



Northern Ireland  
Assembly

Committee for Social Development

# OFFICIAL REPORT (Hansard)

Regeneration Bill: Northern Ireland Local  
Government Association

12 March 2015

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Mickey Brady (Deputy Chairperson)  
Mr Jim Allister  
Mr Roy Beggs  
Mr Gregory Campbell  
Mr Maurice Devenney  
Mr Stewart Dickson

**Witnesses:**

Councillor Dermot Nicholl	Limavady Borough Council
Ms Karen Smyth	Northern Ireland Local Government Association

**The Deputy Chairperson (Mr Brady):** I welcome Councillor Dermot Nicholl from Limavady Borough Council and Ms Karen Smyth, who is NILGA's head of policy. Thank you very much for coming. Go ahead and give us your briefing, and members may want to ask questions after that.

**Councillor Dermot Nicholl (Limavady Borough Council):** I thank the Committee for giving us the opportunity to give evidence here today. This is a hugely challenging time for local government and members and officers of councils. That may have limited the number of responses that the Committee received about the Regeneration Bill, but that does not mean that councils do not view the Bill as critical. The Regeneration Bill is the last major piece of the jigsaw that councils require to bring to life the Executive's vision for strong local government and to fully implement this tranche of local government reform within the wider review of public administration.

Regeneration, particularly when combined with our new responsibilities for community planning, development planning and economic development, will begin to drive the change that our citizens so badly need and will enable councils to improve our new council areas' social, economic and environmental well-being. The Northern Ireland Local Government Association (NILGA) welcomes the Bill and is keen to see its efficient passage through the Assembly's mechanisms. However, we need to highlight a number of issues to the Committee to ensure that what is finally enacted is the best version of the legislation.

**Ms Karen Smyth (Northern Ireland Local Government Association):** We have already provided the Committee with a detailed paper and a synopsis of key issues. Those can be broadly summarised into three groups. The first is the potential for the Department to exert an unnecessarily high level of control over councils or to over-interfere in council activities. Until now, the parent Department for councils has been the Department of the Environment, which has historically held powers of intervention over councils. Those powers are used only as powers of last resort. For instance, the

last example that we are aware of was during the Ulster Says No campaign in the late 80s, following the signing of the Anglo-Irish Agreement. The powers are used only in very extreme situations.

The Local Government (Northern Ireland) Act 2014 and related legislation, particularly the Planning Act and this Bill, have introduced a more complex system of powers of intervention. NILGA is deeply concerned that there is potential for greater and more frequent interference in the councils' activities, which would counter the Executive's intent to develop strong local government. It is vital that, with councils being given greater powers and responsibilities, they are given the necessary freedom to use them without being tied up in bureaucracy or controlled by Departments. This is about devolution of decision-making to councils in line with the European Charter of Local Self-Government. In the context of the Regeneration Bill, that is particularly important when considering clauses 5, 6, 9 and 13. Councils, in partnership with Departments, will be developing a new performance management and improvement system that will be linked to community planning and the Programme for Government, but that will take at least a year to bed in and develop. We are keen that, in the interim, Departments take a light-touch approach as new partnership working relationships develop.

The second issue is the implementation difficulties that may arise from the current fiscal environment. Another of the initial principles on which the reform of local government was based was that of ensuring that changes to the system and transfers of functions were rates neutral to ratepayers. Local government has been doing all it can to ensure that that continues to be the case, although the situation has been complicated by rates differentials between merging council areas and the recent revaluation of the non-domestic rate. We are grateful to the Finance Minister for providing support to assist those councils with rates figures that are particularly badly impacted by reform and to his officials for developing appropriate financial mechanisms to support the transfers.

The delay in the Regeneration Bill, although to some degree unavoidable, has complicated this picture further. That, in tandem with the current budgetary situation, has led to real fear in councils that an acceptable budget will not follow the transfer of this function as previously agreed. That fear has now become a reality, with councils receiving letters yesterday notifying them of a £10 million, or 15%, cut in the budget transferring from DSD additional to the 4% cut to the budget initially intended to be passed to councils this year. Thus, councils are faced with a cut of almost 20% to what they originally hoped to receive from DSD. That is in direct contrast with other Departments, such as DOE in the case of planning, which transferred ring-fenced budgets and did not apply government cuts to moneys coming across to councils.

