



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Regeneration Bill: DSD Officials

23 April 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Jim Allister
Mr Roy Beggs
Ms Paula Bradley
Mr Gregory Campbell
Mr Stewart Dickson
Mr Fra McCann
Mr Gary Middleton
Mr Sammy Wilson

Witnesses:

Mr Henry McArdle	Department for Social Development
Mr Antony McDaid	Department for Social Development
Mr Ian Snowden	Department for Social Development

The Chairperson (Mr Maskey): I welcome Henry McArdle, Ian Snowden and Antony McDaid. Thank you for your continued support to the Committee in its deliberations on the matter. The Department has provided a response to queries raised at last week's meeting regarding the staff transfer scheme and consideration of the qualified majority voting clause. Members will find a table of responses and so on in their Bill folder or electronic pack. I invite Henry and his team to make their presentation.

Mr Henry McArdle (Department for Social Development): Following on from last week's meeting, the Committee wrote to the Department on a number of issues and, as you said, in the briefing, we provided a response on the staff transfer scheme and on the qualified majority issue. As you will see, we have explained the issue, and we also said at the end that the Minister wants to take time to consider that issue further before coming back to the Committee with a response in due course.

The Chairperson (Mr Maskey): Is it possible to have that by next Tuesday?

Mr McArdle: I do not know.

The Chairperson (Mr Maskey): I just want to make a general point, then, before you start. Clearly, we are taking your opinions, and your responses will be very helpful. Next Tuesday, we will go through the informal clause-by-clause scrutiny and then, hopefully, the formal clause-by-clause scrutiny on Thursday, which will complete our Committee Stage. Clearly, issues have been raised in respect of which the Committee, or, hopefully, the Department, may want to make amendments. I am just trying to expedite people's concerns. If you are indicating that the Minister wants to look at certain things, that is very helpful, because it lets us know that they are still in the mix for further development.

But it means, then, that people may wish to be thinking of amendments for next week. Maybe, if needs be, we could stop short of a formal amendment but make a report or a recommendation to the Minister, or advise the Minister that we would like to see something developed further. Is that right?

Mr McArdle: Yes, that is fine.

The Chairperson (Mr Maskey): I am trying to get the mind of the Committee. People may be minded to make amendments, but those amendments may not be necessary if the Minister is going to develop something further. Henry, thank you; go ahead.

Mr McArdle: I do not know what way you want to play this, Chair. We have produced a number of tables in relation to the comments that have been received as part of the Committee's call for evidence. We have produced two tables: a clause-by-clause scrutiny table and a general comments table. There are a significant number of issues, but there is a lot of repetition. Respondees raised similar issues. It is a very detailed summary. Would it be appropriate for the Committee to pick out issues and ask us about them rather than me going through it in a laborious way? It is up to the Chair.

The Chairperson (Mr Maskey): That is helpful. Members had a number of key areas of concern, and we have had some addressed. There were concerns around the definition of "social need" for instance. Say, for example, you want to transfer a function to local government. You have 11 councils. Do you want to transfer those functions to local government so that it can tailor functions and use the funding in a way that maybe best meets the needs of their area? Some people have suggested that the downside of that is that it could leave you accepting 11 entirely different models. That may or may not be right. Notwithstanding the theoretical view that the councils can do whatever they wish — those were somebody else's words, not mine — you identified that there is a framework within which people have to work, not least the Local Government Order, the Social Need Order, community planning processes and call-ins. You might want to elaborate on that, because there was concern that, when you transfer the functions, the good intentions might falter, area by area. Can you give some satisfaction around that? There is a framework within which people have to discharge their function.

Mr McArdle: Yes. For completeness, in response to the Committee, I included a note of the framework under which councils will operate. That is at appendix 3 of my response on 22 April. It sets out a very detailed framework in which councils will have to deliver these responsibilities post-2016. The first part of it is guidance to the Department, which councils will have to have regard to. That includes the urban regeneration and community development policy framework. That document sets out the key themes that people want to see tackled. They are required to tackle the area-based deprivation, strengthen the competitiveness of towns and cities, improve linkages between areas of need and areas of opportunity, and develop more cohesive and engaged communities.

The policy framework is only the start of the process guidance, but, obviously, we will be developing further guidance as the process goes through. That guidance will be developed in consultation with councils. There is a requirement for councils to have regard to that and to show that they have had regard for it as they have taken the decisions.

Councils will also have to operate within the community planning framework. The role of the councils is to bring forward all the functions that are going to them into one cohesive plan. That will reflect the needs and the social needs in the area.

The Local Government Act (Northern Ireland) 2014 has a significant number of powers through which Departments can intervene in circumstances where they feel the functions or responsibilities are not being properly delivered. As I said at the last meeting, that is something that you would not want to be predicting at the start of the process, but it is there as a safeguard at the end of the process if things are not going right. You can request reports from councils, carry out investigations and inquiries concerning the administration of any transferred function and, if you are not satisfied, make an order requiring the council to get involved. You can direct that they take remedial action. Should the council fail to respond, the Department can intervene directly or procure alternative services.

