

<b>Report to:</b>	Strategic Policy and Resources (Transition) Committee
<b>Subject:</b>	Consultation on Proposals for a Roads (Functions of District Councils) Bill
<b>Date:</b>	18 <sup>th</sup> June 2010
<b>Reporting Officer:</b>	Ciaran Quigley, Director of Legal Services
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<b>1.0</b>	<b><u>RELEVANT BACKGROUND INFORMATION</u></b>
1.1	The Council received correspondence, dated 29 <sup>th</sup> April 2010, from the Chief Executive of Roads Service setting out proposals for the development of a Roads (Functions of District Councils) Bill. A copy of the consultation document, including the draft Bill, is attached at Annex 1. Comments on the draft Bill has been sought by 23 <sup>rd</sup> July 2010.
1.2	The Bill is intended to enable the Department to transfer the following local roads functions to councils:- <ul style="list-style-type: none"> <li>▪ authorising local road race events;</li> <li>▪ the issue of authorisations to enable vehicles to enter pedestrian zones;</li> <li>▪ off-street car parks; and</li> <li>▪ on and off-street parking enforcement</li> </ul>
<b>2.0</b>	<b><u>KEY ISSUES</u></b>
2.1	The following provides a brief overview of the provisions as set out within the Bill and the proposed transfer of additional responsibilities to local government.
	<b>Clause 1: Parking Enforcement</b>
2.2	Under Clause 1 and Schedule 1 of the Bill the Council will be given the power to carry out enforcement functions, presently exercised by the Department under the Traffic Management order 2005, in relation to parking and waiting contraventions. This will mean that councils will become responsible for on and off-street parking enforcement; traffic attendants and for the issuing and processing of Penalty Charge Notices.
2.3	It is intended that the Department would retain responsibility for type approval of prescribed parking and immobilisation devices; making regulations; to set the Penalty Charge Tariffs and the contraventions in respect of which a Penalty Charge is payable. Clarification is required as to who retains the income receipt from penalty charges and whether this will be used to off-set the costs incurred by councils for enforcement and necessary maintenance.
	<b>Clause 2: Transfer to councils of certain functions in relation to parking places</b>
2.4	Under Clause 2, the majority of off-street car parks provided by the Department, and the land on which they are situated, would transfer to district councils. The Department would retain and continue to operate those off-street car parks used for “park and ride” and “park and share” schemes.

	<b>Clause 3: Functions of councils in relation to road races</b>
2.5	The Bill will provide powers to district councils to authorise road races and to make the necessary road closure orders to facilitate them. The district council in whose area a race starts would be the council to make the necessary road closure order.
2.6	The Bill also provides for the future legislative responsibility for the Roads Races Order to transfer from DRD to DCAL which has policy responsibility for the central administration and promotion of sport in Northern Ireland.
2.7	Members should note that a separate Bill, the Roads (Miscellaneous Provisions) Bill, deals with a number of roads related issues including giving local councils the power to close roads for events. The Bill is currently at 2 <sup>nd</sup> committee consideration stage within the NI Executive. This means that there will be two separate pieces of legislation which will be dealing with the ability of councils to close roads for holding events.
	<b>Clause 4: Pedestrian Zone Permits</b>
2.8	The Bill will provide councils with the power to issue special authorisation permits allowing vehicles to enter pedestrian zones. The Department will retain the power to make extinguishment orders (i.e. designation of pedestrian zones).
	<b><i>BCC RESPONSE</i></b>
2.9	Clearly this is a very important piece of legislation which has the potential to impact upon the future role and functionality of the Council. It represents a positive step in enabling the transfer of additional functions to councils and in creating strong and responsive local government. The proposals will enhance local government service delivery and the ability of the Council to make a real and lasting difference at the local level and, therefore, should be welcomed.
2.10	However, there are issues of detail (e.g. public liability and insurance implications for the Council) which are still to be worked out when the associated regulations and potential transfer scheme are drafted. The Council will strongly advocate the need for intensive dialogue and engagement with the Department in relation to the development of the detail as to how the Bill will be implemented and the content of any associated subordinate legislation.
2.11	A draft Council response is attached at Appendix 2 for Members consideration. In summary, the key points raised in the response include: <ul style="list-style-type: none"> <li>▪ concerns about the separation of linked legislative provisions (i.e. pertaining to the closure of roads for events) across two Bills as this will lead to confusion</li> <li>▪ consideration in relation to the potential public liability and insurance implications for councils resulting from the provisions set out within this Clause</li> <li>▪ advocacy of the need for an appropriate maintenance budget to transfer to councils alongside the transfer of responsibility for off-street car parking</li> <li>▪ seeking Council input into the designation of Park and Ride and on-street parking provisions which are comprised within the fabric of the roads otherwise maintained by the DRD</li> <li>▪ any policy retention by the Department to set the level of charges/tariffs would need to have a caveat in relation to the necessity for the function to cover reasonable operational costs of delivery</li> </ul>

	<ul style="list-style-type: none"><li>▪ clarity is sought in relation to the ability of the Council to dispose of land used for parking places in addition to the specified powers to acquire land</li></ul>
	Members will note that a recent press release published by the BBC News (23-03-2010) reported that in 2009 the cost of enforcement to the Department was £8million while income from fines and car parking charges accounted to £4+million.

### **3.0 Resource Implications**

The potential resource impact of the Bill is still to be quantified.

### **4.0 Recommendations**

The Committee is asked to:

- i) note the forgoing report;
- ii) consider the draft Council response attached at Annex 2; and
- iii) agree that the draft response, subject to any amendments made by Members, be submitted to the DRD.

### **5.0 Appendices**

**Annex 1:** Consultation on proposals for a Roads (Functions of District Councils) Bill

**Annex 2:** Draft Council response to Roads (Functions of District Councils) Bill