



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Regeneration Bill: DSD Officials

14 May 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mr Jim Allister
Mr Roy Beggs
Ms Paula Bradley
Mr Gregory Campbell
Mr Stewart Dickson
Mrs Dolores Kelly
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, Ian and Antony. We went through the informal clause-by-clause scrutiny at the last meeting. We had some proposed amendments, and the Department was going to take those away for its and the Minister's consideration. We got a response back yesterday, but I did not even get a chance to read it because I did not see it until late last night.

I was going to suggest that we would take yesterday's response to the concerns around the proposed amendments from the officials. I would be uncomfortable taking decisions on some of it today, and I would rather take a few days to reflect on it. I am literally only coming to this now, and I know that some other members are in the same position. We will take the response from the officials first, but I would be inclined to consider, then, that we would take that information and, rather than going through the clause-by-clause consideration today, defer it until Tuesday. We are really talking only about a couple of clauses, although there may well be some consequential. I raised this with the Committee Clerk; we can come back equally comfortably next Thursday and do the clause-by-clause consideration then when members have had an opportunity to consider the tabled papers and the response from the officials here this morning. In other words, I suggest that we take the information and, rather than going through the clause-by-clause scrutiny today, defer it until, perhaps, Tuesday or the meeting next Thursday. We are still well within the time frame, and we could conclude the report the week after. I am happy for members to reflect on that for a few minutes.

Henry, do you want to take members through the response from the Minister and the Department?

Mr Henry McArdle (Department for Social Development): Yes, OK. The Committee wrote to the Department, which has now responded on the five issues raised, including a number of amendments. The first amendment was in relation to clause 1, and effectively it was to remove the term "social need" and replace it with "economic regeneration". The Minister accepts the general point but considers that the proposed amendment goes too far, in that it would effectively remove the powers of councils to address social need. This would mean that responsibility for it would remain with the Department, which is out of line with what the Executive agreed.

The Minister has put forward an alternative amendment to clause 1 that focuses more on regeneration, which is what the Bill is all about. It gives due prominence to economic and social regeneration but includes addressing social need as one of the number of areas that can be financially supported under that new clause. The clause is set out in the briefing paper. Obviously, the Committee will want to consider that clause against the clause that the Committee recommended last time.

I move now to the second amendment to clause 1. The Minister has considered the concerns of members in relation to the decision of councils that could be politically contentious or divisive; however, he has decided not to accept the second proposed amendment in relation to the naming of projects. He had concerns about linking that provision to another piece of legislation which may be repealed or amended in the future, with unintended effects on the Regeneration Bill. He has asked for more time to consider the issue, and he will come back to the Committee on that.

In relation to the amendment suggested in the publication of notices in the paper, and extending that to include publication on the website, the Minister has accepted the Committee's proposal. He will table the necessary amendments at Consideration Stage. They are also set out in the response to the Committee.

I move now to the issue of councils working together on development schemes. Again, we reiterate the point about development powers being used very infrequently and about how often the Department has used them in the past. There is nothing in the Bill to preclude councils from working together on development schemes. The Department would actively encourage that. That will be set out in guidance from the Department. Indeed, the Local Government Act (Northern Ireland) 2014 provides for two or more councils to work jointly on issues and projects.

The last point relates to monitoring arrangements. The Minister has noted the concerns of the Committee and wishes to assure the Committee that he will put in place appropriate and proportionate arrangements for monitoring how councils carry out their new responsibilities under the Regeneration Bill.

Those are the five areas which were raised by the Committee.

Mr Beggs: The legislation would allow councils to do anything. That could include very contentious issues. At present, the proposed check, which was meant to be for local government, is not in place. Were such a Bill ever to come forward and put that check in place, that Bill could easily remove any clause within this Bill which might be doing a duplicate piece of work. So, there would not be duplication. There is the potential of having one piece of legislation. So, I am still trying to understand why you would oppose such a check to prevent significant amounts of public money being used for contentious issues.

Mr Ian Snowden (Department for Social Development): Is this the proposal for qualified majority voting?

Mr Beggs: Yes.

