Northern Ireland Assembly

Committee for Finance

OFFICIAL REPORT (Hansard)

Non-domestic Rates Valuations (Coronavirus) Bill: Northern Ireland Local Government Association; Society of Local Authority Chief Executives

6 December 2021

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Members present for all or part of the proceedings:
Mr Keith Buchanan (Deputy Chairperson)
Mr Pat Catney
Ms Jemma Dolan
Mr Matthew O'Toole
Mr Jim Wells

Witnesses:

Ms Karen Smyth	Northern Ireland Local Government Association
Mr J J Tohill	Society of Local Authority of Chief Executives

The Deputy Chairperson (Mr K Buchanan): I welcome, via StarLeaf, Karen Smyth, the head of policy and governance at the Northern Ireland Local Government Association (NILGA), and J J Tohill from Mid Ulster District Council and the Society of Local Authority Chief Executives (SOLACE). Can you hear me?

Ms Karen Smyth (Northern Ireland Local Government Association): Yes. Can you hear us?

The Deputy Chairperson (Mr K Buchanan): Yes. Can you hear us, J J?

Mr J J Tohill (Society of Local Authority of Chief Executives): Yes, I can. Thank you.

The Deputy Chairperson (Mr K Buchanan): Ms Smyth and Mr Tohill, you are both very welcome to the Committee for Finance. We have invited you to the meeting to hear your views on the Non-domestic Rates Valuations (Coronavirus) Bill. The Bill will remove largely anything that relates to the pandemic as the basis of appeals on business rates valuations. That will be backdated to 1 April 2020. Please take the next 15 minutes or so between you to tell us what you like or dislike about the Bill. Perhaps you can tell us how you would like to see it amended or how you might like to see any supporting finance from the Department being spent.

I will hand over to you, Karen, to go first, if you are happy with that, and then to J J.

Ms Smyth: Thank you very much, Deputy Chair. Thank you for the opportunity to speak to the Committee this afternoon. NILGA and SOLACE welcome the opportunity to provide oral evidence on the Non-domestic Rates Valuations (Coronavirus) Bill. We note that the Bill has not been subject to a formal consultation process, as identified in the accompanying explanatory and financial memorandum (EFM). Rates, whether domestic or non-domestic, are essential for the services that are delivered by,

and the very sustainability of, councils, so a much closer dialogue would have been preferable on the preliminary work, which, we understand, was developed as far back as April 2021 and led to the Bill. Co-design, as Glyn said earlier, is a Programme for Government-underpinning ethos, which, if fulfilled, results in better legislation and outcomes. Hopefully, going forward, that can be accommodated in a much more joined-up way. In saying that, we understand that, on this occasion, the situation and timeline are dynamic and exceptional, so whatever is required is the order of the day.

In a slightly wider context, NILGA would commend its sustainable council finances paper, as put to the Northern Ireland Partnership Panel (NIPP) on 20 October, following work that was commissioned by the panel's finance subgroup earlier in the COVID crisis period, when councils were losing around £10 million a month in income through service closures and other deficits. The subgroup, which the Minister of Finance kindly attends, unequivocally approved the sustainable council finances paper, which seeks to commission a piece of independent work, drawing on departmental and council proposals to transform, sustain and protect local government's finances, to be completed by April 2022, in advance of May elections, if possible. That is a forward-thinking, practical, partnership approach. We will offer the Committee the document so that it can consider it outside of the short timescales and specific Bill debate. Frankly, it is a win-win, and it should be endorsed before the Assembly stands down, per the recommended approach that I have described.

Furthermore, it is a reality that the pandemic and its impacts are far from being a short-term consideration, whatever was thought when the Department implemented Reval2023 in April 2020. The introduction of this necessary legislation further shines a torch on the antiquated and vulnerable rates system. It and a long-term pandemic could combine to cripple councils. We therefore continue to urge strenuously for a complete remodelling of council finances to be commissioned before the Stormont recess, appreciating that that and councils fall outside the work of the Independent Fiscal Commission.

I will now return to the Bill. As local government bodies working regionally with and for all 11 councils, we believe that it would be very helpful if further information from Land and Property Services (LPS) were provided to help councils assess the impact if the Bill were not to be passed. That would help inform our understanding to support any subsequent representation or submission. Relevant information is absolutely crucial to setting objective, fair, affordable rates for 2022-23 and beyond. In the here and now, however, anything that mitigates further council income losses based on the exceptional times and a realistic approach to affordability and compensation is to be welcomed.