Any financial assistance provided by a council is subject to scrutiny by the Local Government Auditor. Councils are also required, as are Government Departments, to adhere to section 75 of the Northern Ireland Act in relation to promotion of equality of opportunity and good relations. They also have to follow the code of conduct, which was approved by the Assembly on 27 May 2014 and sets out the

rules that councils will have to follow. It also sets out the sanctions that can be applied by the commissioner if they decide that the person has failed to comply with the code.

That is a fairly substantial framework of controls, if you want to call them controls, that councils have to operate under. That said, there is still flexibility for councils to make their own decisions, but, again, we go back to what the Executive decided, which was that councils are now in a position to take on these responsibilities and are best placed to make these decisions and judgements for themselves. That is the framework.

The Chairperson (Mr Maskey): We do not need to be debating all those things today. What we are looking for is to get the explanations and further information that we need that will allow us to return to these things.

Mr Wilson: There are three areas I want to talk about. First, the definition of "social need". In your note, and in your explanation, you said that the definition can be fairly wide. It might be applied in different ways at different times. It might be used in education, for free school meals or as a result of the various indices. Given that "social need" is so loosely defined in the Regeneration Bill, do we actually need to have "social need" mentioned in it at all? There are two ways you can go: you can tighten the definition, or you can simply say that this is a Regeneration Bill and, if a council identifies that regenerating an area will be good for the council area, they should make a decision on the basis of where they see action being effective. Is the halfway house that you currently have of use to anybody?

Mr McArdle: The history of it is that it is reflecting what the Department has done on this over the last number of years.

Mr Wilson: Yes, but just because —

Mr McArdle: I understand that, but it is reflecting what was in that Bill, transposing it and saying that those powers are now conferred upon councils as well. Rather than changing those powers, we are saying that we will confer what we have, which has worked successfully for the Department, on councils. I take your point that there is a catch-all in there, which is that councils can do anything if they feel it is for the benefit of the area and affects the social need of the area.

Mr Wilson: If you look at the history of regeneration, back from when I first started on Belfast City Council and you had to ban areas, you see that some of the same places that are getting action taken on them now were getting action taken on them in 1981. You could argue about whether or not that kind of policy has been effective.

Either you have a tight definition of "social need", which targets money to particular areas — I believe that is probably not the best way forward — or else you simply say, "You have got the power of regeneration; now you decide where you want to have regeneration". Given the looseness of the definition, do we actually need the term "social need" in this legislation at all?

Mr McArdle: If you tighten the definition, you are effectively transferring the responsibility to councils and tying their hands. The other option would be to say, "It's over to you, councils. You determine where the social needs are and you" —

Mr Wilson: So why put any tie on their hands? Why not just say, "You have a power to regenerate your area and you have the choices to make about where that regeneration is done"?

Mr McArdle: Obviously, the Minister has decided to do it this way. He has decided to confer the powers that we have to councils and to let them operate under the same flexibilities that the Department was able to operate under.

Mr Wilson: Is the social need reference not just paying lip service to what people believe is acceptable? What you are really saying is that it does not have any effect anyway, does it? A council can choose whatever areas it wishes to regenerate.

Mr McArdle: Yes, as I said at the last meeting, the reason why those examples were put in was just for that purpose: to give councils an idea of the things that could be supported under "social need". You are right that there is a catch-all in there that says that councils can make their own decisions.

We explained that the list of the types of things has evolved over the years. The things that the Department has supported have evolved over the years as time has moved on and as social need has changed.

Mr Wilson: On the powers to monitor councils, you said that you do not wish to move in and act quickly against councils. In what circumstances would DSD step in? You said it would step in where they are not delivering their functions or whatever, but can you give me a practical example?

Mr McArdle: It is hard to predict the future. I cannot really say. The fact is that we are proposing to confer these powers on councils in good faith because we think that now is the time that local government can deliver these responsibilities. The Executive have agreed that. We want to give councils the opportunity to do it the way we have been doing it, but obviously there are these call-in powers further down the line in case things go wrong. I cannot predict what the circumstances might be.

Mr Wilson: You have two areas where regeneration is going to be kept within the Department. First, there is the monitoring function. Secondly, there is the function where you produce your own development plans if you think that it is appropriate for the Department to do so and, consequent to that, the delivery of those plans. Can you describe the circumstances — it is a substantial part of the Bill — in which the Department will step in and say, "OK, it is not that we are saying that the council isn't doing the thing. We are simply going to take over the responsibility of drawing up a development plan and delivering it"?

Mr McArdle: It sort of mirrors the approach in planning where the Department has reserved the power to decide on planning applications that are considered to be regionally significant. When we were drafting this Bill, we thought that that would be appropriate. If we get the circumstances in the future where something is considered to be of significance to the whole of Northern Ireland, or a substantial part of Northern Ireland, and a council is not best placed or in a position to take it forward, or does not want to take it forward, but the Department, the Minister or the Executive say that it is so important that it needs to be taken forward, the power has been kept within the Department to make a development scheme of that nature.