Mr Snowden: I think that would be introduced under the Local Government Act by way of a regulation, as opposed to another piece of primary legislation. I am not a legislation expert; I am not able to say exactly how that would work in practice or whether you could actually remove a piece from primary legislation by way of a regulation.

The other consideration with the qualified majority voting is a practical one. Most of the decisions that would be taken under this Bill would be fairly routine; in fact, most of the decisions that we take at the minute are fairly routine. However, if everything that was to be funded under that clause had to be carried by qualified majority voting, it would all have to be taken to every meeting of the full council

and achieve 80% or plus of the votes of the council members. So, there would be no opportunity for the council to operate a scheme of delegation to committees or officers for small or routine expenditures. That might have the effect of making the process very inefficient and quite ineffective. So, we need to take account of that possible unintended consequence when we are looking at that option.

Mr Beggs: Like the Chair, I received this amendment only as a tabled paper. I need more time to review it, but I am concerned at the potential of significant amounts of ratepayers' money being used for contentious issues. I need to review the matter further. Certainly, I think the Committee should be trying to avoid that happening, because it would be very damaging to community relations, were it to happen.

Mr Wilson: There are just two things for me. First, regarding the reason that has been given for wanting to look again — I do not think it has been totally rejected — at the amendment about the naming of specific perk projects. I do not quite understand where it states that the Minister:

"has concerns about the explicit linking of the provision to another piece of legislation which may in the future be repealed or amended in a way which has unintended effects on the Regeneration Bill."

What exactly is meant by that? I am confused by it.

Mr Snowden: The proposed amendment would be that no project, funded under that clause, could be named after any person who would be covered by the provisions of the Civil Service (Special Advisers) Act (Northern Ireland) 2013.

Mr Allister: It could not be named after anyone with a serious criminal conviction —

Mr Snowden: As defined.

Mr Allister: — as defined, because that is where it is defined.

Mr Snowden: Yes. So, we understand what that means and what kind of person is covered by that legislation, but that legislation could be changed at some point in the future, in a way that we cannot predict. You could then end up with a situation where the provisions are different. The Minister understands the nature of the concerns that have been expressed and he wants to have a look at that. He is also aware of a case where there is a contentious issue about the naming of a project in a town, but the individual concerned has never been convicted of any offence. That is still a deeply contentious issue in the particular town, so he wants to make sure that whatever provision is put in is sufficient to cover the range of circumstances in which this kind of thing can happen.

The issue of the Raymond McCreesh park in Newry was raised previously in Committee and, whilst the proposed amendment would cover that, it would not cover the issue in Strabane where the naming of the bridge has become contentious. That has had some exposure in the media as well. He wants to try to find a way to ensure that the naming of projects does not become contentious or difficult in those towns; a way that will cover the range of circumstances in which that might happen but that will be reasonably capable of being well defined and easy to apply.

Mr Wilson: Really, you are saying he feels that the amendment, as it was proposed last time, is not wide enough to cover all the circumstances.

Mr Snowden: Yes.

Mr Wilson: I do not think there is any difficulty in that. It will be interesting to see what amendment the Department comes back with.

We had a long discussion last time about the issue of the inclusion of the social need aspect. We have accepted that economic regeneration is designed to address social issues and social need anyway. This is a regeneration Bill, but then we put in that it is also a social regeneration Bill. It is either one or the other; it cannot be both. If it is going to be both, why is it not called the Economic and Social Regeneration Bill? I go back to the point that I made last time. Once you put that in and emphasise the social need aspect, there is the problem of when regeneration happens outside an

area of social need but actually has a better impact on that area of social need than locating the activities, or regeneration, in that area would. We mentioned places like Carrickfergus town centre and the effect on Glenfield, Castlemara or wherever, and it would probably be more effective to put the money in there. I do not see how the changes that have been proposed do away with that particular problem.

Mr Snowden: The previous wording was that the financial system would be provided to do anything that a council considers would address social need in a district in this area. The wording is now much wider. There have not been, in the past, any issues about us funding projects in, for example, town centres under the Social Need (Northern Ireland) Order 1986. For example, we fund public realm schemes, environmental improvements and urban development grants in those locations without encountering any real difficulty with the legislation.

