



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Children's Services Co-operation Bill: Belfast
City Council; Northern Ireland Local
Government Association

22 April 2015

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Alex Maskey
Ms Bronwyn McGahan
Mr David McIlveen
Mr Jimmy Spratt

Witnesses:

Ms Elaine Black	Belfast City Council
Councillor Seán McPeake	Northern Ireland Local Government Association
Ms Karen Smyth	Northern Ireland Local Government Association

The Chairperson (Mr Nesbitt): Karen Smyth is head of policy for the Northern Ireland Local Government Association (NILGA), and Councillor Seán McPeake is its vice-president. Elaine Black is the children and young people's officer with Belfast City Council. Seán, Karen and Elaine, you are all very welcome.

Councillor Seán McPeake (Northern Ireland Local Government Association): Along with me is Elaine Black, who is children and young people's manager at Belfast City Council, and Karen Smyth, who is a policy officer for NILGA. I begin by thanking the Committee for giving NILGA the opportunity to speak about the Children's Services Co-operation Bill. We have already provided the Committee with a short briefing to accompany our evidence today, but I would like to take a couple of minutes to highlight a few issues before the main part of the discussion.

We strongly welcome this Bill, particularly the intent to encourage Departments to cooperate and to enable them to pool budgets. The Bill appears to us to be robust in its attempt to address issues relating to lack of strategy, delivery and over-reliance on goodwill. There are a number of examples across government of areas of work that would have been made more effective through better cross-departmental cooperation, such as delivery of the neighbourhood renewal strategy. NILGA was keen to ensure that the new local government community planning function was strengthened by inclusion in the Local Government Act of a statutory duty for Departments to participate in and contribute to the process. Unfortunately, we say that our attempts have met with limited success. Therefore, we are extremely interested in the development of this Bill, which, if it passes as currently worded, will set precedents on cooperation and resourcing that we can build on across government. However,

clarification will be necessary on departmental cooperation and, in particular, on how the pooling of budgets will operate.

We are particularly interested in the proposed actions to be taken should Departments or agencies fail to comply with the requirements of the Bill. Would sanctions be imposed and, if so, who by? An additional concern is the failure of the Bill to acknowledge or address the potential synergies, overlaps, conflicts or gaps in community planning, and this is perhaps more an issue of timing than anything else, as a number of key policy instruments for community planning are still in the development stage. Issues of this nature that NILGA has already identified are in relation to the definition of children and young people and the lack of reference to the role that they can play. We encourage the Committee to liaise with the Department of the Environment, as this Bill is developing almost in tandem with the guidance on community planning.

I also draw the Committee's attention to the recent formation of the political partnership panel, which all Ministers are entitled to attend with elected representatives from the 11 councils and NILGA. The work plan for the panel is in development, and it is intended to examine how we can work together more effectively in central and local government to achieve better outcomes for the citizen. The next partnership panel meeting is on 28 April, and we sincerely hope that OFMDFM Ministers will be in attendance as we will be discussing the Carnegie well-being framework and its potential for informing the development of the next more-outcome-focused Programme for Government, which will, again, impact on the intent of this Bill.

We, particularly my colleagues Elaine and Karen, will be happy to answer any questions that the Committee may have. If there is an issue that we are unable to address directly today, I will ensure that we get back to you as soon as we possibly can after the meeting.

The Chairperson (Mr Nesbitt): I appreciate that. Thank you, Seán. You said that you were surprised at the lack of reference to the role for children and young people in the Bill. How would you fix that?

Ms Elaine Black (Belfast City Council): Perhaps it will be useful if I reflect on how Belfast City Council has engaged its young people in an outcomes approach to children and young people's services. Roughly 10 years ago, councillors made a commitment that children and young people were a priority, and, in the last two years, they have agreed that an outcomes approach should be taken with that. We have engaged Belfast Youth Forum, and it has helped to shape the pilot and what our outcomes in the council look like for children and young people. We think that there are opportunities, and I know that the Northern Ireland Commissioner for Children and Young People (NICCY) would impress it on us that there are opportunities to have a parallel and fully integrated process of involving children at each stage of the engagement and using Children in Northern Ireland's Ask First standards. I think that there are a lot of tools already in place to support that.

The Chairperson (Mr Nesbitt): I think that I am right to say that NILGA has a role on the Children and Young People's Strategic Partnership (CYPSP). How do you find that?

Ms Karen Smyth (Northern Ireland Local Government Association): Chair, I am not sure that we do. The local government representation on that partnership is actually through the Society of Local Authority Chief Executives (SOLACE). The chief executives attend that partnership. There is an operational input from local government on that. Elaine may be able to reflect better on how that partnership is working.

The Chairperson (Mr Nesbitt): So it is SOLACE rather than NILGA.

Ms Smyth: It is.