As I also explained, development schemes are very few and far between. We as a Department have taken forward one development scheme in the last 10 years, and that was Victoria Square. Whether something of that scale would be considered to be regionally significant or not in the future I do not know, but that is the sort of level of involvement that the Department envisaged with development schemes. They will be few and far between.

Mr Wilson: Will the Department have a budget set aside for this?

Mr McArdle: No.

Mr Wilson: So, it will be no better off than a council will be for resources.

Mr McArdle: It will probably be an issue at the time to ask whether there will be resources available somewhere.

Mr Wilson: As far as the monitoring is concerned, you are saying that it is going to be fairly limited, and the intervention is going to be fairly limited. How many people will be retained in the Department as part of the regeneration team?

Mr Ian Snowden (Department for Social Development): All the posts that are currently engaged in delivering regeneration in development offices will be gone as a result of the transfer. That is unless there is a specific area of work where the Minister decides he wants the Department to retain a lead function. At this point, nobody will be retained to carry these out.

Mr Wilson: So, you have no staff to do the monitoring or the special development plans, where they are regionally significant —

Mr Snowden: I just referred to the development offices that actually deliver the work in the towns, villages or cities that we work in. There is another group of staff who work in the centre of the Department and monitor the budgets, the expenditure and the finance. At the minute, what is being

proposed is that any new relationship that we have with local government will be resourced with the staff who had previously been managing those central finance and policy functions in relation to delivery work and regeneration. No additional posts would be created. We are trying to do it within the resources that are available and meet the requirement to actually reduce our headcount.

Mr Wilson: You are saying that the regeneration functions that you are retaining for the Department through the Bill have little or no resource implication for things like staff and money.

Mr Snowden: No. The circumstances in which to take forward the development of a scheme of regional significance are that a specific case would have to be made for that and resources allocated towards it if the Department was going to take on something of that nature or scale. It is not really that much different from the current situation. When the Victoria Square scheme was being taken forward, a special team had to be created and resourced in the Department to do that.

Mr Wilson: That is all that I wanted to ask.

Mr Dickson: Thank you for coming to us this morning with all this. In the guidance that you set out at appendix 3, one of the bullet points refers to improving linkages between areas of need and areas of opportunity. Can you explain how that would be managed by two councils back to back? In other words, where the area of need is in council A and the area of opportunity is in council B. I can think of numerous communities that sit on either side of that line between local authorities back to back. How will that be managed and what duty will there be on councils to collaborate? Obviously, the council of opportunity may feel that it has the opportunity and wants to develop it into its council area rather than across a boundary into another council area. Can you explain how you will manage and monitor that and, indeed, how the Bill caters for those areas of need that back onto areas of opportunity across boundaries?

I have a question on staff to ask you as well.

Mr Snowden: That objective in the framework was developed as part of an analysis which identified that, quite often, in cities and towns, you have disadvantaged communities in neighbourhood renewal areas and then you could have quite prosperous town centres. One case in particular is Ballymena. It has a thriving town centre. Then, there are disadvantaged communities around it which appear to be disconnected from it. The situation is worse, to some extent, in Belfast, where there are areas of the city where people will tell you that they very rarely visit the city centre or would not choose to go to work in another part of the city because it would involve, for example, crossing an interface. The idea behind this objective was to make sure that urban regeneration activities actually deal with that kind of problem, because not all needs can be dealt with in very defined local geographical spaces.

The other question was about those linkages being across council boundaries. Those will largely be around Belfast and the greater Belfast area, where you are dealing with, for example, Lisburn and Castlereagh, and Antrim and Newtownabbey, where urban areas will abut onto the boundary of Belfast City Council.

Mr Dickson: Antrim and Newtownabbey, and Mid and East Antrim.

Mr Snowden: Yes. What we hope to see is councils collaborating and agreeing on how they will deal with those issues. To go back to Mr Wilson's point: this is one of those areas where we would try to keep some degree of oversight of councils and what they are attempting to do. We have not written into the legislation any obligation on them to do that. However, there is a duty for them to have regard to the framework in the exercise of their functions. Essentially, in legislation, what having regard means is that councils are obliged to think about it, consider the issue and weigh it up along with all the other relevant considerations that they have to take into account. They may well decide after that consideration that they do not see any need to or there is no priority in that kind of issue. That is the kind of issue that we will want to have a look at to see how they are operating in practice.

Mr Dickson: Again, it is a matter of who brokers those deals. If it is quite obvious that a council has come up with a view that it does not need to do something or that it does need to do something that is detrimental to another area, and it has rationalised that, but to the rest of the world, it does not seem to be a rational decision, who will arbitrate or intercede at that point?

Mr Snowden: Ultimately, it is the Department and the Minister who have policy responsibility. If they feel that the councils are not adequately addressing the policy objectives, the Department would seek to intervene or the Minister would want to try to broker some kind of arrangement.

Mr Dickson: Can you point to where in the legislation would give you the power to do that?

Mr Snowden: One specific issue would be the power to direct a council to make a development scheme.

Mr Dickson: But that is a very high-level direction. I am thinking of something more specific.

