development involves a complex interaction and analysis of economic, environmental and socio-economic issues and, with the return of devolved government in Northern Ireland, the Executive has made it clear that the top priority for the next three years is sustainable economic growth.
6. Reform is therefore needed to ensure that we have a modern, efficient and effective planning system, and is critical to supporting the Executive in delivering on its key priorities. The planning system needs to provide confidence to investors, developers and the public alike. It needs to be more responsive to the many and varied challenges we are facing today, including promotion of economic growth, enabling sustainable development, securing environmental protection, addressing climate change and demands for more social and affordable housing and, of course, ensuring effective use of resources and improved service provision.

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<sup>1</sup> The Programme for Government sets out the Executive's strategic priorities and key plans for 2008-11 and can be found at <http://www.pfgbudgetni.gov.uk/> 7



### **Aims and Objectives for Reform**

7. The reform programme aims to bring about improvements in the planning system to ensure that it:
  - supports the future economic and social development needs of Northern Ireland and manages development in a sustainable way, particularly with regard to large, complex or strategic developments;
  - is delivered at the right level with the appropriate managed processes for regionally significant, major, local and minor applications;
  - has streamlined processes that are effective, efficient and improve the predictability and quality of service delivery; and
  - allows full and open consultation and actively engages communities.
8. The reforms are set in the context of the overall objective of improving the Northern Ireland economy, while promoting social inclusion, sustainable communities and personal health and well-being, as well as promoting viable and vital towns and city centres and helping to create shared spaces that are accessible to all and where people can live, work and socialise. We must also balance this with protecting the environment and heritage and contributing to sustainable development.

### **Scope of the Reforms**

9. This reform of the planning system is intended to be comprehensive: it encompasses the development plan process, development control, enforcement and planning policy, together with other support-type functions. It also covers a significant time period, from the short-term through to 2011 and beyond. It is focused on the planning system, not just the Planning Service, and on the roles and responsibilities of all of the participants, including planners, developers, agents, consultees, representative bodies, elected representatives, communities and individuals. In addition, the major structural reform of the planning system required to deliver the RPA will see decision-making on planning applications and local development planning become the responsibility of the new district councils. This will make planning much more locally accountable, giving local politicians the opportunity to shape the areas within which they are elected. It will also improve the decision-making processes by bringing an enhanced understanding of the needs and aspirations of local communities.
10. In advance of these proposals, the Planning Service has been taking forward a series of projects, pilots and trials aimed at having an immediate impact on speeding up the planning process (e.g. new pre-application discussion arrangements with applicants, and a joint pilot scheme with Derry City Council to streamline non-contentious applications<sup>2</sup> which, by the end of March 2009, had been rolled-out to all district councils). In the medium to longer term, the reform proposals that will be brought forward will require more significant changes, in many cases underpinned by new or amended legislation.
11. Chapter 1 provides background to the reform programme: the purpose of the planning system; why we need to reform it; the impact the RPA will have; and the Department's vision for a reformed planning system. The remainder of the consultation paper covers the areas set out below.

### **Planning Policy**

12. The Department is considering the need for a reform of its arrangements for planning policy, particularly in relation to the future role and status of planning policy statements (PPSs) in light of the proposed transfer of key planning functions to the new district councils in 2011. The Department is proposing that PPSs should move from providing operational guidance and advice to providing strategic direction and regional policy advice,

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<sup>2</sup> Non-contentious applications are defined as minor applications with no objections.

which would then be interpreted locally in development plans, and that the content and process associated with PPS production should reflect the desire to produce shorter, more focused documents, in a shorter timescale.

### **Development Plan**

13. Fundamental to reform is the provision of an effective, up-to-date development plan system. The Department proposes to introduce a new local development plan system which will operate within the two-tier planning system envisaged under the RPA, whereby planning functions will be administered by both district councils and the Department. The proposals are intended to:

- speed up the plan preparation process;
- ensure more effective participation from the community and other key stakeholders early in plan preparation; and
- ensure a more flexible approach that is responsive to change and capable of faster review.

The new local development plan system will provide more clarity and predictability for developers, the public and other stakeholders. It will also assist the new 11 district councils to target action to tackle social need and promote social inclusion.

### **Development Management**

14. Enhancing the ability of the system to deal speedily with key planning applications that have real economic and social benefit is central to delivering the vision of a planning system that is fit for purpose and which will underpin a modern and prosperous Northern Ireland. The Department proposes to adopt a concept of development management for handling planning applications, with a greater emphasis on facilitating and shaping development and away from mainly controlling it.

15. As part of this new development management approach, the Department is proposing the creation of a 3-tier hierarchy of development (consisting of regionally significant, major and local) so that greater resources can be directed at those applications with economic and social significance, through more proportionate decision-making mechanisms, tailored according to the scale and complexity of the proposed development. In conjunction with this, the Department proposes to introduce new processing arrangements for types of applications within the 3-tier hierarchy. These will improve the predictability of timescales and ensure effective engagement with the community and other stakeholders. Proposals are also included in relation to permitted development, the role of consultees, the partial demolition of unlisted buildings in conservation areas/areas of townscape or village character, and miscellaneous changes to planning permissions.

### **Permitted Development (including householder and small scale renewable energy generation)**

16. Permitted development rights currently allow certain, often minor, non-contentious types of development to proceed without the need for a planning application as planning permission is deemed to be granted. The introduction of development management will include a rationalisation of how planning permission is given for such minor developments. The Department proposes to achieve this by simplifying and streamlining processes for applications for minor development, and by extending the range of minor developments for which planning permission is given without a planning application: for example, by extending permitted development rights within the curtilage of a dwelling house, and providing specific permitted development rights for small scale renewable energy generation.

### **Role of Consultees**

17. The Department is re-examining the arrangements by which planning authorities (whether district councils or the Department) will consult other bodies on applications for planning

permission, approval and consent and the process by which consultee bodies will be required to respond to such consultations.

### **Enhanced Development Management in Conservation Areas, Areas of Townscape or Village Character**

18. Protecting those areas that have been identified as architecturally or historically important is a key role of the planning system. As part of this role, a number of conservation areas and areas of townscape or village character have been designated, or are proposed, across Northern Ireland. To ensure these areas are fully protected the Department is proposing to strengthen control over the partial demolition of unlisted buildings in conservation areas, areas of townscape or village character and to place greater emphasis on the enhancement of conservation areas.

### **Miscellaneous Changes to Planning Permissions**

19. The Department is seeking views in relation to changing the duration of planning permission and some consents; enabling non-material changes to planning permissions (i.e. minor changes that do not significantly change a scheme that was originally granted planning permission) to be made; and allowing the planning authority to correct errors in planning decision documents without the consent of the applicant/landowner.

### **Appeals and Third Party Appeals**

20. The Department is examining measures for improving the appeal system: for example, reducing the time limit for lodging an appeal from six months to two, giving the Planning Appeals Commission the legislative powers to determine the most appropriate appeal method, and establishing local member review bodies (comprised of councillors) to hear certain appeals. The Department is also inviting views on the issue of third party planning appeals.

### **Enforcement and Criminalisation**

21. The Department is reviewing enforcement provisions to ensure they are sufficiently robust and considering whether any new proposals, similar to those recently introduced in Scotland, should be developed for Northern Ireland. The arguments for and against introducing a criminal offence for commencing development without planning permission are also considered.

### **Developer Contributions**

22. The Department is seeking views on the contribution that the development industry might make to the provision of infrastructure (such as roads, water and sewerage) necessary for Northern Ireland's economic and social improvement.

### **Enabling Reform**

23. In order to properly reform the planning system there are a number of related areas which will need to be addressed: for example, culture change, capacity, funding, engaging communities, audit and inspection arrangements.

### **Culture**

24. The reform proposals represent the most substantial changes to the planning system in over 30 years. For the full impact of these changes to be realised, and a new planning system created, it is clear that a change in culture for all those involved in the system is required. The development of a shared understanding amongst stakeholders on the role and nature of the planning system is extremely important, both in terms of what planning is expected to deliver and what it is not. A key element of such an approach is an enhanced appreciation and acceptance of both the rights and responsibilities of all stakeholders.

### **Capacity**

25. Another key area will be building capacity, both within the existing Planning Service and working with stakeholder bodies, councils, consultees, developers, agents and the public to

deliver reform, including the new roles and responsibilities emerging from RPA implementation. It is particularly important that all planning staff continue to develop and enhance the necessary skills and competences required to take forward planning reform.

### **Funding**

26. The implementation of the RPA, in conjunction with the reform programme, will inevitably have implications for the funding of the planning system, and for the fee structure. We need to assess how these proposed reforms will impact on funding and what revisions may be required as a result. Consultants will be engaged to research and provide recommendations in relation to the future funding of the planning system in light of both the reform initiatives and the decisions made as a result of the RPA.

### ***Engaging Communities***

27. Ensuring that openness, transparency and the opportunity for effective engagement continues in the future planning system is at the core of the reforms being proposed and is critical to ensuring integrity and confidence in the planning system.

### ***Audit/Inspection***

28. The role of audit, inspection, performance management and monitoring of the planning system will be critical in ensuring that planning functions are carried out, and are seen to be carried out, in a clear, fair and consistent manner and that best practice is applied across the new district councils. The Department is proposing that central government should have a statutory audit/inspection function and that it should collate, analyse and possibly publish Northern Ireland-wide planning information on performance, application numbers, local development plan preparation etc.

### **Outcomes of Reform**

29. The anticipated outcomes from the proposed reform programme are:

- 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;
- a system more capable of discharging the statutory obligations to have due regard for the need to promote equality of opportunity;
- 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.

30. These proposals lay the foundation for an improved planning system which the Department believes will encourage the investment Northern Ireland needs for economic growth, creating jobs and opportunities for all, while promoting fairness, inclusion, equality of opportunity, and protecting the best of our natural and built environment. They aim to improve confidence and trust in the system and move it from a system that is seen as reactive and bureaucratic to one that is more positive and dynamic.

31. Some of the proposals are at a more advanced stage of development than others. Some require legislative change and others require changes to policies, procedures and processes. The Department intends to work closely with all who have an interest in the planning system and welcomes your views and comments on the proposed measures. This

consultation paper provides anyone who wishes an opportunity to comment on the proposals, as well as on certain related issues where the Department is seeking views. The consultation process plays an important part in informing and framing the new planning system.

32. There are a number of consultation questions throughout the document and, for ease of response, these are summarised in a separate consultation response document. We would appreciate you taking the time to provide us with your comments. The consultation exercise runs until 2<sup>nd</sup> October 2009.

### **Assessments**

33. Government bodies are required to screen the impact of new policies and legislation against a wide range of criteria, including equality and human rights. There are also requirements introduced either by the Executive or as a result of UK government or international obligations for environmental, rural, regulatory and health impact assessments. The results of the Department's initial screening exercises are highlighted below.

### ***Equality Impact Assessment***

34. A draft Equality Impact Assessment (EQIA) at a strategic level has been prepared as part of the Department's Section 75 statutory duties in response to the Programme for Government (PfG) proposals. It is intended that the draft EQIA at a strategic level will help establish a foundation for subsequent Section 75 activities that will continue to ensure that due regard for the need to promote equality of opportunity and regard for the desirability of good relations are mainstreamed within each stage of development and implementation of the reform programme up to and beyond 2011. The draft EQIA at a strategic level is being published at the same time as, and in conjunction with, this consultation paper and we would welcome your views on the draft assessment. A copy of the draft EQIA at a strategic level is available on our website at <http://www.planningni.gov.uk>.

### ***Rural Proofing***

35. Rural proofing is a process which ensures that government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas. The Department has considered the guidance on rural proofing provided by the Department of Agriculture and Rural Development and has completed the checklist developed by the Rural Development Council.

### ***Regulatory Impact Assessment***

36. Government procedures require that a Regulatory Impact Assessment must be prepared for all proposals (legislative and non-legislative) which are likely to have a direct or indirect impact (whether benefit or cost) on businesses, charities, social economy enterprises and the voluntary sector. This includes proposals which reduce costs on business and others, as well as those that increase them.