We are extremely alarmed by the inconsistency in policy being applied across Departments, and we urge the Committee to ask the Minister and his Department to rethink their application of cuts to councils. NILGA emphasises both the opposition in local government to any further cuts being applied to regeneration budgets and our expectation that the figure agreed for 2015-16 be reflected in the 2016-17 budgets. Additionally, we again draw the Committee's attention to clause 5(2), as there is a great deal of concern in the sector that the Department can direct a council to prepare a development scheme for an area with no reference to the provision of adequate financial provision for such a scheme. NILGA is also aware that councils in the west are particularly concerned by what they see as disadvantage and imbalance in comparison with eastern councils. We encourage the Committee to explore that.

The third key issue is the examination of aspects of the Bill that were removed. NILGA accepts that it was expedient to remove some aspects that the Bill had initially been intended to cover, but we encourage the Committee to take some time to fully explore those issues, why they were removed and whether they should be reinstated. It is noted that some of the original proposals were not particularly contentious in local government's view and were related to existing council operation. We would value the Committee's consideration of issues surrounding housing unfitness, houses in multiple occupation and energy efficiency. We are extremely keen to highlight the potential need for the reintroduction of a clause to provide a revised statutory footing for the Housing Council. NILGA seeks to assure the Committee that, should the provisions be restored, councils will put in place vigorous and robust governance arrangements to ensure that services are delivered fairly while targeting those in greatest need. We again highlight the new requirements being put in place in relation to council performance, improvements and audit.

Last but not least, we highlight that the current membership of the Housing Council is made up of one member per council, as per the Housing (Northern Ireland) Order 1981. The 11 councils are holding their first AGMs in March, and several have already taken place. It is our understanding that a number are appointing on the basis of one person per council, whereas the initial draft of the Bill suggested two members from each of the 11 councils. In discussion with Housing Council members, we

understand that their view was that a membership of 22 would enable a more inclusive spread of parties within the new council membership. NILGA encourages the Committee to clarify the Housing Council's needs and the Minister's intent in that regard, particularly since the Housing Executive's political board members are drawn from the wider Housing Council membership.

Thank you for listening. We are happy to take any questions. If there are any queries we cannot answer today, we will note the question and come back to you with an answer as quickly as possible.

**The Deputy Chairperson (Mr Brady):** Thanks very much for that. I have a couple of questions before I bring members in.

Clause 7 deals with the acquisition of land by councils for planning purposes. You mentioned that there is no provision to address concerns that have been raised about land ownership and resulting perceived profits or losses. Could you provide a bit more information about the concerns that you raised?

**Ms Smyth:** That was in response to conversations we have been following in the Committee and the Assembly. We understand that some Members raised issues about the costs and benefits that apply when ownership changes. It is my understanding that we do not have any particular view on what should go into the Bill, if the Committee wanted to address the situation. We are just pointing out that the Bill does not provide a provision to deal with that issue.

**The Deputy Chairperson (Mr Brady):** Thank you. You already addressed some of this in your presentation. NILGA appears to have a number of concerns about the level of control that the Department will retain. You talked about it being a partnership from your point of view. Where do you think the decision for power should lie? Should it be a joint arrangement, or should the Department retain overall control?

**Ms Smyth:** Local government's past experience has largely been to deal with DOE, and there are obviously issues we do not agree with DOE on. However, there is a relationship that has developed over many years through which we can negotiate with it and work in partnership with it to a large extent. That relationship has expanded via the Local Government Act to the partnership panel, where Ministers work closely with council representatives on issues of strategic importance. That provides political leadership for that partnership relationship.

Practically and operationally, I think that we need to develop a more effective partnership relationship with DSD, particularly on regeneration issues, to make sure that we are all working in the same direction and that everybody is looking for the same outcomes. What we would like to do is move within the Programme for Government to having a more outcomes-focused approach to everybody's work so that we are not at sixes and sevens whenever we are trying to make arrangements or provide schemes at a local level.

**Mr Allister:** I do not understand. Is your presentation today the product of a considered view by NILGA, where all the council representatives have considered the Bill and reported back on their own councils' views, or is it something short of that?