Ms Black: SOLACE is represented on CYPSP at a regional level. One issue that may well need to be considered is that each council has a different identity and approach. Belfast certainly has made an investment in children and young people in a very dedicated way through a play service and a youth forum. It also serves a bigger population. If you are looking at how things operate in CYPSP, it would probably be useful to try to make sure that there is a way to engage all the councils. The outcomes group that I sit on, on behalf of the council, which is really about the geographical structures, brings in all the partners at a Belfast level. It is still aligned to the trusts but will bring together the 11-council model. One issue with that structure is that not all Departments are represented at that level if, in particular, they are delivering children and young people's service or funding them. Secondly, the

community and voluntary sector has only a certain number of representatives. There is probably an opportunity to try to create better links there.

The Chairperson (Mr Nesbitt): You highlighted what I would characterise as a concern about the lack of statutory duties as currently constituted and how that might impact on community planning. Could you expand on that for me?

Ms Smyth: There are a number of concerns about the statutory duty. There is the question mark over whether or not a statutory duty is actually useful, given the inability to impose sanctions if the statutory duty is not complied with. When sustainable development became a statutory responsibility, we established that the only way of holding public bodies and Departments to account was if, for example, Friends of the Earth or another environmental non-governmental organisation took a judicial review against that Department or body.

On community planning, we have repeatedly requested that an overarching relationship between local government and central government forms and that Departments should be required to be statutory partners in the community planning process. The Environment Minister, Mr Durkan, wrote to the other Departments to try to bring them closer to the process of the development of the community planning partners Order. One Department was very willing to be a statutory partner — I think that it was DSD — but, unfortunately, the other Departments were much less willing.

The difficulty in Northern Ireland is that public service delivery is much more fragmented than it is in other places. Councils are responsible for less and are more reliant on service delivery arms of Departments. That adds to the complexity here, particularly with children's services. In Scotland, the councils have much more responsibility, have a wider remit on children and young people's services and have a greater ability to bring Departments into the fold, but they are still looking at how to pool budgets and how to have people working effectively in the community planning process. We felt it very important to tie Departments in as strongly as possible, but we found it very difficult. We see this as a first step. If this is successful and goes through, it sets a precedent for that and may enable us to go back and say, "It is happening for children's services. Why can it not happen in a more overarching way for community planning?"

The Chairperson (Mr Nesbitt): Let us deal with sanctions, because we have discussed that with other groups. One theory that has been put to us is that, beyond judicial reviews, the ultimate sanction is the people sitting around this table, although we might argue that there is sanction beyond that called the electorate. What is your view on sanctions?

Ms Smyth: Our experience is that the first question councils and Departments face in a resource strapped-environment is: "What is the sanction if we do not do this? What happens if we do not do it? Do we have to do it? Is it required?" If it is required, that is one thing; and councils that have a statutory duty will perform it. However, you still get the question: what is the sanction? For some of the outgoing councils, I know that there were things that they should have done that they did not do, because they knew that there was no real sanction. Naming and shaming is all very well, but some councils, bodies, Departments and people have very broad shoulders and can take the naming and shaming to a certain extent.

The Chairperson (Mr Nesbitt): You are suggesting to us that the question is asked: "OK, this is a statutory duty. What is the sanction for non-compliance?" If the answer is, "There isn't one," it is not a priority.

Ms Smyth: Yes; what is the point in it being a statutory duty?

Ms Black: I think that could be opportunities, though. I know that, at a high level, it looks very much like that. However, if you have a wrap-around service for each child, there are people already accountable, whether in social services, education or whatever. We are trying to look at how this will work, but we should remember that they are already accountable, with standards of working whereby they have to create and complete reports in a certain time and all the rest of it. So there are windows of opportunity for getting people to do things differently. The difficulty is in building it up to where it becomes politically accountable. How do people like me not let you down? We make sure that we are compliant. That is achieved through a culture. The opposite of applying a sanction is creating a culture where the willing can freely flow, and at least you get a minimum standard of compliance from those who are not so willing.

The Chairperson (Mr Nesbitt): If this Bill becomes law, there is going to be a requirement for a report. It might be required once every three years; others are arguing that it should be produced annually. Is it not a sanction if the report says that X agency, Y Department or Z council failed in its statutory duties? Is that water off a duck's back, Karen?

Ms Smyth: It could be, in some circumstances. Some councils will do everything within their power to make sure that they comply with a statutory duty, and they will not want to be named and shamed, as it were. I imagine that particularly new councils will not want to start life by being named and shamed. My point is that, if, for example, there is a particular resource consideration for a public body or Department, that is the lesser of two evils for it.

The Chairperson (Mr Nesbitt): OK. Thank you.

Ms Black: I suppose that there are a number of examples that it might be worthwhile to look back on where, currently, there may be European sanctions in terms of compliance and what lessons that has taught us. Perhaps even something as simple as "the scores on the doors", which we operate for other things, might be a way to look at performance.