### ***New Targeting Social Need***

37. New Targeting Social Need (New TSN) requires all government departments and relevant agencies to tackle social need and social exclusion by targeting efforts and available resources on people, groups and areas in greatest objective social need. The proposed reforms of the planning system have been examined to determine the extent to which New TSN applies. The proposals are intended to make the planning system more effective and efficient and thus ensure that it is fit for purpose in terms of playing its role on delivering on the Executive's Programme for Government commitments.
38. The proposals relating to planning policy, reflecting the desire to produce shorter, more focused planning policy statements, will help make them more accessible to all and will enable government policies to be applied more quickly on the ground through the development plan and development management systems.

39. It is proposed that district councils will be required to prepare a statement of community involvement which will set out procedures for involving local communities in the preparation and revision of local development plan documents and for consulting on planning applications.
40. In relation to development plans, the proposals for a more streamlined development plan system aim to ensure a more meaningful and effective approach to enabling interested parties and the local community to engage early in the plan process. These proposals, combined with the fact that responsibility for development plans will be transferred to local government under RPA, will enable district councils to target action to tackle social need and promote social inclusion.
41. Similarly, the development management proposals are designed to allow for more proportionate decision-making mechanisms and should therefore enable district councils to focus resources on those development proposals which are of the greatest economic and social benefit in their areas. The proposals also allow for increased community engagement at an earlier stage in the process and, as such, facilitate and encourage the inclusion and consideration of the views of communities with the greatest social need who might otherwise be excluded.

***Other Assessments***

42. The policy areas have also been screened in terms of their potential impacts on crime, community safety, health, human rights, state aid and environmental issues. At present, it would appear that the proposals will apply uniformly to all groups with no adverse impact in these areas.
43. The Department welcomes views on whether the conclusions contained in the above assessments are correct.



### Belfast City Council

<b>Report to:</b>	Strategic Policy and Resources Committee
<b>Subject:</b>	Review of the use of the City Hall and the provision of hospitality Policy
<b>Date:</b>	Friday, 7 <sup>th</sup> August, 2009
<b>Reporting Officer:</b>	Mr. Liam Steele, Head of Committee and Members' Services (ext. 6325)
<b>Contact Officer:</b>	Mr. Gareth Quinn, Development Officer (ext. 6316)

#### Relevant Background Information

Members may recall that the Committee, at its meeting on 22<sup>nd</sup> May, 2009, approved the Council's Corporate Plan for 2009/10 which includes the replacement of the Corporate Strategic Objectives with six 'key themes'. Prior to the approval of the Corporate Plan, the criteria used to determine which events should be granted the use of the City Hall and the provision of hospitality was based on organisations demonstrating how their event contributed significantly to the achievement of one or more of the Corporate Strategic Objectives.

Further to this, the Committee, at its meeting on 19<sup>th</sup> June, 2009, discussed the importance of increasing the number of events organised by community and voluntary groups which take place within the City Hall. The Committee expressed its desire to increase this number so that all the people of Belfast would have an opportunity to enjoy the City Hall.

#### Key Issues

##### *Implications on the criteria of the Corporate Plan 09/10*

The criteria which has been in use since October 2003 has provided an effective framework which has allowed Members to take informed decisions on the use of the City Hall and the granting of hospitality.

The updated Corporate Plan includes the introduction of the following six 'key themes':

- City Leadership - strong, fair, together;
- Better care for Belfast's environment ;
- Better opportunities for success across the city;
- Better support for people and communities;
- Better Services – listening and delivering; and
- Better Value for Money – i.e. a “can-do”, accountable and efficient Council.

The 'key themes' which have been introduced outline the key priority areas for the Council and it is recommended that the criteria should reflect this by requesting organisations wishing to use the City Hall to demonstrate how their event will contribute substantially to the achievement of one or more of the Council's 'key themes'.

***Community and voluntary groups requesting to use the City Hall***

The Committee, at its meeting on 26<sup>th</sup> September, 2003, agreed to approve the revised policy in respect of the criteria for the use of the City Hall and the provision of Civic Hospitality. The policy included a specific application process for community and voluntary groups wishing to use the City Hall and avail of 'Community Hospitality', with organisations encouraged to apply annually through advertisements in the local print media.

At its meeting on 18<sup>th</sup> August, 2006, the Committee considered, because only five applications had been received over the previous two years and to avoid duplication in operating two procedures, a review of the criteria be undertaken to establish whether the current policy could be amended to make provision for Community Hospitality. This would mean that a separate process would not be required, saving the Council advertising expenses and administration costs, whilst improving the efficiency of the overall process. The Committee subsequently agreed to amend the criteria so as to facilitate applications from community and voluntary organisations through the procedure applied to all groups but with a specific section being added to the application form to cater for the Community and Voluntary Sector.

In the past it became apparent that community and voluntary groups did not always have the capacity to organise large-scale events in the City Hall. However, it has been the practice in the past to offer encouragement to such groups to organise events which will be within their scope.

In addition, since one of the 'key themes' of the current Corporate Plan is 'Better support for people and communities', organisations working in the community and voluntary field will be given the opportunity to use the City Hall by demonstrating how they will contribute substantially and specifically to the achievement of this theme.

**Resource Implications**

Not applicable.

**Recommendations**

To agree to the amendment of the criteria for the use of the City Hall and the provision of civic hospitality to reflect the achievement of the Council's key objectives to determine the events which should be held in the City Hall.

**Decision Tracking**

If the Committee adopts the recommendation the relevant revisions will be implemented and the application form and accompanying guidance notes will be amended accordingly.

Officer responsible – Mr. Gareth Quinn, Development Officer





**Belfast City Council**

<b>Report to:</b>	Strategic Policy and Resources Committee
<b>Subject:</b>	Requests for the use of the City Hall and the provision of Hospitality
<b>Date:</b>	Friday, 7 <sup>th</sup> August, 2009
<b>Reporting Officer:</b>	Mr. Liam Steele, Head of Committee and Members' Services (ext. 6325)
<b>Contact Officer:</b>	Mr. Gareth Quinn, Development Officer (ext. 6316)

**Relevant Background Information**

A schedule of applications, together with an indication as to whether they fall within the criteria approved by the Committee, is attached as Appendix 1.

**Key Issues**

To advise the Committee of applications which have been received for the Use of Accommodation in the City Hall and/or the Provision of Civic Hospitality.

**Resource Implications**

Provision has been made in the Revenue Estimates for hospitality.

**Recommendations**

The Committee is asked to approve the recommendations as set out in the Appendix.

**Key to Abbreviations**

Not applicable

**Decision Tracking**

If the Committee approves the recommendations, the organisations will be notified and the necessary arrangements put in place following ratification by the Council.

Officer responsible – Gareth Quinn.

**Documents Attached**

Appendix 1 – Schedule of Applications

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**SCHEDULE OF APPLICATIONS FOR THE USE OF THE CITY HALL AND  
THE PROVISION OF HOSPITALITY**

<b>Organisation / Body</b>	<b>Event / Date – Number of Delegates / Guests</b>	<b>Request</b>	<b>Comments</b>	<b>Recommendation</b>
Ulster Operatic Company	The Ulster Operatic Company Centenary Celebration 25 <sup>th</sup> June, 2010  Approximately 200 attending	The use of the City Hall and the provision of hospitality in the form of a pre-dinner drinks reception.	This event seeks to celebrate the 100 <sup>th</sup> Anniversary of the Ulster Operatic Company and to acknowledge its contribution to the general life and well-being of the city.  This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together'.	The use of the City Hall and the provision of a pre-dinner drinks reception in the form of wine and soft drinks.  Approximate cost £2,400
The Rotary Club of Belfast	The Rotary Club of Belfast Centenary Dinner 15 <sup>th</sup> August, 2011  Approximately 200 attending	The use of the City Hall and the provision of hospitality in the form of a pre-dinner drinks reception.	This event seeks to celebrate the 100 <sup>th</sup> Anniversary of The Rotary Club of Belfast and to acknowledge its contribution to the general life and well-being of the city.  This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together' and 'Better support for people and communities'.	The use of the City Hall and the provision of a drinks reception in the form of wine and soft drinks.  Approximate cost £800
Irish Football Association	Football for All Awards Night 21 <sup>st</sup> November, 2009  Approximately 350 attending	The use of the City Hall.	This event aims to acknowledge the volunteers who have broken down the barriers to inclusion and promoted 'Football for All'.  The event will also seek to recognise the work of those who have promoted positive community relations, women's football, boy's football, disability football and grass roots development of the game.  This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together' and 'Better support for people and communities'.	The use of the City Hall.
The Belfast Education and Library Board	Event to mark the closure of the Belfast Education and Library Board 18 <sup>th</sup> December, 2009  Approximately 400 attending	The use of the City Hall and the provision of hospitality in the form of a civic dinner.	The Belfast Education and Library Board has, for 36 years, worked collaboratively with Belfast City Council in contributing to the civic leadership for the citizens of Belfast. Prior to 1973, Belfast City Council oversaw the provision for educational	The use of the City Hall and the provision of a civic dinner.  Approximate cost £12,000

			<p>needs throughout the city.</p> <p>The Board, which has 14 Councillors representing the people of Belfast, has delivered high quality, customer focused services including transport, catering, educational welfare and psychology and support for children and young people and those with special needs.</p> <p>This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together'.</p>	
Institute of Maxillofacial Prosthetists and Technologists	<p>The 24<sup>th</sup> Biennial Scientific Conference</p> <p>10<sup>th</sup> September, 2009</p> <p>Approximately 125 attending</p>	The provision of hospitality in the form of a drinks reception.	<p>It is estimated that 125 delegates will be staying in accommodation in Belfast and the conference will take place within the city.</p> <p>This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together'.</p>	<p>The provision of a drinks reception in the form of wine and soft drinks.</p> <p>Approximate cost £500</p>
The Royal College of Psychiatrists	<p>2010 International Psychoanalytic Conference</p> <p>7<sup>th</sup> May, 2010</p> <p>Approximately 200 attending</p>	The use of the City Hall and the provision of hospitality in the form of a pre-dinner drinks reception.	<p>It is estimated that 80 delegates will be staying in accommodation in Belfast and the conference will take place within the city.</p> <p>This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together'.</p>	<p>The use of the City Hall and the provision of a drinks reception in the form of wine and soft drinks.</p> <p>Approximate cost £800</p>

The following applications, which were received during July, were approved under delegated authority by the Director of Corporate Services in accordance with Standing Order 41:

Organisation / Body	Event / Date – Number of Delegates / Guests	Request	Comments	Recommendation
Northern Ireland Chamber of Commerce	The Northern Ireland Chamber of Commerce President's Dinner 19 <sup>th</sup> November, 2009  Approximately 400 attending	The use of the City Hall.	The President's Dinner aims to provide a networking opportunity for businesses from Belfast and across Northern Ireland. The event, which will include representatives from both Local and Central Government, also aims to facilitate discussion on economic and social regeneration.  This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together'.	The use of the City Hall.
Irish Technology Leadership Group	Irish Technology Leadership Group Conference Lunch  21 <sup>st</sup> October, 2009  Approximately 200 attending	The use of the City Hall.	The Lunch aims to provide a vital networking opportunity as well as showcasing what Belfast has to offer to potential investors. The event, which will include high profile business leaders and entrepreneurs from Silicon Valley in Northern California, also aims to encourage the development of technological enterprise across the Ireland-US corridor.  This event would contribute to the Council's Key Theme of 'City Leadership – Strong, Fair, Together'.	The use of the City Hall.

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**Belfast City Council**

Report to:	<b>Strategic Policy and Resources Committee</b>
Date:	<b>Friday, 7th August, 2009</b>
Subject:	<b>National Association of Councillors (NI Region) Annual General Meeting and Conference</b>
Reporting Officer:	<b>Mr. Liam Steele, Head of Committee and Members' Services (extension 6325)</b>
Contact Officer:	<b>Mrs. Julie Lilley, Members' Liaison Officer (extension 6321)</b>

**Relevant Background Information**

The National Association of Councillors (NI Region) is holding its Annual General Meeting and Conference in the La Mon Hotel and Country Club, Belfast from Friday, 25th until Saturday, 26th September.