Mr Snowden: The framework, which was set up by the Local Government Act, will allow us to look at whether or not a council has delivered against its obligations.

Mr Dickson: My concern, and it may be the concern of other members, is that, so often in legislation, we see obligations on people to do x, y, and z — health is as good an example as any — set by other bodies, and the relationship between other bodies and central government, but the reality is that the legislation is either so weak or so vague that you cannot get any action. My fear is that, if the wheels fall off or it is clear that something is moving in the wrong direction, it is very difficult to get action to bring things back on stream again. That is my concern: the legislation is weak in terms of actually being able to direct.

Mr Snowden: It is a difficult balance to try to strike in the legislation. On the one hand, I understand the point that you are making. You do not want to see a situation where something that really needs to be done is not being done, and there is no mechanism by which you can make it happen. Similarly, and on the other hand, you would not want a situation in which the central Department had too much ability to interfere in the actions of local government and decisions that are rightfully the place of local government. It is an attempt to find the right level of balance between allowing the autonomy of the councils to make their own decisions through local democracy and giving them sufficient oversight and guidance to make beneficial things happen.

Mr Dickson: Mr Wilson raised the point about staff, and you explained that staff in the local offices would transfer to local government. Surely —

Mr Snowden: Sorry, just to correct that point: the number that will transfer to local government is dependent on the number that local government says it requires. Some will transfer, but not all.

Mr Dickson: But those who leave and the function that is being transferred will necessitate a reduction in the central support that is currently being given. I understand what you are saying about the need to retain a resource to manage the outcomes of the Bill, but, nevertheless, surely there has to be fewer people centrally because there is less of a central function to administer.

Mr Snowden: I hope I do not bore you with the detail of it too much. We have a number of staff in our resource management unit. Their job is to monitor and manage the payments that are made. When the Department loses the responsibility to fund individual projects, obviously, that degree of activity will reduce substantially. It will not cease completely, because we will still make some payments to larger organisations through the voluntary and community unit, but it will be a much reduced level of activity. There is a policy unit called the neighbourhood renewal unit that will no longer be required, because we will no longer be delivering neighbourhood renewal. There are possibly reduced requirements for other branches, depending on how the relationship with local government develops. We have a policy unit, for example, on urban policy, which we would need to have a look at, and, clearly, the team that has been set up to look after the reform of local government will no longer be required.

Mr Dickson: In relation to that policy need for development, those policies have been produced in the past and they drive what you do at the moment. To what extent will those policies be transferred to local government? What obligations will there be on local government to pick up those policies, or will they develop their own policies?

Mr Snowden: It is not quite as straightforward as that. There are very few actual policies covering regeneration activity. What we have are strategies that set out how the Department chooses to exercise its powers. The neighbourhood renewal strategy is not so much a policy document as a strategy that sets out how we intend to approach tackling deprivation.

Mr Dickson: OK, but the same principle applies. You have a strategy. Do those strategies transfer to local government, and are they obliged to take them on as strategies?

Mr Snowden: No, they are not.

Mr Dickson: That is a matter of some concern.

Mr Campbell: On the issue of the Department monitoring post the Regeneration Bill, you said that the Department was considering the options for how best to use the oversight powers provided by the Act. Obviously I do not want to second-guess what that might be, but what are the likely options? A couple of months or years after the introduction of the legislation, there will be varying degrees of success, you would imagine, but some might be very good examples and others not so good. Are you looking at monitoring best practice so that the more successful are replicated elsewhere? What is that range of options?

Mr Snowden: The options for the approach that we will take will range from a very light touch, where we just seek information from the councils and review it, right the way through to actually studying and doing evaluations of the work that councils were undertaking. If you want to follow that through to what you would want to do and when you might want to intervene, try to think through how you would have responded, in the framework where local government has responsibility for regeneration, to the difficulties that were faced by town centres in about 2009-2010. In the past five years or so, there has been an active programme of work in town centres, delivered by the Department with public realm schemes, revitalisation projects, urban development grants and so forth. The Minister would be under some degree of scrutiny about what was being done to address the needs of town centres in that scenario. Our role as a Department in that situation would have to be to see whether councils were taking any realistic or robust action to deal with that issue. If a council was choosing to do absolutely nothing and letting its town centres decline, that might be a situation in which the Department would say, "You've got to try to take this issue on and deal with it effectively, because you're not dealing with the regeneration requirements of your own area".

It is difficult to think of the precise situation in which you would want to get into that. You are always thinking in hypotheticals and how bad a situation needed to be before you would want to intervene, and how proactive you would want to be. There are a range of options, but clearly we want to have a productive and positive relationship with local government.

Mr Campbell: I understand that you are painting a fairly stark picture of one or more councils where virtually nothing was being done. That is fairly clear. A more likely scenario is a number of councils being quite successful and a number of others less so, but not to the point that they are doing nothing — just less successful. Is the Department's thinking that you will just let the market feed that, in that less successful councils will hopefully see that the more successful ones are working and ask themselves what they can do, or is it going to be a more proactive approach by saying that councils a, b and c have worked well and the Regeneration Bill has produced benefits, and therefore you are going to intervene to ensure that the other councils are replicating that? Where do the options lie realistically?