On the issue of addressing social need, were the amendment, as proposed by the Committee previously, to go forward, it would not be possible for the Department to transfer responsibility for the community development activities that it currently carries out to local government, and neither would it be possible to carry out substantial parts of the kinds of activity that we do under neighbourhood renewal. For example, just to pick out a couple of cases, we have funded quite successful projects such as nurture units in primary schools in a number of locations, and those are now being mainstreamed by the Department of Education. Under the form of the Bill that had been suggested by the Committee previously, it would not be possible to fund that kind of project because there is no link between it and economic regeneration, although it does address social need and pursues social outcomes, which are beneficial. We wanted to make sure that the councils would be capable of covering the full range of stuff that the Department currently does and that we were not left, contrary to the Executive's decision, holding responsibility for certain areas of work that were to be transferred and, at the same time, allowing the councils to take forward the full range of activities that they might want to.

Mr Wilson: Why would that not come under economic regeneration? I am not too sure what went on in the nurture units, but I imagine that it would improve the employability of the mothers to have such a facility in the primary school. It would maybe even free up mothers earlier or later in the day. Why would that not come under economic regeneration?

Mr Snowden: It is not a childcare project, in a sense. The kinds of projects that we fund in childcare have those kinds of economic outcomes. The nurture unit is for children who have a particular emotional or behavioural difficulty that means that they are not capable of learning. The children tend to be in primary 1 to primary 3, and they are taken to a special unit where they are helped to overcome those emotional and behavioural issues. There was a very successful programme in Ballysally Primary School in Coleraine for a number of years. It had been experiencing special needs referrals for emotional and behavioural difficulties at a rate of about three or four per year on a consistent basis. Once the nurture unit was put in place, it made a significant difference and the school has not had a single referral for that reason since the unit opened.

It would be a very tenuous and convoluted argument to take a five-year-old child and do something with that child in a nurture unit and then have a very long chain of causation to get to a point where there is an economic regeneration impact from that particular project. It is an argument that you can make, but it is quite a lengthy and tenuous one. We would not want to see a situation where every project had to go through that convoluted argumentation to get to a point where it could be funded.

Mr Allister: Have you forgotten clause 1(2)(d)? It refers to:

"the provision of social or community facilities".

Why are you not taking that out?

Mr Snowden: The nurture unit is not a facility in itself.

Mr Allister: What is it?

Mr Snowden: It is a room in a school that was there previously. We have not funded the creation of the room; what we are funding in these projects is the salary of a specialist teacher who works with the children.

Mr Allister: That is a facility for the community, surely.

Mr Snowden: Again, my concern is that quite a convoluted argument has to be made to support those kinds of projects. It is not immediately apparent that it is directly allowable under that.

Mr Allister: When you consider some of the things that were possible under the Social Need Order, such as money to the Bloody Sunday Trust or to ex-prisoners' groups, there did not seem to be much difficulty on the same language from the 1986 Order in working out, in a fairly elastic form, what social or community facilities were.

Mr Snowden: The point that allowed that kind of project to be supported was, in fact, what you previously termed the catch-all clause that came at the end of clause 1(2), which, you will see, is not there anymore. The provision that allowed for the funding of that kind of project is no longer there.

Mr Wilson: Does the term "social need" not have the same elasticity as the phrase that we asked to be taken out? That is the whole point. The catch-all phrase at the end was the one that many people had queries about. They were asking what it has to do with the regeneration of a community. If the catch-all phrase has simply been replaced with what is proposed as clause 1(2) (f), we are no further forward.

Mr Snowden: Again, I go back to this point: the Department feels that we need to try to strike a balance between allowing councils to come up with projects that will meet need through innovative approaches, which may not have been tried or identified before, and making sure that there is sufficient control. A balance has to be struck.

If it is the Committee's view that it would rather constrain the activities of councils than allow that degree of flexibility, that is what you will no doubt take forward as a proposed amendment at Consideration Stage. However, I have to caution that that would mean that the Executive's decision on what should transfer from DSD to local government could not be carried forward in full. That would have a policy impact and we would, therefore, need to work out what the implications of that would be. It would leave quite a swathe of activity in the Department that was intended by the Executive to have been transferred.