The Minister with responsibility for the Department of the Environment has been invited to attend the Conference to deliver the keynote address. It is expected also that a significant number of key politicians and decision-makers directly involved with the implementation of the Review of Public Administration will be in attendance. Given the pace at which the implementation of the Review of Public Administration is progressing, it is important that Members are afforded the opportunity, presented by attendance at the Conference, to meet with their fellow Councillors and learn of new developments and initiatives.

The Council has been represented at the event in previous years and those Members who have attended have found the Conference to be a valuable opportunity to increase their awareness of Members' issues and to discuss with other Councillors issues of mutual interest and concern.

**Key Issues**

The business of the Conference falls within the criteria set out in Section 38 of the 1972 Local Government (Northern Ireland) Act in that it involves issues connected with the discharge of the functions of the Council and/or affecting the district or its inhabitants.

**Resource Implications****National Association of Councillors AGM**

Delegate Fee:	£190
Travel:	£17
	—
Total per delegate:	£207

**Recommendations**

It is recommended that the Committee agrees to authorise:

- the attendance at the National Association of Councillors Annual Conference and AGM of the Chairman, the Deputy Chairman, the Council's representatives on the National Association of Councillors (NI Region), the Head of Committee and Members' Services (or their nominees) and a representative of each of the Party Groupings on the Council not represented by the aforementioned Members; and
- the payment of the appropriate travelling and subsistence allowances in connection therewith.

**Decision Tracking**

Mr Liam Steele, Head of Committee and Members' Services, will organise registration of delegates as appropriate before 14<sup>th</sup> September, 2009.

**Key to Abbreviations**

N/A

**Documents Attached**

N/A



**Belfast City Council**

Report to:	<b>Strategic Policy and Resources Committee</b>
Date:	<b>Friday, 7th August, 2009</b>
Subject:	<b>Patient and Client Council - Request to make a Presentation</b>
Reporting Officer:	<b>Mr. Liam Steele, Head of Committee and Members' Services (extension 6325)</b>
Contact Officer:	<b>Mrs. Julie Lilley, Members' Liaison Officer (extension 6321)</b>

**Relevant Background Information**

Correspondence has been received from the Chief Executive of the Patient and Client Council requesting an opportunity to make a presentation to the Council.

The Patient and Client Council, which takes over from the former regional Health and Social Services Councils, was established on the 1st April, 2009 as the result of the reorganisation of the Health Service in Northern Ireland.

The main functions of the Patient and Client Council are to:

- engage with the public to obtain their views on any aspect of health and social care;
- promote the involvement of patients, clients, carers and the public in the design, planning, commissioning and delivery of health and social care;
- provide assistance to people wishing to make a complaint relating to health and social care; and
- provide advice and information to the public about health and social care services.

The Patient and Client Council will have a regional headquarters and five local area offices located across Northern Ireland.

**Key Issues**

The Chief Executive of the Patient and Client Council wishes to address the Council on the following matters:

- role of the Patient and Client Council;
- importance of local representation on the Local Advisory Committees of the Council; and
- priorities of the Patient and Client Council for 2010 and beyond.

**Resource Implications**

There are no Human Resources or financial implications associated with this report.

**Recommendations**

- The Committee is asked to note receipt of the correspondence and to take such action thereon as may be determined.

**Decision Tracking**

Mr. Liam Steele, Head of Committee and Members' Services, will write to the Chief Executive of the Patient and Client Council to advise her of the decision of the Committee.



**Belfast City Council**

Report to:	<b>Strategic Policy and Resources Committee</b>
Date:	<b>Friday, 7th August, 2009</b>
Subject:	<b>Chartered Institute of Public Finance and Accountancy - On Board Training Programme</b>
Reporting Officer:	<b>Mr. Liam Steele, Head of Committee and Members' Services (extension 6325)</b>
Contact Officer:	<b>Mrs. Julie Lilley, Members' Liaison Officer (extension 6321)</b>

**Relevant Background Information**

The 'On Board' training programme, delivered by the Chartered Institute of Public Finance and Accountancy, is the leading training programme in the United Kingdom for board members of public bodies. It provides new and existing board members with invaluable information on their roles and responsibilities and also explores many of the practical issues facing board members and their organisations. The programme is delivered by consultants who are widely recognised as experts on corporate governance in relation to public bodies.

To date the Chartered Institute of Public Finance and Accountancy has delivered successfully almost five hundred 'On Board' programmes in England, Scotland and Northern Ireland.

The programme will be delivered on a one-day basis at various venues in Belfast during 2009 and 2010.

**Key Issues**

The programme is designed in such a way that on completion delegates will:

- understand the roles and responsibilities of the Board as a corporate body and the common problems which can arise
- have an appreciation of the knowledge, skills and attributes of an effective board member and an effective Chairman

- understand how to develop and maintain key internal and external relationships
- be familiar with the Nolan Principles that boards and board members are expected to adhere to and understand the practical issues arising from their application
- be aware of the public service environment and in particular the requirements arising from the need to account for the use of public money and the safekeeping of public assets.

**Resource Implications**

The cost of participating in the programme is £295 per delegate.

**Recommendations**

It is recommended that the Committee authorises:

- participation in the 'On Board' training programme of the Chairman, the Deputy Chairman (or their nominees) and a representative of each of the Party Groupings on the Council not represented by the aforementioned Members.

**Decision Tracking**

Mr. Liam Steele, Head of Committee and Members' Services, will arrange for those Members who wish to participate in the programme to be enrolled on a date of their choice.

**Documents Attached**

N/A



### Belfast City Council

<b>Report to:</b>	Strategic Policy and Resources Committee
<b>Subject:</b>	Belfast City Council Policy and Procedures for the Protection of Children and Vulnerable Adults
<b>Date:</b>	7 <sup>th</sup> August, 2009
<b>Reporting Officer:</b>	Marie Therese McGivern Director
<b>Contact Officer:</b>	Catherine Taggart – Community Development Manager Blanche Thompson - Play Development Officer

#### Relevant Background Information

Belfast City Council Child Protection Policy and Procedures were adopted by Council on 3<sup>rd</sup> June 2002. An internal review has taken place over the past two years to assess how the policy has been implemented and used in practice within the Council. Developments in the external environment, including legislative changes, have been taken into consideration.

An internal working group have now completed the review exercise. The amended draft policy and procedures is attached in Appendix 1 for the attention and approval of Committee. The working group led by the Play Development Officer (Council's Designated Officer) comprised representatives from Corporate Human Resources, Key Workers and Child Protection trainers.

Belfast City Council's Policy and Procedures are supported by a comprehensive training programme which has been delivered to staff that work or have contact with children and young people across the Council. The training is delivered by three Community Services staff that are accredited child protection trainers.

Belfast City Council networks across Northern Ireland and is represented on a range of forums as detailed in Appendix 2.

#### Key Issues

The main amendments to the Council's policy, arising from the review, include:

1. The incorporation of protection for vulnerable adults.
2. Introduction of AccessNI and the Vetting & Barring Scheme.
3. Guidelines for reporting concerns regarding staff employed through an agency.
4. Changes to the training programme including introduction of refresher training.
5. Changes to the reporting structure.

The changes to the reporting structure have included the introduction of two Deputy Designated Officers, revised roles for the Key Workers, and an outline of the level of commitment required.

The overall responsibility will remain within Community Services (Development Department) with the Play Development Officer taking on the role of Designated Officer.

Increased awareness of the Child Protection Policy is required through an agreed publicity strategy targeted at both staff and the general public. This will take place through:

1. The display of posters in all BCC facilities.
2. The development of leaflets aimed at the general public to be made available at all BCC facilities.
3. The display of the BCC Child Protection leaflet, flow charts (for reporting concerns) and contact information to be displayed on all staff notice boards.
4. The Reporting forms to be made available in a central location within each Department to enable access by Staff.
5. The policy, reporting forms and contact information to be made available on Belnet.

**Resource Implications**

Financial

To take place within existing resources.

Human Resources

No implication on the current allocation

Asset and Other Implications

There is no impact on any physical BCC asset.

**Recommendations**

It is recommended that Members:

- a) Note the contents of the report.
- b) Approve the amended Child Protection Policy and Procedures.
- c) Approve the incorporation of Vulnerable Adults within the Policy and Procedures.
- d) Approve the associated publicity strategy, training and support programme.

**Key to Abbreviations**

**Appendices**

1. Belfast City Council Child Protection Policy and Procedures (amended version)
2. Belfast City Council representation on external forums

# *APPENDIX 1*

**Belfast City Council**  
**Policy and Procedures**  
**for the Protection of**  
**Children and Vulnerable Adults**



**Review Document**

**2009**



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**Appendix 9 Procedures for dealing with Concerns regarding a Member of Staff employed through an Agency**

**Appendix 10 Out of Hours Concerns; Hiring of Facilities; Hiring of Casual Staff; Data Protection and Freedom of Information**

**Appendix 11 Report Forms**

**Appendix 12 Guidance on how to deal with disclosure of abuse**

## 1. Terms of Reference

1.1 This policy is applicable to staff and volunteers who work or come into contact with children or vulnerable adults.

1.2 A child is defined as aged 16 years and below.

1.3 The definition of a Vulnerable Adult is a person aged 18 or over who receives services of a type listed in paragraph 1) below and in consequence of a condition of a type listed in paragraph 2) below, has a disability of a type listed at 3) below.

1) The services are:

- a) accommodation and nursing or personal care in a care home,
- b) personal care or support to live independently in his or her own home,
- c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body,
- d) social care services; or
- e) any services provided in an establishment catering for a person with learning difficulties.

2) The conditions are:

- a) a learning or physical disability,
- b) a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or
- c) a reduction in physical or mental capacity.

3) The disabilities are:

- a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions,
- b) severe impairment in the ability to communicate with others, or
- c) impairment in a person's ability to protect him or herself from assault, abuse or neglect.

*The above is taken from the Criminal Records Bureau website in respect of the definition of a vulnerable adult for the purposes of an enhanced check.*

1.4 Coaches and hirers will be expected to comply with legislation when working with children or vulnerable adults.

- Coaches will be expected to undertake relevant training and to abide by the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults.
- Hirers must abide by the Conditions of Hire. (see Appendix 8 regarding Hire of Facilities)

## 2. Introduction

- 2.1 Belfast City Council is committed to a delivery of service that promotes good practice and protects children and vulnerable adults from harm.
- 2.2 Members and staff within the Council accept and recognise the Council's responsibilities to develop awareness of the issues that may cause children or vulnerable adults harm.
- 2.3 The Council will seek to protect the safety of children and vulnerable adults and provide a safe environment by, employing people who are suitable for working with or to have contact with children and vulnerable adults and by vetting the background of persons who are recommended for appointment to posts (in either a paid or a voluntary capacity), which have substantial access to children or vulnerable adults.  
See Appendix 1 for Recruitment and Selection guidelines on the employment of staff who have substantial access to children and vulnerable adults.
- 2.4 The Council will ensure that suitable and appropriate training is provided to all staff, including volunteers, to raise awareness of their role in recognising abuse, including familiarity with the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults.

### **3. Background**

- 3.1 The Children (NI) Order 1995, came into force in Northern Ireland on 4 November 1996 and it deals with the care, upbringing and protection of children. It reforms, consolidates and harmonises most of the public and private law relating to children, in a single coherent statutory framework.
- 3.2 One of the key principles in the child care law is Protection. The principle is that children should be safe and should be protected by intervention if they are in danger.
- 3.3 Under this legislation there are requirements which set essential standards, which the Council will endeavour to follow by way of good practice.
- 3.4 Having regard to the above and in order to deal effectively with the issue of abuse, a clear statement of Council policy and clear procedures are considered essential in order to communicate the Council's position and to assist management in dealing with incidents of this nature.

### **4. Aims of the Policy**

**4.1** To demonstrate the Council's commitment to providing and maintaining a service that protects children and vulnerable adults from harm, as well as protecting the organisation and our workers from potential allegations.

