



Belfast City Council

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

1.0	<u>Relevant Background Information</u>
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 th 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: <ul style="list-style-type: none"> 1. to enable councils to vest land for waste management purposes 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 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. 4. to enable the DOE to make regulations for the introduction of severance arrangements for elected members
2.0	<u>Key Issues</u>

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 relevant Clauses contained therein, those pertinent issues and policy positions previously agreed by the SP&R Committee. The key issues, which have been addressed in detail within the draft response attached at Appendix 2, are listed below for reference:</p> <ul style="list-style-type: none"> ▪ that local government should be further engaged in the drafting of any subsequent regulations and, in particular, those pertaining to Clause 14 (i.e. constitution of statutory transition committees; Clause 15 (i.e. functions to be undertaken by statutory transition committees; Clause 17 (i.e. severance payments for councillors). ▪ 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) ▪ 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. ▪ 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 ▪ 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.
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 th August 2009 (on the basis that it would be subject to ratification by Council on 1 st 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 7th 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 1st September 2009.

6.0 Documents Attached

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

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