**Ms Smyth:** The response that was developed and that came to the Committee was based on responses that have previously been provided. This is building on an ongoing discussion within local government. It has been an evolving process.

On the issues that developed yesterday, for example, as a result of the letters that councils received, I have been in contact with all the chief executives since it was received, and I have received communications from three of the councils highlighting their concern about the change to funding arrangements.

It is hard to pinpoint a specific response that has come back from any council at any point in time, because it has been an evolving situation. I have papers with me in which we have looked at consultations from the Department in 2013, the Deloitte paper in 2014, the regeneration—

**Mr Allister:** That was all in the original Bill.

**Ms Smyth:** Yes, but we know that there have been changes and that a number of issues have been taken out of the Bill. We know that you received a communication from Mid and East Antrim Council that supports the re-introduction of those functions. Without wanting to express a view that particular things should come in, we have requested that the Committee looks at the issue again.

**Mr Allister:** I am asking whether there has been an up-to-date discussion within NILGA and its councillor representatives on the Bill as it now stands.

**Ms Smyth:** The evidence that we provided on the Regeneration Bill, which was provided to the Committee in February, went to the NILGA executive on 13 February for consideration and agreement.

**Mr Allister:** Part of the reason I ask that is that I am aware of views expressed in some councils that do not seem to be reflected in your submission. There has been some concern raised, as there was in the Assembly, about what the definition of social need is meant to be in the Bill. It is not defined anywhere, yet, strangely, your submission passes over that, even though it seems to be the fundamental starting point. If you have a Bill that talks about addressing areas of social need but does not define what qualifies as an area of social need, it is a pretty poor starting point, is it not?

**Ms Smyth:** NILGA did not consider that issue.

**Mr Allister:** What do you understand an area of social need to be?

**Ms Smyth:** There are a number of different views about that. It is a political decision.

**Councillor Nicholl:** From being an elected member looking at Bills like this coming forward, I think that the reform of public administration is to be welcomed, and the general feeling of councils and councillors is that it is welcomed and that powers and things are coming over that mean that local communities can address each within their area. Not every area is the same geographically, and every mix-up is different. There are different needs, and the local representatives that I speak to in each area sometimes feel that, whilst we are getting certain things in one hand, they are being taken away by the other. We are supposed to be more joined up within community planning and have a more cohesive way of working, but sometimes that does not come across.

**Mr Allister:** I am not sure that that addresses the point that I am trying to make. Here we have a Bill that supposedly gives powers to councils to deal with issues of social need, yet, spectacularly, it makes no effort to define social need. Social need is something that has been variously defined. Under neighbourhood renewal, it is informed by the Noble indices. Is that your perception of what social need means here? I would have thought that councils would be most anxious to nail this down and to find out what the Bill means when it talks about social need, yet there seems to be a total absence of any consideration of it in your submission.

**Ms Smyth:** That would probably go into the category of questions that we cannot answer at this moment in time. We will come back to the Committee on that as a matter of urgency.

**Mr Allister:** In some councils, I have heard it said that they really want to see a focus on the economic needs of their district and that regeneration should be about economic regeneration above everything else. Therefore, instead of having fluffy language about social need, we need to nail that down. Is that not a view amongst many councillors?

**Ms Smyth:** The upcoming community planning regime will answer many of those questions. It may be that a more flexible approach to certain issues will be helpful. Councillor Nicholl said that areas look very different locally, so through the partnership approach of the community planning process, councils and their partners can look at what is necessary in their area. It is not something that I have specifically spoken to councils about, but it is certainly something I will get back to you on.

**The Deputy Chairperson (Mr Brady):** I attended a community planning event in my area recently, and social need and economic development were two of the main issues discussed. So, those issues are still very much under discussion in my area, where Newry and Mourne District Council is joining up with Down District Council. I would imagine that, in other councils, those are matters for discussion as well.

**Mr Dickson:** Thank you for your presentation. I have a couple of questions. First of all, when you said that the NILGA executive has discussed this, do you mean the shadow executive for the new shadow councils or the former executive of the outgoing councils?

**Ms Smyth:** If I could explain, at the moment, NILGA is representative of the 26 councils, but there is an element of continuity in the contact that we have, because quite a number of the existing NILGA executive members are key members of the new councils. NILGA is in the process of reconstituting. We have membership agreed by all 11 new councils, and we will be reconstituting the executive in the next month or two and will have an AGM in June. As I said, there is an element of continuity between the two.