**4.2** To ensure that the Council's staff and volunteers are carefully selected, trained and supervised and are familiar with the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults.

## **5. Policy Statement on the Protection of Children and Vulnerable Adults**

**5.1** Belfast City Council confirms its commitment to making sure that children and vulnerable adults are protected and kept safe from harm while they are being supervised by staff and volunteers from this organisation. To this end the Council will endeavour to safeguard children and vulnerable adults by:-

- adopting guidelines through a code of behaviour for staff.(see Appendix 3 for guidelines)
- sharing information about protection and good practice.
- sharing information about concerns with agencies who need to know and involving parents, carers, vulnerable adults and children appropriately.
- providing effective management for staff through supervision, support and training.
- taking appropriate action to respond to issues of protection which occur on the Council's premises or involve its workforce.
- nominating a Designated Officer(s) and Key Worker(s) to co-ordinate the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults. The Key Workers will be located in Sections where staff are in contact with children or vulnerable adults on a daily basis.

## **6. Definitions of Abuse**

**6.1** There are several different categories of abuse officially defined in government guidance and these are central to the statutory child protection system.

**6.2** Child abuse occurs when a child is neglected, harmed or not provided with proper care.

**6.3** Because children can be abused in a number of ways the harm caused cannot always be easily categorised. The Children (NI) Order 1995 defines 4 categories of abuse:

- Neglect** the persistent failure to meet a child's physical, emotional or psychological needs, likely to result in significant harm
- Physical** the deliberate physical injury to a child, or the wilful or neglectful failure to prevent physical injury or suffering
- Sexual** involves forcing or enticing a child to take part in sexual activities
- Emotional** the persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development
- Bullying** although bullying has not been defined as abuse within the Children (NI) Order 1995, a child who is bullied may be suffering any type of abuse as defined.  
Bullying is defined as deliberately hurtful behaviour, repeated over a period of time, where it is difficult for those bullied to defend themselves.

It may take many forms but the main types are:

- physical (for example, hitting, kicking, theft);
- verbal (for example, sectarian or racist remarks, name calling);
- indirect (for example, spreading rumours)

**6.4** It is not always easy to recognise a situation where abuse may occur or where it has already taken place. It is unlikely that staff will be experts and it should be stressed that in accordance with the Children (N.I.) Order 1995, the Health and Social Services have a statutory duty to ensure the welfare of a child.  
See Appendix 4 for Indicators and Effects of Abuse.

**6.5** The definitions above relate to those outlined within the Children (NI) Order. These definitions would also apply to vulnerable adults where there has been a reduction in physical or mental capacity which has led to their reduced ability to protect themselves from assault, abuse, neglect or bullying.

**6.6** It must be recognised that it is not only adults who will cause abuse to children or vulnerable adults. Peer abuse where the abuser is a child who is under 16 years of age does and will occur. This must be treated the same as where the alleged abuser is an adult.

## **7. Designated Officer and Key Worker**

7.1 The Council has nominated Designated Officer(s) and Key Worker(s) who have been specially trained and are acutely committed to the principle of confidentiality. (See Appendix 4 for Duties of Designated Officer and Key Worker).

## 8. Awareness Training

8.1 All staff to which this policy relates will receive awareness training, including familiarity with the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults. This is to include all volunteers, paid staff, line managers and policy makers.

8.2 Training provided will be at four different levels: customer care, basic, advanced and full course. The content, duration and who should attend will vary for each level. Further details of which are provided at Appendix 5.

8.3 Voluntary groups who work or have contact with children or vulnerable adults and obtain grant aid through all Council Departments are required to have appropriate Policy and Procedures within their organisation as a condition of their grant aid. The policy and procedures should comply with the guidelines set down in 'Getting It Right' which is produced by the Volunteer Development Agency. The guidelines can be downloaded from their website –

[http://www.volunteering-ni.org/what we do/publications/](http://www.volunteering-ni.org/what_we_do/publications/)

## 9. Procedure for Dealing with Complaints of Abuse

9.1 *There are two elements under this section, those where allegations of abuse have been made against staff and those where staff suspect a case of abuse against a child or vulnerable adult.*

9.2 *Where staff suspect a case of abuse against a child or vulnerable adult, they must recognise that they have a legal responsibility to report this through Council procedures.*

9.3 *Confidentiality and sensitivity to the needs of the child or vulnerable adult must be paramount in all situations. Information must not be passed to another person other than those outlined within the Council procedures.*

9.4 *Appendix 6 deals with Procedures relating to allegations made against staff. (A flow chart illustrating the reporting processes is contained in Appendix 6.1.)*

9.5 *Appendix 7 deals with guidance on disclosure of abuse or where a member of staff is aware of or suspects abuse against a child or vulnerable adult.*

*(A flow chart illustrating the reporting processes is contained in Appendix 7.1.)*

**9.6** *Appendix 8 deals with guidance where a member of staff observes suspected abuse may be taking place within the workplace or where a member of staff observes a person acting suspiciously where there may be potential contact with children or vulnerable adults.*

## Appendix 1

**Recruitment and Selection Guidelines on the Employment of Staff who have substantial access to children and vulnerable adults****INTRODUCTION**

- 1.1 The recruitment of all posts in the Council is centralised in the Human Resources Section which administers recruitment exercises on a Department's behalf.
- 1.2 With effect from 12 October 2009, the Safeguarding Vulnerable Groups Act 2006 will enhance the protection of children and vulnerable adults with the introduction of the following new safeguards.
  - There will be a single list of those barred from working with children and a separate, but aligned, list of those barred from working with vulnerable adults. These lists will be administered by the ISA (Independent Safeguarding Authority) and will ensure that those who are known to present a risk of harm to children and/or vulnerable adults are prevented from entering the relevant workforce in the first place.
  - All individuals who want to work in child care posts which fall under the definition of 'regulated activity' will be required to register with ISA. This will include those who teach, instruct, train, care for, supervise, advise, treat or transport children or vulnerable adults and who do so once or more per month or two or more days in any 30 day period or overnight activity. Likewise, those who work in specified places, for example, in schools, care homes or child care premises will also be in regulated activity.
  - As an employer, there will be a legal requirement for Belfast City Council to check whether an individual working in 'regulated activity' is registered with the ISA prior to employing them. This will be done by way of an on-line check.
  - All individuals registered with the ISA will be subject to continuous monitoring. When new information becomes known about an ISA – registered individual, the ISA will be automatically informed. The ISA will then reconsider the suitability of the registered individual. If the individual is subsequently placed on one of the Barred Lists, the employer will immediately be informed. In order to receive such information, Belfast City Council must have registered their interest in this individual at the time of their appointment. When individuals leave employment with Belfast City Council, we must register that we are no longer interested in these individuals.
- 1.3 In addition, Belfast City Council may also conduct enhanced criminal record checks on those working in 'regulated activity' and also with those working with children and vulnerable adults which fall under the Rehabilitation of Offenders



(NI) Exceptions Order 1979. These checks will be carried out by Access NI which operates under the provision of Part V of the Police Act 1997 and provides criminal history information about anyone seeking paid or unpaid work in defined areas, such as working with children and vulnerable adults.

- 1.4 The actual request for an Access NI Check will be the final stage in the selection process and will only be undertaken for the preferred applicant and only following a conditional offer of appointment. Applicants must satisfactorily pass these checks before an appointment can be made.
- 1.5 Checks can be requested from Access NI by Lead and Counter Signatories from Human Resources who are authorised to request and receive such information, and any results are returned to both these Signatories and the applicant. This information provided by Access NI is confidential.
- 1.6 It is for the host Department to decide as to the candidate's suitability for working with children or vulnerable adults. However, any decision taken by the host Department will be done so on the advice and through close consultation with the Human Resource Representative. In any case, only convictions which are relevant to the post will be taken into consideration.

## **2. Agency Staff**

- 2.1 The Council ensures that any Employment Agency supplying temporary staff to cover 'regulated activity' or 'excepted' posts which involve access to children and vulnerable adults is required to carry out all necessary checks under the Safeguarding of Vulnerable Groups (NI) Order 2007.

## **3. Volunteers (this doesn't apply to recruitment)**

- 3.1 Where individuals volunteer to work in an unpaid capacity in Council premises, for example Community Centres, Leisure Centres, Parks, Play centres and where there is substantial access to children and vulnerable adults the host Department is responsible for ensuring that the appropriate consent is obtained from the volunteers, and the necessary checks under the Safeguarding of Vulnerable Groups (NI) Order 2007 are undertaken.
- 3.2 Where there are serious concerns regarding a volunteer's previous behaviour or enquiries pending, the Council reserves the right to consider the volunteer to be unsuitable to work with children or vulnerable adults. In all circumstances, the Council will err on the side of safety to ensure that the child or vulnerable adult's welfare is paramount.

## **4. External Contractors**

- 4.1 Where external contractors employ staff to work on Council premises where there is potential access to children or vulnerable adults, the company will be required as part of their contract or franchise agreement to undertake the relevant necessary checks under the Safeguarding of Vulnerable Groups (NI) Order 2007.

## Appendix 2

**Code of Behaviour for Council Staff****1. Introduction**

- 1.1** Belfast City Council recognises that it is not practical to provide definitive instructions that would apply to all situations at all times whereby staff come into contact with children or vulnerable adults and to guarantee the protection of children, vulnerable adults and staff.
- 1.2** It is advisable for Sections to develop more specific Codes relating to their areas of work to provide guidance for staff and volunteers. Risk assessments may form part of this work.
- 1.3** However, below are the standards of behaviour required of staff in order to fulfil their roles within the Council. This code should assist in the protection of both children, vulnerable adults and members of staff.
- 1.4** These guidelines apply to volunteers who work in an unpaid capacity in Council premises.
- 1.5 Staff must:**  
implement the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults at all times
- 1.5 Staff must never:**
- engage in rough, physical games including horseplay with children or vulnerable adults
  - allow or engage in inappropriate touching of any kind.  
The main principles of touch are:
    - touch should always be in response to the child or vulnerable adult's need
    - touch should always be appropriate to the age and stage of development of the child or vulnerable adult.
    - touch should always be with a child or vulnerable adult's permission
  - do things of a personal nature for children or a vulnerable adult that they can do for themselves or that their parent can do for them.
  - make sexually suggestive comments:
    - to or within earshot of a child or vulnerable adult
    - about a child or vulnerable adult – even if there are no children or vulnerable adults in sight
  - use corporal punishment or physical force.

- physically restrain a child or vulnerable adult unless the restraint is to:-  
prevent physical injury of the child, other children, visitors, vulnerable adult, other vulnerable adults, staff or yourself

**In all circumstances physical restraint must be appropriate and reasonable, otherwise the action can be defined as assault.**

#### **1.6 Staff must not:**

- take a child or vulnerable adult to the toilet unless another adult is present or has been made aware (this may include a parent, group leader). Discretion and sensitivity must be observed at all times.
- spend time alone with a child or vulnerable adult on his/her own. If you find you are in a situation where you are alone with a child or vulnerable adult, make sure that you can be clearly observed by others.

#### **1.7 Transportation**

Staff should not have children or vulnerable adults on their own in a vehicle.

In extreme circumstances (for example, medical emergencies) where it is required to transport a child or young person on their own, it is essential that another leader and the parent is notified immediately and that you have adequate insurance for the vehicle to cover transporting children or young people as part of the business of your work

In respect of student placements:

- no child or young person under the age of 16 or vulnerable adult should travel in a car on their own with a member of staff. Where a student is under the age of 16 or is deemed a vulnerable adult, the member of staff should be accompanied by another member of staff.
- For student placements aged 16 to 18, prior consent from the parent and school must be given prior to transporting the student in your car.
- It is advisable that in these circumstances the amount of time in the car is minimised and only takes place between the office and site.

#### **Implications for staff**

Staff who breach any of the above may be subject to the disciplinary procedure.

If an allegation against a member of staff has occurred then an investigation will be carried out in accordance with the procedure for dealing with allegations against staff (See Appendix 6). The investigating officer will be required to liaise with the Designated Officer to clarify if she/he has any relevant records or any other relevant information in relation to the individual.