The Chairperson (Mr Maskey): In fairness, you are putting that quite firmly, and that is what needs to be done because we could go around the houses. We can do that, and it is up to members to raise whatever issues they want, but we are trying to establish the proposed amendment, albeit made on an informal basis, from the last meeting. The Minister has given us a response to that, and it is probably pointless us going around the houses arguing about the validity of the concept of economic regeneration against social need. They do not need to be against each other.

This is about trying to get an accommodation, and the Minister has made a proposal to us. Unless we need further clarity on the Minister's response, we need to go away and reflect on this. I will invite other members to speak, but I am simply saying that it really is about trying to clarify the issue. Do we think that the Minister's response addresses our concerns or not? There is no point in rehearsing all the arguments that resulted in the proposal in the first place. We can defer a decision until next week.

Mr Allister: I will not labour the point, but I very much agree with the line that Sammy Wilson was putting to the Department. It seems to me that, by putting in clause 1(2)(f), you have just brought us back to square one in terms of the problems that some of us foresaw with the elasticity and potential abuse of the matter. That is a particular difficulty for me still.

What is the definition of "social regeneration"?

Mr Snowden: It is anything that will address social problems in a neighbourhood or area, so it might be to improve health or educational outcomes or to reduce crime.

Mr Allister: Is that defined somewhere?

Mr Snowden: That is the understanding of the Department. I do not believe it is defined anywhere in legislation.

Mr Allister: The Minister proposes "economic or social regeneration", not "and" but "or".

Mr Snowden: Yes.

Mr Allister: My point is that proposed clause 1(2)(f) just takes us back to where we started.

On the second amendment, the Minister says that you cannot really do this because it relies on a definition in other legislation. What is clause 14 of this Bill doing? It relies on definitions from other legislation. That is common in any Bill.

Mr Snowden: As I said in response to Mr Wilson, that is only one part of the concern that the Minister has. It may well be that his concern is more that the definition in the other Bill that is referenced here is more narrow than he would like.

Mr Allister: When will he return to us? It says he will revert to us with his decision.

Mr Snowden: I could not say.

Mr Allister: Well, we are talking about meeting on Tuesday or Thursday: will we know?

Mr Snowden: I could not say; he will have to consider what he wants to do in relation to that.

Mr Allister: But he must know the confines that the Committee is operating under. We have a cut-off date of 28 May.

Mr Snowden: Yes, he understands that.

Mr Allister: That means that we have one further regular meeting before that date.

Mr Snowden: Yes.

Mr Allister: So, if the Committee were to decide to meet on Tuesday, would we have an answer?

Mr Snowden: We will reinforce to him the need to have the matter dealt with before that happens in order to complete the process. I cannot tell you what is in the Minister's mind.

Mr Allister: I see.

The Chairperson (Mr Maskey): OK. Members do not want to ask any further questions. Henry, you outlined the Minister's response to a number of issues that were raised, most of which I am happy enough with, but, clearly, we will deal with that when we go through the clause-by-clause scrutiny. Thank you for being here this morning.

Members, I suggest that we defer this matter until next Thursday.

Mr Allister: Can I make one point? It is a selfish point, I appreciate. You suggested Tuesday: there is a particular reason why I cannot be here next Thursday, and I have had quite an interest in this Bill from the outset. If Tuesday were a possibility, I would be grateful.

The Chairperson (Mr Maskey): I am happy enough if people are content to come back on Tuesday. I do not think that a huge debate will be required, although who knows?

Mr Campbell: If it were Tuesday, are we talking about a morning meeting, like we normally do if we meet on Tuesday?

Mr Allister: Either morning or lunchtime.

The Chairperson (Mr Maskey): Is lunchtime all right?

The Chairperson (Mr Maskey): Is 12.30 pm OK? Does anyone have a problem?

Mr Dickson: The Business Committee meets at 12.30 pm every Tuesday.

Mr Allister: How about 1.00 pm?

The Chairperson (Mr Maskey): Did you suggest 1.00 pm? Any advance on 1.00 pm? *[Laughter.]* All right: 1.00 pm it is.