

## **APPENDIX 2**

### **Consultation on**

### **Local Government Reform: Establishment of Transition Committees in Statute**

## **Belfast City Council Response**

### **Introduction**

The Council welcomes the opportunity to comment on the consultation document issued by the Department in regard to the establishment of Transition Committees in statute and would hope that the comments outlined within this response are constructive in nature and add value to the future drafting of necessary legislation.

The Council believes that the release of this consultation document is very timely given the fact that the voluntary Transition Committees and the Transition Management Teams have been established and, in many instances, are in the process of developing a programme of work to support the RPA transition process. Furthermore, the Transition Committees would only be truly in a position to start to lay the foundations for the new Councils when they have statutory powers to make the necessary decisions in regards to transitional related matters.

The Council would have a number of general comments to make in regard to the content of the consultation document as well as specific feedback, as appropriate, on the consultation questions set out.

### **General Comments**

Belfast City Council welcomes the recognition by the Department of the unique situation of Belfast in relation to the RPA transition process from the other 25 Councils, since all the other councils are to be abolished and replaced by 10 new Councils.

It is clear that Belfast stands in a different position to the other 25 Councils in relation to the RPA transition process, since all the other Councils are to be abolished and replaced by 10 new Councils. In contrast, Belfast is assimilating relatively small geographical areas of Castlereagh and Lisburn within its boundary. Because the other 25 Councils are merging, they have formed into voluntary Transition Committees, made up of elected Members from constituent Councils, for the purposes of managing the transition and convergence process.

The Environment Minister has supported the proposition that Belfast City Council manages its own transition process through the designation of the Council's Strategic Policy and Resources Committee, which comprises 20 elected Members nominated on the basis of proportionality, as its Transition Committee. It would be the intention that the Belfast Transition Committee would engage with the adjacent Transition Committee for Lisburn and Castlereagh on relevant transitional issues.

The Council recognises that with the Ministerial decision not to introduce a Shadow Council period post elections to the new Councils in May 2011, the statutory Transition Committees will be responsible for a significant programme of work to ensure that the new Councils are in a position to take full executive responsibility for the transferring functions from the outset.

The Council would also highlight the need for the primary enabling power to include a provision which states that the Transition Committees for the emerging Councils need a statutory delegated power (for the purposes of removing any doubt) to take decisions of a transitional related nature. Again, the special circumstances of Belfast City Council need to be reflected in the drafting of any related legislation.

## Specific Comments

*Paragraph 11:* Clearly a number of the activities identified for the Transition Committee will be subject to the outworking of the work of PDPs (e.g. HR, transfer of functions, etc) and the associated drafting of the Local Government (Reorganisation) Bill will give affect to such transitional issues. It is important to recognise that the work to be taken forward by the statutory Transition Committees will need to take account of emerging legislation and relevant guidance issued by the Department.

In terms of the areas of activity identified to be undertaken by the statutory Transition Committees, Belfast City Council would recommend that the proposed primary enabling power should include also provisions in regard to:

- i) management of the agreed staff transfer scheme;
- ii) preparation of appropriate governance arrangements (e.g. draft standing orders) for the new Council; and
- iii) implementation of an appropriate capacity development programme.

<b>Q1</b>	<b>Do you agree with the proposed size of the Transition Committees?</b>
	<i>Belfast City Council would be supportive of the proposals put forward in regard to the size of the Transition Committees and, in particular, welcomes the recognition by the Department of the need for some flexibility in terms of numbers to take account of the relative scale of merging Councils (e.g. Causeway Coast Group of Councillors) and the need to maintain proportionality as is the case with the Belfast City Council Transition Committee which consists of 20 members. The principles of inclusiveness, fairness and proportionality should underpin all decisions taken in regard to the size of Transition Committees.</i>
	<i>It is also important to recognise that the voluntary Transition Committees have already been established and are operating at the scale proposed within the consultation document.</i>
<b>Q2</b>	<b>Do you agree that representation from District Councils in a group should be equal?</b>
	<i>The Council would be fully supportive of the need to ensure proportionality and inclusiveness in a Council's representation on a Transition Committee. Belfast City Council already makes appointments to its Committees (including its Transition Committee) on the basis of proportionality through the use of D'Hondt. Whilst the situation for the clustering Councils may be somewhat different, it will be important that appropriate mechanisms are put in place which ensures that the membership of the respective Transition Committees is drawn equally from constituent Councils.</i>
<b>Q3</b>	<b>Should District Councils have flexibility in their approach to nominating members to a Transition Committee?</b>
	<i>Given the differences in the governance arrangements and political make-up within merging Council areas, the Council recognises the need for the Department not to be prescriptive and specify a single nominating process, but rather exercise flexibility in terms of providing options for the model to be applied. The Council would concur with the view that any model must ensure the proportionality and inclusiveness of a Council's representation on a Transition Committee.</i>
	<i>Given its own experience, the Council would support the proposition that in the event that a council cannot agree an approach to making nominations to Transition Committees, the D'Hondt system would be the specified default mechanism.</i>
	<i>Again, it is important to recognise that the voluntary Transition Committees have already been established and their membership agreed. However, the Council recognises that these arrangements may be subject to review within the context of the statutory basis being</i>