### **1.8 Further Information**

Should any member of staff require further information, Belfast City Council have produced a Playwork Code of Practice. This document details appropriate codes of behaviour and good practice guidelines. Copies are available from the Play Development Officer .

### **1.9 Photographic Policy**

Staff and volunteers must never take photographs or videos of children or vulnerable adults without the permission of a parent, guardian or carer. The parent or guardian must be made aware of any photographs or use of the child or vulnerable adult's name to be used for publicity purposes and provide written consent prior to this taking place. Hirers of Council facilities are expected to abide by the above conditions and to comply with Belfast City Council's Photographic Policy.

### **1.10 Technology**

New ways for abuse against children or vulnerable adults has been resulting through increasing use of technology. For these reasons, it is imperative that staff do not allow children or vulnerable adults access to:

- Mobile phone numbers unless for agreed purposes as sanctioned by line management
- Computers without appropriate supervision
- Or to meet children or vulnerable adults in chat rooms

## Appendix 3

**Indicators and Effects of Abuse****1. Introduction**

**1.1** Even for those experienced in working with abuse regarding children or vulnerable adults, it is not always easy to recognise a situation where abuse may occur or has already taken place. It is unlikely that staff will be experts. The Health and Social Services have a statutory duty to ensure the welfare of a child or vulnerable adult.

**1.2** The onus on Belfast City Council is to provide a safe environment by:

- employing people who are suitable for working with or to have contact with children or vulnerable adults
- having effective and clear procedures for reporting any suspicions through their own structures to the relevant Health and Social Services Board.
- only allowing hirers to use Council facilities who have signed conditions of hire that will include requirements to have their own policy and procedures or to adhere to the Council's Policy and Procedures for the Protection of Children and Vulnerable Adults

**2. Indications that a child or vulnerable adult may be abused include:**

- unexplained or suspicious injuries such as bruising, cuts or burns, particularly if situated on part of the body not normally prone to such injuries;
- an injury for which the explanation seems inconsistent;
- the child or vulnerable adult describes what appears to be an abusive act involving him or her;
- someone else – a child or adult, expresses concern about the welfare of another child or vulnerable adult;
- unexplained changes in behaviour over time, for example, becoming very quiet, withdrawn or displaying sudden outbursts of temper;
- inappropriate sexual awareness;
- engagement in sexually explicit behaviour in games;
- distrust of adults, particularly those with whom a close relationship will normally be expected;
- difficulty in making friends;
- prevented from socialising with other children;
- displays variations in eating patterns including overeating or loss of appetite;
- loss of weight for no apparent reason
- increasingly dirty or unkempt appearance.

**This list is not exhaustive and the presence of one or more of the indicators is not proof that abuse is actually taking place. It is stressed, however, that it is not the responsibility of members of staff to prove that abuse is taking place but is their responsibility to act upon any concerns, by reporting these to the Designated Officer or a Deputy Designated Officer.**

## Effects of Abuse

- 3.1** Abused children can suffer changes in normal behaviour and can suffer long term damage that may follow them into later life.
- 3.2** The main effects of abuse on children are as follows:
- Pain and distress.
  - Behavioural difficulties, for example becoming angry and aggressive.
  - School related problems.
  - Developmental delay – physically, emotionally and mentally.
  - Low self esteem.
  - Depression, self-harm – sometimes leading to suicide.
  - Difficulty in forming relationships as adults.
  - Sometimes, if untreated, abusive relationships with own (or other) children.
  - Permanent or temporary injury.
  - Children may die.
- 3.3** Factors that might increase the likelihood of risk of abuse:
- Young children or vulnerable adults who might have difficulty telling others.
  - Disabled children or adults who might have difficulty communicating or accessing people to tell.
  - Children or vulnerable adults who are already experiencing some form of discrimination (for example, racial harassment) as they are more isolated from other adults or children. They may also perceive the abuse as a part of the ongoing discrimination.
  - Poor relationship between child or vulnerable adult and parents or carers.
  - High levels of stress.
  - History of violence in the family.
- 3.4** The damage inflicted by bullying can be frequently underestimated . It can cause considerable distress to children or vulnerable adults to the extent that it affects their health and development or, at the extreme, causes them significant harm. In these circumstances bullying should be considered as abuse and treated as such.

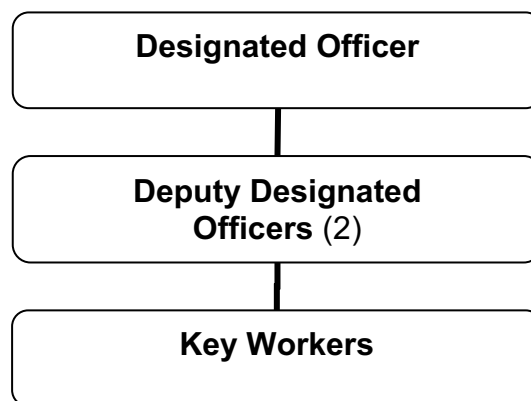
## Appendix 4

**Role of Designated Officer and Key Worker**

The Council will appoint a Designated Officer who will have overall responsibility in referring incidents to Social Services. Two Deputy Designated Officers will be appointed to assist and to deputise when the Designated Officer is not available. The Designated Officer and Deputies will be familiar with protection issues regarding children and vulnerable adults and be based in a Section that has regular contact with children and vulnerable adults.

Key Workers will be appointed in those Sections that have most contact with children or vulnerable adults. These will act as the point of contact for the section and will be responsible for ensuring the Council's Policy and Procedures are implemented. They will provide an important point of information for staff and feedback information to the Designated Officer.

The Designated Officer, Deputy Designated Officers and Key Worker(s) must attend relevant training prior to assuming responsibilities of these positions. The Designated Officer and Deputies are required to attend additional training and conferences on an ongoing basis. The Key Workers are required to keep updated regarding ongoing issues through attending ongoing training and meetings. Failure to do this will result in being replaced in this position. The time commitment required for these roles must be recognised prior to a Section appointing a member of staff for the respective role.

**Child Protection Reporting Structure****Duties of Designated Officer**

1. To record a disclosure of abuse made by a child or vulnerable adult to a member of the Council's staff. The alleged abuse could involve either an external person or Council Staff.
2. To record Council staff's suspicions of a child or vulnerable adult being abused.
3. In 1 or 2 above, to seek advice from the relevant agencies and report, if appropriate. If the disclosure or suspicions relate to Council Staff, to advise and liaise with the

relevant Head of Service, if appropriate.

*If a member of Council staff has concerns about a colleague not fulfilling the Councils Policy and Procedures on the Protection of Children and Vulnerable Adults, such concerns are to be taken to the relevant Line Manager in the first instance. As the matter is examined by the Line Manager, she/he may need to involve a Designated Officer; if it becomes apparent there is a Protection issue.*

*Where the incident relates to a Line Manager not fulfilling the Councils Policy and Procedures on the Protection of Children and Vulnerable Adults, such concerns are to be taken to the next relevant Line Manager in the first instance.*

*Possible involvement of a member of Council staff must also be notified to the Head of Service and to the Head of Human Resources.*

4. To record all action taken and where appropriate, advise the relevant line management. Detail of information provided will be based on the 'need to know' principle.
5. To ensure all written records in relation to Protection issues are securely and confidentially filed.
6. To establish contact with Child Protection and Vulnerable Adult Teams within the relevant Health and Social Services Trust if:-
  - a) allegations of abuse against a child or vulnerable adult have been made against a member of staff or,
  - b) a member of staff has been made aware of alleged abuse against a child or vulnerable adult by an external person
7. To liaise with the Deputy Designated Officers and Key Worker(s) to ensure the ongoing implementation and review of the Council's Policy and Procedures on the Protection of Children and Vulnerable Adults.
8. To keep the Deputy Designated Officers and key Workers informed of ongoing issues and training.
9. To liaise with the Deputy Designated Officers and Key Workers through the Key Worker network.
9. To fulfil any other relevant duties which may become apparent as the role of Designated Officer develops.



### **Duties of Key Worker**

1. To act as the point of contact for their Section.
2. To keep up to date with relevant Child and Vulnerable Adult Protection legislation, good practice and developments.
3. To ensure the ongoing implementation the Council's Policy and Procedures and good practice within their section and across the Council when required.
4. To contribute to the review of the Council's Policy and Procedures on the Protection of Children and Vulnerable Adults
5. To deliver training, as appropriate, within the section and throughout the Council.
6. To ensure all written records in relation to Protection issues are securely and confidentially filed.
7. To fulfil any other relevant duties which may become apparent as the role of Key Worker develops.

### **Key Worker Network**

A Key Worker Network will be established to meet a minimum of three times per year. The function of this Network will be to:

- To liaise with the Designated Officer to ensure the ongoing implementation and review of the Council's Policy and Procedures on the Protection of Children and Vulnerable Adults.
- To keep up to date with relevant legislation, good practice and developments.
- To liaise with other Key Workers and the Deputy Designated Officers.
- To review and monitor ongoing awareness training in the protection of children and vulnerable adults.
- To contribute to the development of good practice for working with children and vulnerable adults.

The Key Worker network will be facilitated by the Play Development Officer (who will also be the Designated Officer). The role of the Play Development Officer will be to:

- To assist in identifying appropriate training programmes in conjunction with the Deputy Designated Officers, other key workers and trainers in the Council and in other relevant agencies.

- Co-ordinate regular meetings.
- Arrange information updates, including speakers to attend the network meetings.

**Belfast City Council representation on relevant forums for the protection of children and vulnerable adults**

To ensure effective coordination of the Council's policy and procedures, information obtained from relevant forums are to be passed to the Designated Officer and Key Worker Network.

**Appendix 5**

**Information for staff in the protection of children and vulnerable adults**

1. All staff are to be made aware of Belfast City Council's Policy and Procedures on the Protection of Children and Vulnerable Adults
2. Information on the Policy, Reporting Procedures (for example, flow charts) and contact information to be placed on staff notice boards.
3. Information (for example, posters) should be on public display at all facilities to inform the public that we have policy and procedures for the Protection of Children and Vulnerable Adults.

**Training for Staff**

1. The aim of training is to increase the awareness and explore issues around the protection of children, vulnerable adults, staff and Belfast City Council.
2. All staff within the Council who have contact with children will receive one of the four identified levels of training.
3. The co-ordination of training and identification of staff to attend training will be the responsibility of Heads of Section and Unit Managers.
4. Training will be provided by the team of accredited child protection trainers.
5. The content of the training will be regularly reviewed by the team of accredited trainers and other appropriate Council Officers.
6. Refresher training will be provided every five years for staff who have regular contact with children.
7. Additional training will be provided for those who have regular contact with vulnerable adults.
8. The child protection training will be provided on four different levels as follows:-

**Customer Care**

For staff who have general contact with the public

Content: Codes of Behaviour and familiarisation with the Council's Policy and Procedures.

**Basic Level Course**

**Duration:** 2.5 hours

**Target group:** Any staff who have regular contact with children

**Content:** Awareness of Child Protection issues:

- What is abuse?
- Who abuses?

Signs and Symptoms  
Dealing with Disclosure

Code of Behaviour:

- Why a code of behaviour
- Protecting children and workers
- The use of a code of behaviour

Belfast City Council's Policy and Reporting procedures

**Advanced Level Course**

**Duration:** 4 hours

**Target group:** Staff who directly work with children and will potentially be in a position of unsupervised access

**Content** Awareness of Child Protection issues including:

- What is abuse?
- Who abuses?