Mr Snowden: We could just let them get on with it and let them each choose —

Mr Campbell: Or not get on with it.

Mr Snowden: — or not get on with it, and let them each choose to take whatever approach they see as most suitable. The alternative might be somewhere in between and have some kind of support system or unit in the Department that would look at examples of best practice and, for example, organise seminars and disseminate information about evaluations and what worked well and what has not, and try to spread the learning of good projects. That would have to be resourced to be able to do that. It would not be a large unit, I would imagine, but there would be to be a fairly proactive and sustained level of activity to achieve that. Going beyond that, you would have to be into a more intensive regime of monitoring and scrutinising the activities of individual councils. That may well be well beyond what we would actually want to have by way of a relationship.

Mr Campbell: OK, fair enough.

Mr F McCann: Last week, I raised some of the issues that were raised around the definition of "need" and the councils that may not move ahead in dealing with need. I accept what you have said this morning; hopefully there are regulations that allow you to tackle that.

The Bill started its life as the Regeneration and Housing Bill. The housing element was removed, but I notice that in the Bill there are still references to housing. Under what circumstances will councils be allowed to develop private, social or affordable housing?

Mr Snowden: There is a reference in clause 1 to development of housing. That is in relation to the new urban development grants. It allows an urban development grant to be given to a property developer in order to allow a plot which includes an element of residential property, not just commercial. That would not be social housing so much as a grant to encourage or promote the regeneration of a derelict site or property. In the production and promotion of development schemes, it will be possible to have an element of residential development; in fact, most of them do. For example, Victoria Square has quite a large number of apartments in it. In this sense, "housing" is not social housing. It is in relation to allowing residential development to be a component part of a development scheme or a regeneration project. We sometimes include an obligation to provide a certain number of social housing units in a development scheme, if that meets a particular social need or requirement in that area. It will be up to the councils to do that as well, although it does not give the councils any power to be social landlords, or to develop social housing in that sense.

Mr McArdle: We have also added an extra bit to the start of that bit on financial assistance, to the effect that provision of housing requires the approval of the Department. That is a sort of safeguard to ensure that people do not run away off and do things that are contrary to housing policy or whatever. There is that safeguard built into the social need part.

Mr Beggs: One of the ideas behind devolving more powers to local government has been to avoid the duplication that happens with a range of agencies at present. I am looking at the regeneration of our smaller villages and towns. I see, in a letter that you wrote to us on 3 April, that DARD is not transferring any of its rural and social inclusion budget. How do you see those two methods of assisting rural communities operating in a joined-up and efficient fashion? I am just trying to understand why it has not all been brought together under local government.

Mr Snowden: The decision on the DARD element of that — the rural development programme — is really one for that Department to advise you on the rationale for its position. We expect to see, and DARD officials have advised us to this extent, that quite a large proportion of the rural development programme will be devolved to local government to deliver, so the mechanism by which these things will be joined up is through delivery by local government. The new councils will have the urban regeneration powers, functions and budgets, and they will also be given the responsibility for delivering rural development in their areas. I hope and expect that the councils will be capable of making sure that those things are joined together effectively in their areas.

Mr Beggs: Do you see that as being the most efficient manner? Perhaps it might be, if you are not going to have a central regeneration unit after the transfer happens. Do you see that as being a reasonably efficient manner?

Mr Snowden: It is the rationale behind the local government reform that these decisions are best taken at a local level, as opposed to applying a one-size-fits-all approach across the whole Province.

Mr Beggs: What about the community investment fund? What role will the Department play in the future? Will this be entirely in the hands of local government, for it to react to local needs, be aware of where that need is at a local level and prioritise it, perhaps on a more timely basis than before? Will there be any other departmental role? Will it all sit with local government?

Mr Snowden: It will sit with local government to make those decisions. The community investment fund is a funding stream or programme that the Department has operated to this point. A number of projects and organisations are supported through it. If the councils see that there is value to those organisations and projects in their areas, no doubt they will continue to support them.

Mr Beggs: Can we have a list of those organisations? Some of them may operate, for instance, on a regional level, at which individual councils may not be able to work together with them. Are there some regional operations in terms of the current funding?

Mr Snowden: No, the community investment fund projects are local ones. There is a regional support programme, which looks at regional level organisations and funds those separately. That is not part of the transferring function.

Mr Beggs: So that stays with the Department?

Mr Snowden: Yes.

Mr Beggs: Has the overall budget for this been declining in the past year, or is it projected to stay at the same level?

Mr Snowden: The reduction has been applied to the Department's budget across the board, so the amount of money that is available to transfer to local government has been reduced also. It is less this year than it was last year.

Mr Beggs: You seem to have placed quite a bit of emphasis on the regeneration and community development policy framework as guidance for local government. When was that last updated, and how current is it?

Mr Snowden: It was published less than two years ago.