**Mr Dickson:** The review will be of the 26 rather than the —

**Ms Smyth:** At the executive, yes, but there is a combination of both because we are liaising closely with the new councils, particularly the chief executives.

**Mr Dickson:** More importantly, going back to the discussion about the balance in regeneration, Mr Allister referred to some people seeing economic regeneration as the primary focus of regeneration, whereas others will see it as social deprivation. How are you or your members going to achieve a balance? Do you share with me the serious concern that, in considering development schemes, there is no reference or requirement in the Bill to take account of shared space?

**Ms Smyth:** Again, if you look at the Local Government Act and its requirements for community planning, you see that the basis of community planning is an area's social, economic and environmental well-being. There is a balance to be struck, and that may look different in different areas for different purposes.

Where shared space is concerned, councils have a number of responsibilities under community planning and the T:BUC document that we need to incorporate into the guidance for community planning. We need to look at how we do development planning as a result of that, because obviously community planning is the overarching policy for the new councils.

We recently spoke to the OFMDFM Committee about good relations and how to build those issues into community planning and development planning, and the guidance document that should be coming out to councils very soon — the consultation closed on 9 March — will incorporate fully the requirements on councils on those issues.

**Mr Dickson:** Finally, clause 11 gives you the right to extinguish rights of way, which is a right that councils ultimately have but have failed to use, either because of the inadequacy of the legislation or because local government was incapable of dealing with the matter. Do you believe that the new power that you have to extinguish rights of way will actually work this time?

**Ms Smyth:** As we said in our response, we are slightly concerned that disability and physical accessibility issues have not been taken into account in the context of rights of way. A lot of what is in the Bill will become much clearer in subordinate legislation and guidance, but having the principle in the clause is useful, and we can work that out with the Department.

**Mr Dickson:** Once again, councils will recognise the balance between the desire to sustain rights of way and the communities' complaints about antisocial behaviour and the need to have those closed. Will this power stop you being moribund and allow you to make decisions?

**Ms Smyth:** Certainly, there is an ability to make decisions, and I think that it will help us to do that. However, the requirement that there now is for councils to actively engage more with communities, again through community planning and the community involvement aspects of the development plans system, will allow for that bottom-up approach. The community's capacity will need to be developed, and we are working with various voluntary and community sector bodies to make sure that that happens to ensure that we can manage expectations in the whole process. But, it will be for local agreement.

**Councillor Nicholl:** I agree. I keep talking about community planning, because, at the end of the day, that is what a lot of this is about. It is about moving forward and communities. Hopefully, there will be a better understanding of what is happening on the ground and it can be concluded satisfactorily for

everyone involved, with nobody is trying railroad something down one way or another, because, at the end of the day, it is about the community.

You were talking about looking at the social and economic issues, which, as I said to Mr Allister, all come under the umbrella of community planning and the new councils' corporate plans. This is all starting to *[Inaudible.]* starting to look, and councils will be looking for social and economic issues in each area, because that all has to feed in to the bigger picture.

**Mr Campbell:** My apologies: I have a sore throat today. You mentioned the disparity of funding in the west of the Province. I have been approached by some councillors in Londonderry and Strabane, because they felt that they were particularly affected. There seemed to be a concern that it was a DFP issue rather than a DOE issue. I facilitated a meeting with the Finance Minister. Was there any feedback to provide clarity that, whatever the issue was, it was primarily a DOE function, rather than one for DFP?

**Ms Smyth:** I know that, at the recent political partnership panel meeting, the representative from Derry City Council had an opportunity to address those issues face-to-face with the Finance Minister. I believe that some resolution was achieved as a result. As to the detail of it, I would need to check and come back to you.

**Mr Campbell:** That is OK.

**The Deputy Chairperson (Mr Brady):** No other members have indicated a desire to ask a question. Karen and Dermot, thanks very much for your evidence. You said you would get back to the Committee on social need.

**Ms Smyth:** Yes, absolutely. Also, I will get back on Mr Campbell's issue about Derry City Council.

**The Deputy Chairperson (Mr Brady):** Thanks very much.