The Chairperson (Mr Nesbitt): We touched on the definition of young people and nobody, who has given evidence to date, has had an issue with the 2003 Order, by which you are a young person if you are under 18 or, if you have needs, under 21. You are not, as a group of councils, consistent, as I understand it. You suggest that under 25 years could be a definition.

Ms Black: For me, finding out what the definition is the question. When we are stuck, we look to the United Nations Convention on the Rights of the Child for guidance, which provides that young people are under 21 years. In Belfast City Council, generally my remit is to provide dedicated services for people from four years to 18, but we still deliver family services or funding and, equally, we provide employability opportunities for over 18s and support a student body and population in the city. We are undecided, but we are mindful that that still needs reflection.

Mr D McIlveen: Thank you for your contributions so far. I am glad, Seán, that you mentioned the Carnegie Trust's 'Towards a Wellbeing Framework'. It is probably one of the best documents that have been produced in five decades at least, and the fact that I was part of the round table does not influence my opinion in any shape or form. *[Laughter.]* In all seriousness, the approach of outcome-focused government slots in really well with what we are looking at in the proposed legislation. The one thing that unites everybody on this issue is that we support the principle of what the Bill is trying to achieve. We want that to happen. I think that we are all a little bit unsure how it can actually be achieved and how we can get the outcome, as opposed to just being seen to do something about it. A lot of the expert advice that we have been getting around how the Bill in its current form has been drafted is that some concerns have been raised around interpretation and how that could cause some difficulties.

In the broader legislative process, we also have a problem where this is, ultimately, a first draft. When you unpick one clause in the legislation, that has a domino effect and other parts have to be amended. Most of us around the table, certainly from the legislative side, are predicting that there is almost an inevitability that, by the time the Bill gets to Final Stage, it will look very different to how it looks now, because Departments are named, and they are going to find themselves looking at a proposed statute that is going to place certain obligations on them that they may feel, for whatever reason, they may not be able to achieve, or it is going to put a burden on them that will be beyond what they will be able to achieve.

We have had some discussions with previous contributors today around whether it is necessary for this to be put through as a piece of legislation or whether there are more outcome-focused ways in which what we want to achieve can be achieved. We want to avoid a bad Bill at the end of this that would just make the situation worse. I believe, and I am sure that I am no different to anybody else, that, when it comes to our children and young people in particular, we cannot afford to get this wrong. Therefore, we have to get this right, ideally at the first go.

Obviously, you are here representing local government, which is undergoing a major transition at the moment. A major redistribution of power, particularly around planning issues and so on, is now being handed from here to local government. If we found ourselves in a position where the legislative avenue was not the right direction to go — I am not writing it off at this stage entirely — in a hypothetical sense, where do you think local government could find its place in contributing to help to

achieve the outcomes that the Bill aims to achieve, and what do you think the overall distribution of responsibilities would look like? To be fair, as I look through the draft Bill, local government gets off quite lightly on this. A lot of Departments are mentioned — the police are mentioned, along with Departments such as Justice, Health and Education — and they are all very important contributors to this, but you get off quite lightly. If we were sitting down to rewrite the Bill again in a final form, where do you think local government could step in to provide a real, meaningful and tangible contribution that would, ultimately, move towards an outcome that we want to see?

Ms Black: There may be parts of that that I can answer immediately; I might have to think about other areas. The whole point of an outcomes approach for children and young people is that everybody has to be involved, and equally involved. From my perspective of being involved in the Belfast Outcomes Group, at times the system does not really fit local government, and we are keen to be mindful of that.

One of the major focuses, if there were not legislation around it, would be one plan and one pooled budget. However, to have a pooled budget, you need to have the right procurement to enable you to say that, if an outcome is not being reached by a service provider, it can be stopped. We, along with you, struggle with being able to be in that position and the impact that that would have on other providers. To answer you, it would be desirable to have one plan where we do not have a range of different pots of money coming through to local government. I understand that there are a lot of conversations going on at the moment to strengthen links between local and central government, which is great.

Secondly, and it will not really give you the answer that you are looking for, perhaps, we currently sit with discretionary involvement. Belfast took the chance, and has been inspired by its politicians to make children and young people a clear priority. I still have a long journey though, because it has taken me two years to get that from one place to another. This is the end of our first year, and we have two more years down the line. It is just us driving it, and perhaps another issue that it would be helpful to look at, if there is no legislation, is drivers. I have the luxury of a senior manager who is a champion for children and young people, and there is a named representative from every political party that chooses as a children and young people's champion in Belfast City Council, besides staff who operate in that way for each department. Those are crucial for me, but our problem is making sure that we do not have an overkill of structures. A clear one-focus approach would probably be useful, while being mindful that we are sitting currently with discretion and that the 11 councils will take a different approach.