Signs and Symptoms  
Dealing with Disclosure

Code of Behaviour:

- Why a code of behaviour
- Protecting children and workers
- The use of a code of behaviour

Awareness of issues around:

- working with children from ethnic backgrounds or with disabilities
- dealing with bullying

Belfast City Council's Policy and Reporting procedures

**Full Level Course**

**Duration:** 9 hours in total - 3 x 3 hour sessions

**Target group:** Staff who directly work with children and will potentially be in a position of unsupervised access. Staff who will be involved in the selection and recruitment of non-Council staff or volunteers

**Content:** Awareness of Child Protection issues:

- What is abuse?
- Who abuses?
- Signs and Symptoms
- Dealing with Disclosure

Recruitment and Selection of Staff and Volunteers

Supervision, Support and Training

Code of Behaviour:

- Why a code of behaviour
- Protecting children and workers
- The use of a code of behaviour

Awareness of issues around:

- working with children from ethnic backgrounds or with disabilities
- dealing with bullying
- residential issues

Policy and procedures:

- Belfast City Council's Policy
- Reporting procedures
- Development of a Policy
- Dealing with concerns

## Appendix 6

**Procedures for dealing with allegations of abuse against a child or vulnerable adult against a member of staff****1. Introduction**

- 1.1 Allegations of abuse can potentially be made about any member of staff (especially those in contact with the public).
- 1.2 Abuse does occur outside the family setting and although a very sensitive and difficult issue, abuse has occurred within institutions or organisations that support children or vulnerable adults.
- 1.3 It is critical that all relevant staff are aware of such issues and how to deal with any allegations appropriately.
- 1.4 Allegations may come from another member of staff or a member of the public.
- 1.5 In all circumstances an allegation should be reported to the relevant line manager and Designated Officer. If however, the allegation involves the line manager a report should be made to the next level of management.

The Line Manager will inform the Head of Service and the Head of Human Resources.

**2. Investigation**

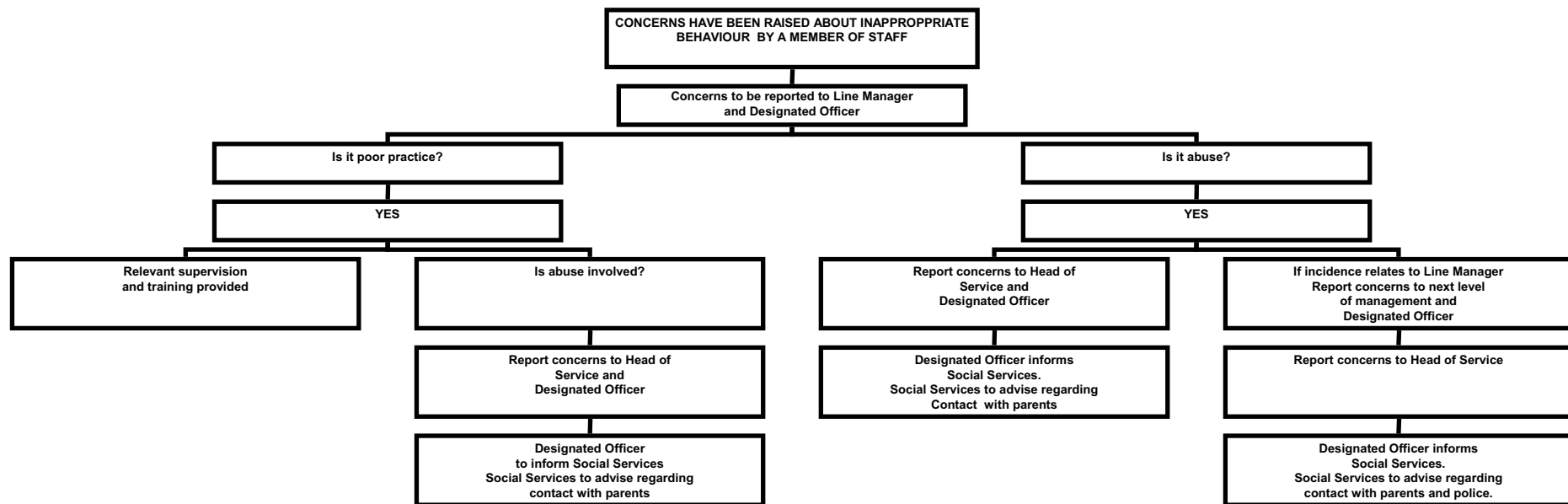
- 2.1 As a result of any allegation being received the matter will immediately be the subject of a preliminary investigation.
- 2.2 Following a preliminary investigation consideration will be given to:-
  - (i) whether or not the employee/s should be suspended from work while a full investigation is carried out.
  - (ii) whether or not there is a need to carry out a full investigation into the allegation/s.
  - (iii) whether or not the police should be informed.
  - (iv) whether or not the Department of Health and Social Services should be informed.
- 2.3 Should there be no innocent explanation in respect of the allegation/s, and these constitute possible act/s of gross misconduct the employee/s will be suspended from work on full pay.
- 2.4 The relevant Head of Service will appoint two independent investigating officers who will carry out a full, formal investigation in respect of the allegation/s. The investigating officers will report to the Head of Service on completion of the investigation, as to whether or not the allegation/s have been substantiated.

## Appendix 6

**3. Disciplinary Procedure**

- 3.1 On the basis of the investigating report, and, in accordance with the Council's disciplinary procedure, disciplinary action may take place, which may include dismissal.
- 3.2 In addition to the Council's disciplinary investigation the police may be informed of the allegation/s pertaining to the employee/s concerned immediately following the alleged incident taking place.
- 3.3 Should a police investigation, or a social services investigation take place the Council will seek information from these parties. This information may well influence the disciplinary investigation and decision, but the Council will not necessarily wait for the completion of such investigations and will not necessarily be influenced by them as the Council will examine the impact of the allegations on the **employment** relationship of the employee concerned.
- 3.4 Where staff are disciplined or dismissed as a result of inappropriate behaviour in regard to children or vulnerable adults, information will be passed on to the Department of Health and Social Services by the Head of Human Resources.

**Concerns regarding a Member of Staff**



Once informed the line manager must take all necessary measures to ensure the safety of the child or vulnerable adult and other children or vulnerable adults.

For further information – please refer to Appendix 6.



**Guidance on Disclosure of Abuse or where a member of staff suspects a case of abuse against a child or vulnerable adult.**

**1. Introduction**

- 1.1 Anyone who suspects that a child or vulnerable adult has or is being harmed or is at risk of harm has a duty to record the suspected incident and to convey this concern immediately to a Designated Officer within the Council.
- 1.2 Line Managers will be informed that an alleged incident has taken place. For reasons of confidentiality, the level of information passed to the Line Manager will depend on his/her direct involvement in the workplace and will be at the discretion of the Designated Officer.
- 1.3 It is essential that suspicions are reported to a Designated Officer. The consequences of failing to report an allegation or suspicion would far outweigh the risk of being wrong. It is essential that the welfare of the child or vulnerable adult must always be the first priority.
- 1.4 There is a legal responsibility to report the allegation or suspicion as withholding evidence regarding a criminal action is an offence.
- 1.5 The Designated Officer will advise regarding discussion of the suspected abuse with parents or carers. In situations where the parent or carer is potentially responsible for the abuse, the child or vulnerable adult might be placed at greater risk were such suspicions discussed. In certain situations, it is best for the Health and Social Services to discuss the suspected abuse with the parents or carers as they have the expertise to deal with the situation.
- 1.6 Once a worker becomes aware or suspects a case of abuse s/he should ensure in so far as possible that the child or vulnerable adult is protected from the situation of danger. The worker has no power to intervene directly where the alleged abuser is the parent or carer of a child. In this latter case it is imperative that the next step is taken as quickly as possible.
- 1.7 The worker should discuss the case as early as possible with a Designated Officer
- 1.8 Sharing in this matter means that the worker has an opportunity to discuss and assess their concerns in a responsible way as well as sharing some of the load with someone outside the situation.
- 1.9 Once reported, the Designated Officer will report the alleged incident to Social Services. The Designated Officer will have received relevant training and have guidelines as to reporting to the appropriate authorities.

## Appendix 7

**1.11** Discussion should not take place with anyone else within the line management structure as this impedes investigation and affects the confidentiality of the situation. It is up to the discretion of the Designated Officer, as to who else is to be informed of the situation, including incidents where a member of staff may be the alleged abuser.

**1.12** Staff should not initiate an investigation, including discussion of the potential abuse with other professionals (e.g. schools, health workers), as this is assuming the responsibility of the Social Services. By doing so s/he could complicate an already sensitive situation and perhaps contaminate evidence which could have negative consequence for subsequent legal proceedings.

A flow chart relating to reporting procedures is included at Appendix 7.1.

**1.13** Once a worker becomes aware of or suspects a case of abuse it is important that they make a record of observations, happenings and discussions that are relevant. This record should be factual and not include opinions or personal interpretations of the facts presented.

**1.14** The record should be made within 24 hours of the suspicion arising, with each recording dated, signed and stored in a secure place. Records are to be made on the relevant form as provided in Appendix 7.2

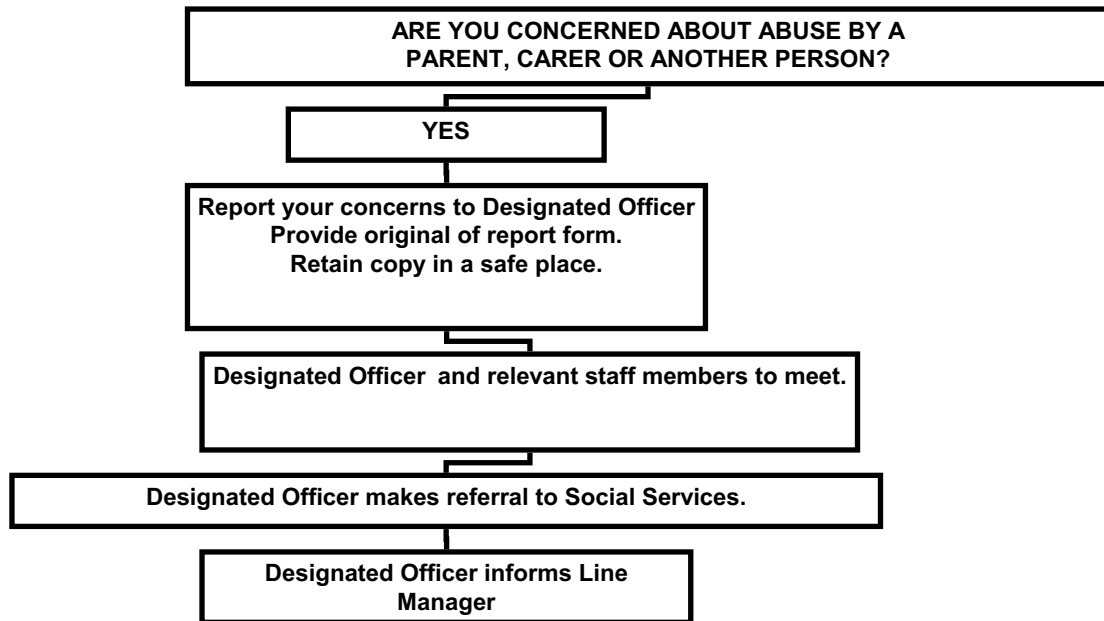
**1.15** To assist members of staff on how to deal with a situation where a child or vulnerable adult has made a disclosure of Abuse - Appendix 7.3 provides guidance on some of the Do's and Don'ts on how to react.

**1.16** Where a member of staff observes possible signs of abuse, it would only be appropriate to involve another member of staff to verify the signs or symptoms. Extreme discretion must be taken when this occurs as the child, vulnerable adult or others must not be alarmed. The name of the other member of staff must be recorded on the report form.

**1.17** Where a child or vulnerable adult discloses possible abuse, it is unlikely to be appropriate to include another member of staff in the conversation as to disclose in the first place will be traumatic enough for the child or vulnerable adult. Where another member of staff observes the disclosure, this should be recorded on the report form.

**1.18** Decisions to refer the incident to Social Services will be taken by the Designated Officer, who will report the alleged incident directly to Social Services.

**Concerns about abuse by an External Person**



**Do not investigate or inform parents.  
Social Services will advise and act accordingly.**

**For further information – please refer to Appendix 7.**

**Immediate Procedures to be taken if suspected abuse is observed  
taking place within the workplace**

**1. Introduction**

**1.1** These guidelines apply in exceptional circumstances and only when a member of staff observes suspected abuse of a child or vulnerable adult.