The Chairperson (Mr Maskey): Following on from that, in terms of the linkages between DARD and DSD and the different policies and functions that are being discharged by the Departments, and DSD functions being transferred to local government, we were told recently, if I remember correctly, that DARD cannot transfer ESF funds, for example; it could not or would not be able to do it. A moment ago, Ian, you said that funds would be transferred from DARD, as well, to local councils. I would be more content if I understood that there was some clear linkage because, clearly, both Departments have a responsibility to discharge Executive commitments around tackling disadvantage. This is a policy function that transfers and should transfer across to both Departments. I am not trying to rewrite the script about what is transferred. That is all agreed, but this is about how we do it. How do we make sure that there is a proper linkage? Similar functions are being discharged by DARD in rural communities as by DSD in urban communities, when they are transferred to local government. Most of us would like to see that work better.

Mr Snowden: That would be, I suppose, a question of ensuring that there is proper, joined-up working between the Department of Communities, as it will be by the time this is transferred, and the Department of Agriculture and Rural Development after the transfer takes place, and ensuring that there are connections and linkages between those Departments and their policy and their approach to make sure that these things are joined up. There has been some work around that, but I would not disagree that it could have been improved. It is always a question of resources when we are looking at operational issues. DSD has never really had the level of financial or staff resources to allow it to take a role in smaller settlements than we ones that we currently operate in.

Mr McArdle: From April 2016, councils will also have responsibility for community planning and Departments, including DARD, will have a responsibility to be in that process. You would have thought that, as we go forward, that will be the mechanism whereby you would have better coordination at a local level between the DARD funding and the DSD funding as it was, which will now be council funding.

The Chairperson (Mr Maskey): I understand that, but for me it is about trying to capture this from both sides, not only from the point of view of the community planning process but also the Executive responsibilities that Departments have to discharge. OK, fair enough.

Mr Allister: I want to go back to the first point that Sammy Wilson raised because I share the puzzlement as to the fixation with social need in this legislation. To go a bit further, this is a Regeneration Bill, so why is it simply a lift of the Social Need (Northern Ireland) Order 1986 in all its language, which has been deposited into a Bill that we now call a Regeneration Bill? Why is it not more focused on what its title purports to produce?

Mr Snowden: Regeneration is a difficult thing to define —

Mr Allister: No more difficult than social need.

Mr Snowden: — and consequently it means a number of different things to different people. There are different aspects to the regeneration work that the Department has undertaken over the years. That has included physical regeneration — things such as Victoria Square and urban development grants and so forth — through to what might be termed social regeneration, where you attempt to deal with some of the underlying social problems that create and perpetuate disadvantage and deprivation. The range of powers that we have covered here is a transposition of the legislation; you have identified that, and that is correct. It is to try to encompass the full range of physical and social regeneration activity that the Department currently delivers.

Mr Allister: But if it is a Regeneration Bill, would it not just be sensible to have clause 1 expressly say that — that the council can do that which is required to promote economic regeneration in its district? Yes, maybe use your examples of (a) to (e), but is that not the essence of what this is meant to be about?

Mr Snowden: As I just said, regeneration can cover a broader range of issues than simply economic or physical redevelopment. It could cover a range of other social factors, and your proposed wording would remove the opportunities for the councils to do that.

Mr Allister: What would we lose if we did that?

Mr Snowden: Any opportunity to deal with any kind of health or education issues, unless they could be directly linked to some sort of economic development.

Mr Allister: Look at (d) — the provision of social or community facilities. What would you lose then?

Mr Snowden: "Facilities" implies actual bricks and mortar — buildings, as opposed to programmes. It would prevent any of the revenue projects that are currently being funded. I know that there are always going to be differences of opinion about the value of some of them, but if you remove the opportunity to do any of the kind of work that we have done over a number of years, you will lose some opportunities that have been very valuable to improve areas.

Mr Allister: But then you are very much getting down the road of one of the 11 councils choosing to be very adventurous on the social side of things and others not, and there would be disparity across the Province on what is actually done.

Mr Snowden: The other side of that is that I have been in this line of work for the best part of 20 years, and the continual refrain that I have heard is that we have attempted to create one-size-fits-all solutions and apply programmes that are designed to meet one set of circumstances to areas that do not really suit them. Part of the logic and the rationale of local government reform is to try to relieve some of those tensions so that you can devise a programme in Ballymena or Coleraine without having reference to what is taking place in Omagh or Newry. The idea is that you can develop a scheme that meets the circumstances of your own particular location.

Mr Allister: The starting point has to be to set the parameters. That is the starting point in all of this. You just want a blank canvas.

Mr Snowden: It is not a completely blank canvas, but you have to allow innovation to take place and you have to allow development to be responded to effectively. We have attempted to create a framework in which there is no particular definition of social need or regeneration, to allow councils to come up with new solutions to the problems that they might face in the future and things that we may not, at this point, be able to predict.

Mr Allister: Another area that puzzles me considerably is this: if you are devolving these functions to the councils, and you are disbanding your staff that presently administers them in the Department, why are we keeping the 1986 Order at all?

Mr Snowden: Because there are some parts of the Department that currently make grants which will still continue to make grants. I mentioned in relation to Mr Beggs's question that there are regional organisations which will continue to be funded by the Department under that Order.