Ms Smyth: Just to build on what Elaine said, I know that a number of you have been looking at what happens elsewhere, for example in Scotland. The last time I was before this Committee we talked about Scotland Performs, single outcome agreements and things like that. There is a huge piece of work that needs to be done there and is starting with the Carnegie Trust, as you say, which was looking at wellbeing and outcomes. Scotland has been in the lucky position of being able to develop this piece of work over time. You had community planning, and then you had Getting it Right for Every Child. One fed into the other and, with Scotland Performs, you have a set of agreed outcomes at regional level that are then reflected at local level. All their Departments are going in the same direction. People are looking to achieve agreed outcomes.

A big piece of work that needs to be done here is overcoming silo approaches, both in local government and in central government, to move towards a single outcome agreement approach. The difficulty with this Bill, as we have outlined in our briefing, is that, if we have what we need for one small area — children's services — it skews what we are trying to achieve in a more general way. It might be better to look at pooling of budgets and departmental cooperation in the round, rather than through one particular issue. In saying that, you are right about this being an extremely important issue, and we do not want to see it fall by the wayside. A balancing act is required, and I do not envy you as you try to come up with the way forward. Certainly, regional and local working and how that goes forward is going to be key in making sure this actually works on the ground.

Ms Black: The position that we have taken is that the six regional outcomes — I know that there is some conversation about whether or not they are vague — could easily be very much operational outcomes for us in Belfast, aligned to the political aspirations of councillors. We suggest that our outcomes be "Each child reaches their potential" and "Belfast is the place to do it." They are higher-level. That is really where we use the political leadership to take on this role in outcomes-led work. There is merit in that and similarly for the Assembly. You have the political aspiration.

Sweden has a model for an outcomes-based approach to children and young people where the three areas are attitudes, knowledge and working together. Clearly, the political message is the attitude — a shared attitude and aspiration. The knowledge is there. We have systems that really could be aligned to create a better approach to understanding what happens with each child along their journey. The one struggle with the culture and creating a discipline is around how we, as officers, serve in every department and at every level to contribute to that. The opposite of that is in America, where it is highly technological. People are creating scorecards all over the place. There are variations, and further work is ongoing in exploring those areas.

The Chairperson (Mr Nesbitt): The final comment and question falls to Alex.

Mr Maskey: To repeat David's earlier point, all of us around the table are very keen to see the potential of this to work in the most effective way. This is more of an observation: I am trying to think about how we make it as effective as possible. In your contributions today and your submission, you pointed to conflicts or conundrums around what predetermined outcomes are handed down to you in community planning. The idea is for the council areas to determine issues as best they can for their locality. There are issues around how it impacts on community planning and what obligations there are via that process. There is then the statutory duty, which is being posed as a good thing. How can that be made into an effective tool? There is also the whole question about the definition of what children are. You, Elaine, gave examples of how Belfast City Council is being proactive around this. It has champions, so it is up for that; it wants to do something. Maybe it wants to do even more than what is going to be in the Bill. Other councils may not be in the same place; I do not know. Is NILGA offering up an idea that these things should be predetermined? Should much discretion be left, if at all possible? Can we make the Bill tighter or more authoritative?

Ms Smyth: We outlined in our response that the issue for us is mainly about timing. It is all coming together, but the two tracks of work are not reading across to each other. That is the main problem. I think that the community planning guidance is still in draft; I am not sure that it has been published yet. It very much says, "Look, you need to take into consideration your responsibilities from government and all the different strategies and policies that you have to take on board as you formulate your community plan". Belfast and other councils, including, I think, Mid Ulster, are fairly far along with their community planning. This stuff is happening already. We have a Bill coming to us that may radically change what happens at the local level for children and young people. That is not necessarily a bad thing; I am just saying that it would be useful to design out that potential conflict now, rather than letting the two things develop without looking at each other.

As Elaine explained very eloquently, Belfast and other councils are already doing this work anyway, possibly, as you said, far in advance of what is going to be required in the Bill. The difficulty with everything that we do at council level in trying to make an impact at the local level is in making sure that our partners in government are tied in and delivering and are walking in the same direction and at the same speed as us, willing to contribute.

Ms Black: You have to consider where you start and what you bite off. Realistically, the Bill is welcomed by the sector and yourselves in the main. The reality is that it provides that focus on children and young people. Often, the priority for most people is to intervene early in people's lives to give them the best start in life and put less pressure on the support that Governments need to find. I look for opportunities. Being practical about it, if the Bill is coming and it allows for an integrated approach to be tested, as long as the resources are attached to it, there is still an opportunity for the parallel processes because there will be other priorities under community planning as well.

The Chairperson (Mr Nesbitt): That is a good point to finish on. Thank you for coming today and for your submission. Seán, Elaine and Karen, thank you very much indeed.