The guidelines do not apply if the suspected abuse may have already taken place and the suspected abuser has left the premises. In these circumstances the member of staff must follow the guidelines outlined in Appendix 7.

**1.2** Line Manager or Duty Officer to be informed immediately and the Child Protection Branch of the Police Service to be contacted immediately. In case of vulnerable adults, contact the Police Service directly.

**1.3** Staff should ensure in so far as possible that the child or vulnerable adult is protected from the situation of danger

**1.4** As soon as it is practical and not less than 24 hours after the incidence, contact must be made with either a Designated Officer.

**1.5** It is important for the member of staff who has made the observation to make a record of observations, happenings and discussions that are relevant. This record should be factual and not include opinions or personal interpretations of the facts presented. The record should be made within 6 hours of the suspicion arising, with each recording dated, signed and stored in a secure place. A copy must be provided to the Designated Officer with whom contact was made. Records are to be made on the relevant form as provided in Appendix 7.2

**1.6** Discussion should not take place with anyone else who was not involved immediately within the situation as this impedes investigation and affects the confidentiality of the situation. It is up to the discretion of the Designated Officer, as to who else is to be informed of the situation, including incidents where a member of staff may be the alleged abuser.

**Concerns regarding suspicious behaviour**

Where there are concerns regarding suspicious behaviour by a person using your service – this should be reported directly to your line manager and a Designated Officer and a record made of the behaviour and dates when the behaviour occurred. Advice is to be sought through the Designated Officer from the police regarding future monitoring of the situation.

**Appendix 9**

**Concerns regarding a Staff Member employed through an Agency**

Where there are concerns of potential abuse or inappropriate behaviour regarding a member of staff who is employed through an agency, the following guidelines will apply.

Where a concern has been raised:

The concern will be raised with the Duty Manager of the Centre.

Contact will be made immediately with the agency and a Council Designated Officer.

A decision will be made jointly between the agency and the Duty Manager as to if the person will be asked to leave the place of work while an investigation takes place. Advice will also be sought from Social Services by the Designated Officer as to the removal of the member of staff. Where contact is unable to be made with the relevant member of staff at the agency, the Duty Officer will make the decision and inform the agency at the earliest time possible.

The person will then be informed by the Duty Manager that a concern has been raised and if they are requested to leave the premise.

An investigation will be undertaken by the appropriate staff from the agency in consultation with the relevant Officers from Belfast City Council. This will include relevant staff from the centre, the Designated Officer and a Human Resource representative.

Belfast City Council has the right to request the removal of the person concerned from employment with our centres both in the short and long term.

Regarding any issues concerning the child or vulnerable adult, Belfast City Council's Policy and Procedures on the Protection of Children and Vulnerable Adults will be followed. The agency needs to ensure staff recruited have relevant training and are made aware of the policies and procedures.

The agency will be provided with sufficient knowledge to enable a decision regarding the member of staff. This will be at the discretion of the Council's Designated Officer. No information will be provided that identifies the child or vulnerable adult by name or address.

**Out of Hours Concerns**

Where you have an immediate concern out of hours and are unable to contact a Designated Officer, the following guidelines are to be followed:

1. Contact to be made with:
  - a. NSPCC 24 hour helpline - phone :
  - b. Police Service NI – phone:
2. Report form to be completed.
3. Notification to be made to a Designated Officer within 24 hours.

**Hiring of Facilities**

Those groups who book the centre for six or more sessions per year and have substantial access to children, young people or vulnerable adults are required:

- to have their own Child Protection and Vulnerable Adult Policy and Procedures
- to have attended relevant awareness raising training
- to have undertaken the necessary AccessNI and for staff and volunteers to be ISA registered where staff or volunteers have substantial access to children or vulnerable adults.
- to adhere to the Council's Playwork Code of Practice, including the provision of adequate staff supervision.

All Hirers must ensure that children or vulnerable adults are supervised at all times.

**The Council wishes to remind all Hirers or Volunteers that the responsibility for the welfare of the children or vulnerable adult rests with them at all times.**

**Hiring of Casual Staff**

Where staff are hired for specific events or activities that will involve contact with children and vulnerable adults (for example, to facilitate a workshop or face painting), information must be provided prior to the event on Belfast City Council's Policy and Procedures on the Protection of Children and Vulnerable Adults

**Data Protection and Freedom of Information**

Belfast City Council is committed to fulfilling its statutory requirements under the Data Protection Act 1998 and freedom of Information Act 2000.

Appendix 11



*BELFAST CITY COUNCIL*

Policy and Procedures on the Protection of Children and Vulnerable Adults\_  
**Report Form**

**Private and Confidential**

**Please ensure questions are fully answered  
This form must be kept in a secure place  
Please note this is a discoverable document.**

**Department:** \_\_\_\_\_

**Section:** \_\_\_\_\_

**Work Location/Centre:** \_\_\_\_\_

<b>Provide as much details of child(ren) or vulnerable adult as known.</b>
<b>Age(s):</b>
<b>Name(s):</b>
<b>Home Address:</b>

**Report Form**

**Where the child or vulnerable adult's name and address is unknown, please provide a description, including approximate age(s).**

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**What were the immediate circumstances leading to your concern?**

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**Were there others present?**

Yes  / No  / Don't Know

**If yes, please state who (name and position) and what role did they play?**

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**Please detail your specific concerns**

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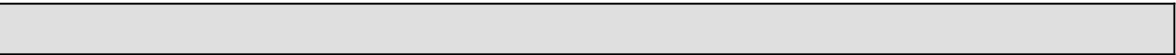




<b><u>Signs</u></b>
<b>Describe any signs of physical injury evident on the child(ren) or vulnerable adult(s).</b>
_____
_____
_____
_____
_____
<b>Describe any concerns regarding the behaviour of the child(ren) or vulnerable adult(s):</b>
_____
_____
_____

<b>Any additional information (e.g. names/ descriptions of others involved including adults)</b>
_____
_____
_____
_____

<b>Signed:</b> _____ <b>Date:</b> _____
<b>Referred to</b> <b>Designated Officer</b> _____ <b>Date:</b> _____



Designated Officer  
Report Form

*Private and Confidential*

Please ensure questions are fully answered  
This form must be kept in a secure place  
Please note this is a discoverable document

Date of Meeting(s): \_\_\_\_\_

Names of those attending and positions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Department: \_\_\_\_\_

Section: \_\_\_\_\_

Work Location/Centre: \_\_\_\_\_

Briefly describe incident concerned - including dates:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Appendix 9

<b>Was the incident recorded by the member of staff concerned? Yes <input type="checkbox"/> / No <input type="checkbox"/></b>
<b>Date and time report received:</b>
<b>If no - state reasons incident was not recorded:</b>

<b>If more than 24 hours have elapsed following receipt of the report and the initial meeting - please state reasons for delay:</b>
---

<b>Outline key issues discussed:</b>
<b>Outline decision taken</b>

**Designated Officer Report Form**

Were all in agreement with the decision?	Yes <input type="checkbox"/>	/	No <input type="checkbox"/>
If not, please state outstanding issues:			

<b>Action taken:</b>

<b>Signed &amp; Dated</b>
<b>Designated Officer</b>
<b>Others in Attendance at Meeting</b>

## Guidance on Disclosure of Abuse and how to deal with it

### 1 Introduction

The following information is a guide as to some of the do's and don'ts on how to react when a disclosure of abuse has been made.

<b>Do</b>	<b>Don't</b>
Stay calm	Promise confidentiality
Recognise your own feelings	Probe for more information or investigate
Receive the information	Panic
Reassure	Make the child or vulnerable adult repeat the story unnecessarily
Listen	Use leading questions
Record	
Report to Designated Officer	
Get support for yourself (The Designated Officer will be able to direct staff to suitably qualified external agencies.)	

**Remember:- how you react may mean the child or vulnerable adult telling or not telling his/her story. It may be the beginning of the healing journey for the child or vulnerable adult.**

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## **Belfast City Council**

### **Representation on External Child Protection Forums**

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Council Representative: Blanche Thompson, Play Development Officer,  
[BCC Child Protection Officer]

#### **Eastern Area Child Protection Committee (ACPC)**

There are currently 4 ACPCs in Northern Ireland; each covering a Health & Social Services Board area. The aim is

through multi-disciplinary and inter-agency co-operation, to promote the welfare of children and to protect them from abuse and neglect

In line with the new RPA arrangements, the 4 ACPCs are to be replaced in autumn 2009 by a single statutory Board; the Safeguarding Board for Northern Ireland. The SBNI will help to ensure that there is a comprehensive, co-ordinated and consistent approach to safeguarding practice in and between the key organisations within Northern Ireland. There will be 3 places allocated to District Councils. It is unclear at this stage as to how nominations will be sought. The ACPCs will therefore continue until the SBNI is fully implemented and Blanche will continue to represent BCC on the Eastern area committee and advise of the new arrangements re local government representation as soon as these are known.

#### **Belfast Trust Child Protection Panel**

Under the previous Health & Social Services Trust, there were panels to represent local issues and to discuss standards in regard to child protection. Within Belfast there was a panel for both the North & West and the South & East Trusts. Under the proposed new structure under SBNI, new panels will be established to replace the previous ones and to feed into the SBNI.

As an interim measure until the SBNI is established, the new Belfast Trust has established a city-wide panel comprised of representatives from the main statutory and voluntary sector. Blanche represents BCC on this interim panel.

#### **Co-ordination Forum**

This best practice forum meets twice a year and is co-ordinated through the Volunteer Development Agency (which incorporates Our Duty to Care<sup>1</sup>). The forum is comprised of representatives from the statutory, community and voluntary sector from across NI. Information is shared regarding ongoing issues, training, good practice and legislation. Blanche attends the forum as a local government representative in order to provide a District Council perspective.

#### **Local Government Child Protection Network**

This is comprised of representatives from the 26 District Councils who are responsible for child protection within their respective Council. The Local

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<sup>1</sup> The Volunteer Development Agency provides information and training on all issues of child protection through the Our Duty to Care project, which is supported by the Child Care Unit (Department of Health & Social Services & Public Safety)

Government Staff Commission has representation and provides support. It is a forum where issues of common concerns are discussed and good practice and information is shared. The aim is to create a consistency across the Councils. From this four of the Councils (Belfast, Ards, Castlereagh and Lisburn) who have child protection trainers have developed a common training programme that is not only delivered within our own Councils, but also to other Councils through the Local Government Staff Commission. Blanche is co-ordinator for the network.

### **Belfast Keeping Safe Project Steering Group**

This project is run through the Health & Social Services Trust and developed through Our Duty to Care (VDA). The project runs in several Trust areas throughout NI and the focus is on the development and delivery of accredited child protection training. The training is cascaded through trainers from the voluntary and statutory sector primarily to the community sector. BCC Community Services has 5 trainers (Play Development Officer, 3 Community Development Workers and a Playworker) who deliver training to the community sector. Three of the trainers (2 CDWs and PDO) also deliver the child protection training internally.

The Steering Group oversees the standards for the training, how the training is delivered and feeds into reviews of the training. Through involvement in the above, the PDO was involved in a review group for 'Our Duty to Care' which provides guidance for voluntary and community groups on safeguarding children from harm and to promote good practice.

### **Future Development**

With the merging of the Boards into one regional structure, there will be the establishment of a single statutory Board – SBNI (Safeguarding Board for Northern Ireland) in autumn 2009. The aim will be to ensure that there is a comprehensive, co-ordinated and consistent approach to safeguarding practice in and between the key organisations within Northern Ireland. There will be 3 places allocated to District Councils.





### Belfast City Council

<b>Report to:</b>	Strategic Policy and Resources Committee
<b>Subject:</b>	Leisurewatch
<b>Date:</b>	7 <sup>th</sup> August, 2009
<b>Reporting Officer:</b>	Marie Therese McGivern Director
<b>Contact Officer:</b>	Catherine Taggart – Community Development Manager Blanche Thompson - Play Development Officer

#### Relevant Background Information

Belfast City Council Child Protection Policy and Procedures were adopted by Council on 3<sup>rd</sup> June 2002. A training programme was implemented to raise awareness and to inform Belfast City Council employees regarding the policy and issues relating to working with or contact with children and young people. The training is delivered by three Community Services Officers who are accredited child protection trainers.