Mr Allister: Under the 1986 Order?

Mr Snowden: Yes.

Mr Allister: You have the powers at clause 13 that give you the opportunity to come in on a regional basis to do a scheme. Is that right?

Mr Snowden: That is specifically one set of circumstances. That is a development scheme, which is a statutory amendment to an area plan. That is one very particular type of activity.

Mr McArdle: That power would not give you the power to give a grant to an organisation, and we currently fund some centrally based or Northern Ireland-wide organisations through the 1986 Order, like the Citizens Advice Bureaux and —

Mr Snowden: It used to be called the Northern Ireland Voluntary Trust, but it has changed its name. It is organisations of that level.

Mr Allister: So you do not anticipate that the local citizens advice bureau will be funded by the council.

Mr Snowden: Locally, some of them are, yes. Local grants are given to them, but there is also the regional structure of the advice services that we support. We can provide a list of the organisations supported under the programme, if you want.

Mr Allister: It would be useful to see it. It would be interesting to see if there is duplication already.

Mr Snowden: Mr Toner will be able to advise more accurately on that. The organisations that are funded through the regional support programme very much have a Northern Ireland-wide remit rather than a local delivery remit.

Mr Allister: There is one other issue. We are all aware of the debacle over McCreesh Park and the naming of that play park. Is there any reason why this legislation could not include a clause that would prevent any funded project from being named in that fashion?

Mr Snowden: There is no reason why it could not be included. However, it would only apply to the use of the powers in this particular legislation, so it would not prevent any local authority —

Mr Allister: No, but any project that it funds under this could be ring-fenced in that way.

Mr Snowden: It could be, yes.

Mr Allister: I have a final question. TUPE surely applies to the staff who are moving to councils.

Mr Snowden: It is because we are conferring powers on a local authority rather than transferring —

Mr Allister: I refer you to an answer that I got this week from the Finance Minister. I asked him whether the TUPE arrangements apply to Northern Ireland Civil Service staff whose functions are transferring to local government under local government reform. The answer states:

"The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply and exist to protect the contractual terms and conditions of Northern Ireland Civil Service staff affected by local government reform."

Mr Snowden: If the functions transfer, TUPE does apply. It has applied to the Planning Service staff who will transfer, and, under the functions relating to Laganside contained in our Bill, a member of staff who is employed to deliver that function will transfer to Belfast City Council under TUPE. However, the issue is that the rest of the Bill relates to the conferral of powers on the council as opposed to a transfer of functions. That is because our legislation is permissive. You will see all the

way through the Bill that it says that the council or the Department "may", and so on. We are not under any obligation to do any particular thing in any particular way. Unlike with the planning framework, there is not a system of policy statements that underpins the application of the legislation.

Consequently, the legal advice that we got is that there is not a discrete economic function or economic activity as a function that can be transferred to local government, and, consequently, when the powers are conferred on the new councils, there is no TUPE-related transfer. The Department and the Civil Service could, if they wanted, write into the legislation a TUPE-type provision relating to the staff who are involved. However, our engagement with the councils over about a year found that the councils are also having to try to reduce the number of their staff during a process of amalgamation of the two organisations and are left with a number of surplus people. They do not want a large number of people to be transferred out of central government into local government to exacerbate the problem that we have. The Civil Service is a much larger organisation and is therefore able to absorb that pressure much better than local government.

The arrangement that we have come to is that staff will transfer from the Department to a new council if the council needs those people, if the individual member of staff is willing to go and if the Department is able to let them go and does not have another requirement for them. It is a three-way agreement. Out of that arrangement, on the basis of the feedback that we have got so far, we do not expect more than about 50 of the 180 to transfer out, but we have given the councils until the end of June to let us know how many they might need.

Mr Allister: What happens to the other 130?

Mr Snowden: The posts are declared surplus, and the staff will have to be redeployed in other posts in the Civil Service.

Mr Allister: You do not think that this effectively involves the transfer of functions.

Mr Snowden: The advice that we got was that, because we are conferring powers on the councils as opposed to obliging them to take forward a particular role with mandatory legislation supported by a framework of policy statements in the same format that, for example, planning has, it is not a discrete economic function that is transferring, and therefore TUPE does not apply.

Mr Allister: That is interesting.

The Chairperson (Mr Maskey): Can I follow up on that? Are you suggesting that local government would make the determination that the staff they currently have could be deployed to discharge those functions? If that is the case, how do we know that those staff would be skilled up to deliver that type of work? Clearly a lot of people currently involved in the work have years of experience and have come to know organisations and communities. There is high-level and coal-face experience that has been gained over the years by a number of these staff, which may not necessarily be the case with staff in local government. There may need to be some phasing in of this, and people will genuinely have concerns about that.