	<i>conferred to the Transition Committees and, therefore, there is a need for appropriate nomination mechanisms to be in place to support this process.</i>
<b>Q4</b>	<b>Do you support the approach to achieving consistency in the application of the divisor methods?</b>
	<i>The Council would accept the need to ensure consistency across the Councils in regard to the nominations to Transition Committees and the designation of key posts, particularly within the context of the necessary coalition among merging Councils. Belfast City Council would seek greater clarity as to how the proposed divisor methods (similar to those applied for the allocation of Ministerial positions in the NI Executive) would operate within the context of a Transition Committee for merging Councils. How would the inclusiveness of constituent Councils be retained within this process?</i>
<b>Q5</b>	<b>Do you agree that Transition Committees will be able to establish Sub-Committees?</b>
	<i>Belfast City Council would have no objection to the proposal that Transition Committees should have the ability 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.</i>
<b>Q6</b>	<b>Do you support the process for the allocation of the Chair and Vice-Chair positions, and for determining the membership of Sub-Committees?</b>
	<i>Belfast City Council would support the proposed options outlined within the consultation paper in regard to the allocation of the Chair and Vice-Chair positions of Transition Committees and for determining the membership of sub-committees (if established). In terms of the proposed term stated for the posts of Chair and Vice-Chair positions (i.e. two equal time periods), the Department will note that Belfast City Council appoint the Chair and Vice-Chair of Standing Committees on an annual basis in June using the D'Hondt system of proportionality.</i>
<b>Q7</b>	<b>Do you agree that the Chair of a Transition Committee or Sub-Committee (if established) should have a 'casting' vote.</b>
	<i>In relation to the merging Councils, Belfast City Council recognises the need to ensure equity between the constituent Councils on the Transition Committee and the potential risk that a Council may obtain an advantage through the impart of a casting vote to the Chair of the Transition Committee.</i>
	<i>It is important to recognise that the position for Belfast is different and, therefore, the Council would state that the Chair of the Council's Strategic Policy and Resources Committee, when acting in a Transition Committee role, should have a casting vote as normal in accordance with the Council's Standing Orders (i.e. law of meetings). This again reflects the different circumstances of Belfast, which must be clearly reflected in the drafting of legislation.</i>
<b>Q8</b>	<b>Do you agree that 'call-in' and Qualified Majority Voting (QVM) procedures should be available for the operation of Transition Committees?</b>
	<i>Belfast City Council would be opposed to the proposition that a 'call-in' or 'Qualified Majority Voting' mechanism would be put in place to challenge the decisions taken by the Transition Committees. This has the potential to significantly delay the decision-making process and indeed could adversely impact upon the entire RPA timetable.</i>
<b>Q9</b>	<b>If so, do you agree that the levels set for the trigger for 'call-in' and threshold for QMV area appropriate?</b>
	<i>Should not be introduced. Not at all or in any way appropriate to the process which Councils find themselves in.</i>
<b>Q10</b>	<b>Do you agree that a Code of Conduct should apply to members of a Transition Committee?</b>
	<i>Belfast City Council would support the proposal to extend the Northern Ireland Code of Local Government Conduct to apply to members of Transition Committees as this is based on good</i>

	<i>practice.</i>
<b>Q11</b>	<b>Do you agree that meetings of Transition Committees should where applicable be open to the public?</b>
	<i>The Council would recommend that further consideration be given to the potential operational implications of this proposal in regard to the facilitation and management of Transition Committee meetings. The Council would propose that this should not be a mandatory duty for Transition Committees but rather be optional for respective Transition Committees to consider. Indeed, public meetings could also be used in particular circumstances to delay decisions being taken and, perhaps, impact upon the entire process and time-frame. Public meetings may well be appropriate for new Councils but they should not be made mandatory for Transition Committees.</i>
<b>Q12</b>	<b>Do you agree that the role of the Local Government Staff Commission should be extended to provide support to the Transition Committees?</b>
	<i>Whilst the Council recognises the role of the Local Government Staff Commission in supporting the work of the Local Government sector, Transition Committees and Transition Management Teams in dealing with HR related issues as part of the RPA process (e.g. advice, support, developing model job descriptions, etc), such support should not be prescriptive or mandatory for Transition Committees, particularly given that they are being established as temporary measures for a short-term period.</i>
<b>Q13</b>	<b>Do you agree that Transition Committees should have a power of approval over the budgets of the new Councils in the year preceding the coming into operation of the new Council?</b>
	<i>Given the fact that Belfast City Council is not merging with another Council and is managing its own transition process, there is no necessity for this power to be introduced. This must be reflected in the drafting of primary enabling power. Within the context of the merging Council areas, if this power is conferred to Transition Committees greater clarity is required as to the relationship between the Transition Committees and the constituent Council's decision making and established financial management arrangements. Clear guidance would be required.</i>
<b>Q14</b>	<b>Do you agree that the Department should have a Power of Direction in relation to Transition Committees?</b>
	<i>The Council would accept the need to have a mechanism in place to ensure that the RPA transition process is not delayed and to ensure that actions are taken to ensure that the new Councils can operate effectively when they are created. However, any Power of Direction conferred to the Department and Minister should be used as a last resort and when there is no alternative option available to ensure that the transition process remains on track. Within the context of Belfast City Council, this Power of Direction would not be necessary and should not apply.</i>