The Derwent Initiative (TDI) is an independent UK charity which works to improve public protection by finding creative and practical multi-agency solutions to the problems of sexual offending. They offer research, consultancy, training and trademarked public protection schemes, including Leisurewatch. The Leisurewatch scheme involves training staff to raise awareness of adults who may potentially use public facilities such as leisure centres to gain access to children and young people. The training involves helping front line staff to identify, assess and manage sex offender risk. Additional training is provided for managers to co-ordinate and manage the risk.

A site audit is undertaken that examines physical, design and security issues and materials including signage is provided to confirm that the premise is a member of Leisurewatch.

The programme involves the establishment of an Official Protocol with the Police whereby concerns reported by staff will be acted upon. In Northern Ireland, the PSNI support the project financially and have an officer seconded to the project on a part-time basis.

The main difference between Leisurewatch and Child Protection is that the former is about perpetrator awareness. It trains staff to be aware of potential sex offenders who may come onto the premises to gain access to children. Concerns are fed to the police at an early stage and where an alleged incident may not have occurred. This may include a person hanging around a centre or park specifically at times when children are about. Child protection deals specifically where a child or young person has been potentially harmed.

**Key Issues**

Benefits of membership for Belfast City Council in belonging to Leisurewatch would include:

1. Additional on site and detailed training
2. Branding – centres displaying posters will potentially put off sex offenders use of the buildings.
3. Ongoing audit of facilities and advice regarding how to deter potential sex offenders
4. Mystery shopper – where visits would be made to assess if the facility was adopting appropriate procedures
5. Formal links with PSNI

Leisurewatch would not only be of benefit for leisure centres but could be adapted for all BCC premises where potential sex offenders could have access to children and young people.

Leisurewatch has approached Belfast City Council regarding potential membership. Several meetings have taken place between Leisurewatch and Belfast City Council's Designated Officer and the Key Worker for Leisure. These involved discussion of the implications and the links to the Council's Child Protection Policy and training programme. Concerns were raised that there could be potential confusion between the two policies, so it was agreed that the Belfast City Council Child protection trainers would be able to input into the training in order to address these concerns. The training would initially cost Belfast City Council a minimum of £20,000 to implement with additional monies per year to retain membership and provide additional training.

A paper has been prepared (Appendix 1) that outlines the options for Belfast City Council regarding potential membership of Leisurewatch.

It is felt that within Belfast City Council, sound policy and procedures exist supported by a comprehensive training programme provided by accredited child protection trainers, and that the current review of these could incorporate all aspects of best practice. On this premise, it is considered that option 2 be recommended, supported by further consultation with Corporate Human Resources, and Legal Services, both of whom endorse the recommendation.

It is considered that it is important that Belfast City Council comply with all aspects of best practice, and that the Leisurewatch brand would enhance this practice.

It should be noted that in order to be a member of the scheme, Belfast City Council would have to purchase the whole package.

**Resource Implications**Financial

The training would initially cost Belfast City Council a minimum of £20,000 to implement with additional monies per year to retain membership, and provide additional training.

Human Resources

No implication on the current allocation

Asset and Other Implications

There is no impact on any physical BCC asset.

<b>Recommendations</b>
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It is recommended that Members:
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- |  |
|--|
| <ul style="list-style-type: none"><li>a) Note the contents of the report.</li><li>b) Make a decision as to Belfast City Council becoming a member of Leisurewatch.</li></ul> |
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<b>Key to Abbreviations</b>
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<b>Appendices</b>
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- |   |
|---|
| <ol style="list-style-type: none"><li>1. Proposal for Belfast City Council to join Leisurewatch</li></ol> |
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Appendix 1

**Paper on Proposal for Belfast City Council to join Leisurewatch scheme**

**Leisurewatch**

Leisurewatch is a membership scheme designed to protect children and vulnerable adults by preventing sexual offending in defined public spaces.

This involves:

- Training for 80% of front line staff to help them identify, assess and manage sex offender risk.
- Additional training for managers to co-ordinate and manage the risk.
- A site audit examining physical, design and security issues that enable potential offenders to operate more easily on Council premises.
- The establishment of an Official Protocol with the Police whereby concerns reported by staff will be acted upon.
- Provision of materials including signage that the premise is a member and regular newsletters providing information on key issues.
- Top-up training sessions for new members of staff.

Leisurewatch is run by The Derwent Initiative (TDI) throughout the United Kingdom. Links are made with the local Police Services. In Northern Ireland, the PSNI support the project financially and have an officer seconded to the project on a part-time basis.

There are currently 15 District Councils in Northern Ireland involved in Leisurewatch.

**Difference between Leisurewatch and Child Protection**

Leisurewatch is about perpetrator awareness. It trains staff to be aware of potential sex offenders who may come onto the premises to gain access to children. Concerns are fed to the police at an early stage and where an alleged incident may not have occurred. This may include a person hanging around a centre or park specifically at times when children are about. Child protection deals where a child or young person has been potentially harmed.

**Benefits of membership of Leisurewatch**

- More detailed training
- Branding – centres displaying posters will potentially put off sex offenders use of the buildings.
- Ongoing audit of facilities and advice regarding how to deter potential sex offenders
- Formal links with PSNI

Leisurewatch would not only be of benefit for leisure centres but could be adapted for all BCC premises where potential sex offenders could have access to children and young people.

**Concerns**

Previous meetings have taken place with Leisurewatch and attended by Blanche Thompson (Designated Officer) and Pat Seenan (Key Worker,

Appendix 1

Leisure). Concerns were raised which have now been resolved following a meeting on 27<sup>th</sup> January 2009. These included:

1. Input into training.

Feedback from other Council areas indicated that following the Leisurewatch training, staff were confused regarding when to follow Leisurewatch or their Council reporting procedures. A request was made that if BCC was to take on Leisurewatch that their child protection trainers were allowed to attend the training to have a short input into assisting to clarify when to use which procedure. Initially this was refused. They have now indicated that they would allow an input into the training.

2. Feedback

The different situations reported through the Council's Child Protection procedures have helped to inform policy changes and training. For example, a report that involved peer abuse has led to a number of workshops to increase awareness of this issue. A request had been made previously for information on incidents (without names) to be fed back to the Designated Officer to inform policy and training needs. This was previously stated not to be possible. It has now been resolved and information will be fed to the Designated Officer who can access the forms.

### **Belfast City Council's Child Protection Policy and Procedures**

Key elements of training:

- What is abuse?
- Who abuses?
- Signs and Symptoms
- Dealing with Disclosure
- Code of Behaviour
- Belfast City Council's Policy and Reporting procedures

The training contains group exercises, including the following scenario:

A young man about 22 years old has started to come into the leisure centre on a regular basis. He starts to hang around the pool and is often seen playing with the children. Part of the play activity includes the game of tag. You ask one of the children if they know the man and she says no.

The scenario is to stimulate discussion around people who may attend centres to have access to children.

The training is currently being reviewed in line with the review of the Council's Child Protection Policy and Procedures, changes in legislation and the incorporation of vulnerable adults within the Policy. There is also recommendations for staff to undertake refresher training.

#### **Reporting Procedures**

BCC Child Protection Policy deals with incidents where a child has been potentially harmed. There are 3 reporting procedures:

1. Where a child has been potentially harmed by an external person (for example, parent, neighbour, stranger).

## Appendix 1

2. Where a child has been potentially harmed by a member of staff.
3. Emergency procedures where a person is seen potentially harming a child.

The above procedures do not deal with incidents where there are concerns about a person and a child is not involved. In practice, staff have used the Council's procedures to report these concerns. These concerns are recorded and passed on to the local Police Station.

**Costs for Implementation of Leisurewatch within Belfast City Council**  
(the costs are approximate and there is the possibility of negotiating the costs)

The scheme costs about £1,000 per day to implement. This would potentially include the training of 2 leisure centres (20 staff) and site audits. Negotiations would have to take place for smaller sites smaller sites (Community centres, Parks). The project has the services of an Officer from the PSNI for this financial year who would be able to provide additional training free of charge that would enable 4 centres to be covered by the £1,000 daily rate.

## Parks &amp; Leisure Department

## Leisure Centres:

- 5 centres x £1000 = £5,000
- 5 centres free of charge if trained during 2010)
- additional sessions = 3 x £1,000 £ 3,000  
(where there are more than 20 staff per site)

Approximate total £8,000

## Parks

- Training sessions 3 x £1,000 £3,000
- Site audits?

Total for first year £11,000

## Development Department

## Community Services

Based on site audits for 22 community and 6 play centres  
Training for Supervisory staff, CDWs, CDAs and Play staff  
Total for first year £7,000

## Waterfront and Ulster Halls

## Site audit and training

(based on training for permanent staff and 50% of temporary staff)  
£2,000

Total for Development Department £9,000

## Total initial costs

Parks & Leisure £11,000

## Appendix 1

Development	£9,000
<b>Total initial costs (approximate)</b>	<b>£20,000</b>

Costs in subsequent years would be negotiated. The top band is normally £2,500. They have indicated that due to the size of Belfast City Council, the cost for annual membership would exceed this but did not give an indication. Their website states that costs can vary from £250-£350 per site.

**Options**

The Leisurewatch scheme is a whole package and therefore Belfast City Council would be unable to purchase specific elements.

1. Belfast City Council joins Leisurewatch incorporating the scheme within the Sections where potential offenders have greatest access to children and young people – Parks & Leisure and Development Departments (Community Services, Waterfront and Ulster Halls).

## Benefits:

- Part of a nation wide scheme
- Expertise in terms of training and audit
- Mystery shopping to ensure maintenance of standards
- Newsletter with updated information
- Formal links with PSNI

If Belfast City Council is to join, it would be recommended that this be done on the basis that there is agreement regarding involvement in training and the sharing of information (as outlined previously regarding concerns).

2. A decision is made not to join Leisurewatch at this stage and for Belfast City Council to
  - a. undertake a further review of policy and procedures:
    - i. incorporating additional reporting procedures in regard to concerns of suspicious behaviour including report forms
    - ii. incorporating further elements within the training to specifically look at incidents where there is suspicious behaviour and to incorporate this within ongoing and refresher training
  - b. to develop a system for auditing buildings / sites. This could be done through an inter-departmental working group. It would involve identifying key members of staff to undertake this responsibility.
  - c. formalise links with PSNI. Current arrangements is ad hoc from station to station. More formal arrangements will depend upon the co-operation of the PSNI who have invested resources in Leisurewatch.

## Implications:

- a. Review of policy and procedures



Appendix 1

- i. The policy and procedures have recently been reviewed and are due to go out for Council-wide consultation. The new reporting procedures could be incorporated at this stage with minimal resources.
- ii. The Child Protection training is due to be reviewed. This will include a recommendation for refresher training. As the training will be ongoing, there will be a minimal resource commitment at the review stage.

b. Audit

This would involve a resource commitment at an early stage from the respective Departments to develop a checklist to carry out the audit. This would need to be followed by having a nominated person to ensure the regular audits are carried out, the system is monitored and the checklist is updated.

c. Formalisation of links with PSNI

Although current arrangements are ad hoc, our experience has been receipt of full support and co-operation from the respective stations.

**Recommendation**

The Leisurewatch scheme has clear benefits and there has been increasing pressure from the Leisurewatch scheme for Belfast City Council to become a member.

There has been positive feedback from those Councils involved in the scheme regarding the training and support. With the exception of Lisburn, the Councils involved do not have an internal Child Protection trainer and are reliant on external consultants.

Belfast City Council has the internal resources and expertise to incorporate aspects of the Leisurewatch scheme without having to take on membership and the associated cost.

Although there are some benefits in joining the Leisurewatch scheme, there is a question mark over the value in the current economic climate for this additionality.

Appendix 1

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