Mr Snowden: Obviously we will be working closely with each of the new councils over the next couple of months to help them work out how many people they might need and what kind of skill sets they might require. In the discussions, some of the things that are emerging are a little surprising. We might have expected them to have shortages in some areas, but it turns out it is actually in other areas. One particular area of concern appears to be over people who have the ability to manage capital projects, of which we have a number. That applies in some areas, but not in all. Already one council has come back and said that it does not expect to require any staff from DSD after the transfer takes place. We are expecting the others to come back with at least some requirements as we move forward. There are particular projects we are working on at the moment where the councils will be very keen to get the staff involved, but those projects tend to be time-bounded. We have tried to take account of all that in our arrangements as well.

Mr McArdle: You have to bear in mind also that councils already have numbers of staff who are skilled up in things like grant making, who have community development grants already. Those skills will already be in the councils, so it is not as if they have nobody who can do this type of work. Those skills are transferable. As Ian says, key skills such as managing big physical development projects are the things that councils may well want to access.

The Chairperson (Mr Maskey): All of us will want this to work effectively and are looking forward to that. We can all give good examples of councils that are doing very good and innovative work. As you rightly say, these councils have people who are carrying out this work. I would like to think that there would be a rigorous examination of all of those, because if the councils come back and say that they do not need anybody, that would flag up in my head that they may have been carrying along an awful lot of staff that they may not have needed to. What is your thinking on what they might actually have to do? This is quite an important function that is being transferred. If somebody tells me that they do not need anybody, I would be a bit concerned. That judgement might be made by the council on a very rational basis — I do not want to second-guess that — but I am just saying that it would flag, in my mind, the need to have another look at that. I presume, and hope, that there will be a very rigorous approach to all of this in these deliberations. That is a comment more than a question.

Mr Wilson: There was controversy, some time ago, where a lot of the DSD staff said that in no circumstances did they want to go to the councils anyway. Is there an element, Ian, that councils are reluctant to take on staff that they feel will not be willing workers or willing transferees?

Mr Snowden: That is one of the points that they made. Equally, they said that they do not want to be obliged to take on people that they have no purpose for. There are a number of factors that we have tried to take account of here to produce a flexible system that will allow for staff who are keen to work in councils. There are a smallish number who really do not want to work in local government and see their future as being civil servants as opposed to local government workers. There are also those who are keen to go with their work because they like that type of job, and there are some who, for family and other reasons, want to work close to home. We try to take account of all those factors to produce a system that will work, but that is not actually driving the decisions that the councils are making about the numbers they might need. By and large — with the one exception so far — they say that they need the skills that the Department has.

Mr F McCann: Just one point on that. I have been following some of the debates and arguments that have been going on, and I have always believed that there was a high degree of experience and expertise amongst those in the Department that have been dealing with regeneration and neighbourhood renewal. It would be a loss to councils if many of those people were not able to move to continue that work. Given that civil servants in the Department are spread throughout the North, will people be kept locally within that local council or matched against different councils from a central pot?

Mr Snowden: The mechanics of the system and the way it will work still have to be worked out in detail, but essentially what will happen is that each council will identify a number of posts that it wants and what it wants people to do. Those will be circulated to all who work in the urban regeneration group, and then you will be entitled to apply on secondment for those posts that you are interested in. By and large, most people will want to work in the council area they are currently located in, although not everybody is working that close to home. For example, up in the north-west office, some people have to travel every day from Cookstown. They will be more interested in, for example, the Mid Ulster District Council than the Derry City and Strabane District Council. That is the arrangement we are trying to make to make sure that people have the opportunity to apply for the jobs that they are most interested in, they are not obliged to go to somewhere they do not want to go, and councils are not obliged to take people they do not want.

The Chairperson (Mr Maskey): No other members have indicated that they want to speak. Unless, Henry, Antony or Ian have anything to add, we will meet again next Tuesday at 12.30 pm. Will you be available for that meeting?

Mr McArdle: Yes.

The Chairperson (Mr Maskey): I know that it is informal, but we will go through the 23 clauses and a number of schedules. As we go through them, people may think that we need to amend this or that, and your presence would be very helpful for that. You may be in a position to say, "You may not need an amendment there because the Department is continuing to think about that", and it might suffice for us to make a recommendation on the back of that. It is just to facilitate us.

Mr Wilson: With regard to the mechanics, Chair, if there are changes that we want to make, does notification have to be given before the meeting, or do we simply discuss them at the meeting?

The Chairperson (Mr Maskey): The purpose of it being informal is so we can tease all that out as we go through clause by clause. It would then be ideal to come back on the Thursday. It is a tight time frame to turn it around between Tuesday and Thursday, but we have to comply with the Consideration Stage.

Mr Wilson: Have we an option of extending the time to consider the Bill?

The Chairperson (Mr Maskey): I do not believe we have, because we have not applied within the 30 days.

The Committee Clerk: No, Chair, this is an extension: 20 May is an extension.

Mr Wilson: I know we got an extension, but there is an option. We could get another extension if we asked, could we?

The Committee Clerk: No, because to get a second extension one has to apply again within the original 30-day period, so the Committee is out of time on that.

The Chairperson (Mr Maskey): The complication for us is that the Assembly is, in effect, not functioning in the following week, so that gives us a problem.

I thank Henry and his team for that helpful information and answering the queries that members had. Thank you.