NILGA therefore welcomes the Bill as an attempt to ensure that non-domestic rates income is protected. It is our understanding that the legislation is designed to protect against the risk of further appeals against the non-domestic rates base as a result of the pandemic. The Committee will understand that, as local government bodies, NILGA and SOLACE require information and time to digest something that is so crucial to our very survival. Nonetheless, we commend our longer-term approach to the Committee, and thank the Deputy Chair and members for the opportunity. I will hand over to J J now.

The Deputy Chairperson (Mr K Buchanan): Thank you, Karen.

Mr Tohill: Deputy Chair and members, thank you for the opportunity to make representations to you.

Local government spends over £800 million on critical services across the 11 Northern Ireland councils each year. Of that sum, £350 million is funded from domestic rates, £350 million from non-domestic rates, while the remainder comes from service income and government grant support. Non-domestic rates income is therefore a critical source of income for councils as it funds close to half our services. Any issues or policies that threaten the security of non-domestic rates income represent a critical financial risk for councils, with the potential to lead to significant service cuts and/or substantial rate increases. Councils therefore welcome any reasonable attempts to ensure that non-domestic rates income is protected. It appears that this legislation is designed to protect against the risk of further appeals against the non-domestic rate base as a result of the pandemic. Non-domestic rates income is already under significant financial pressure. At this point, almost 25% of the 2020 non-domestic rates revaluation list is under appeal. That will lead to inevitable and retrospective income reductions once the appeals are completed. The last thing that councils need is for that exposure to be increased by another layer of further appeals arising from pandemic implications.

Local government has continually highlighted the view that an allowance for successful appeals should be factored into the revaluation process, as, inevitably, the loss of income through appeals has to be replaced by raising rates and/or implementing service cuts. Furthermore, we expect that

businesses that availed themselves of government rate relief packages during the pandemic will not be allowed to appeal for reductions during this period. That would appear counterproductive to the whole COVID-19 government support process.

The risk of legislation that does not protect councils from valuation appeals on the grounds of COVID-19 comes in the midst of a range of other financial challenges for councils as they embark on their 2022-23 rates process. For example, old rating debt write-off by Land and Property Services during the pandemic has been minimal. Until that is brought up to date, a very significant and unknown liability is building up for councils. Service income, particularly leisure and off-street car parking services, continue to be significantly impacted by the pandemic. Pay awards, National Insurance, significant inflationary pressures, particularly energy pressures, and additional waste costs will also have to be funded.

In summary, while the process and pre-engagement with councils, with respect to the introduction of this Bill, could have been significantly improved, all Northern Ireland councils will welcome any legislation that helps to protect their finances in both the short and the longer term. Thank you for your time.

The Deputy Chairperson (Mr K Buchanan): Thank you, Karen and J J, for that information. I have a couple of questions. Whoever thinks the question is relevant can answer it.

J J, you are involved with Mid Ulster District Council. You can talk about it in more detail, or in broader terms, if you wish; that is up to you. Are councils planning any increase in business rates if the Bill is not passed? Have you done any preparatory work for that, or are you waiting to see the outcome over the next few weeks?

Mr Tohill: I will respond first. You will probably be aware that councils are at a very early stage of the rates estimates process. It is a fluid situation. We are looking at the entire economic environment in which we are positioned, and that of our ratepayers, and we are liaising closely with the Department of Finance in relation to the estimated penny products that we are likely to face, and with the Department for Communities in relation to the grants that, traditionally, we expect to get at this time. It is very difficult to plan for such an unknown situation. Councils, and SOLACE in particular, commissioned advice and support from Ulster University shortly after COVID took effect. We were presented with a very worrying situation where there was a significant threat to the rates base, particularly in relation to non-domestic rates income. We were therefore grateful for the support that the Executive gave us. That enabled us to do a little bit of financial modelling on scenarios.

At the moment, we are trying to sit on the fence, because we are really not sure what way this is going to play out. As other witnesses who have made representations today have said, if this Bill is not enacted, there will be a significantly increased probability of a loss of non-domestic rates income to councils as a result of appeals being successful. If that happens, and if councils are not to cut their services significantly, they will be faced with having to increase the rates that all ratepayers will have to pay. We would obviously prefer not to have to do that; it would be counterproductive. It is a bit of a watching brief for our council. I suspect that other councils are pretty much doing the same thing. It is very difficult to anticipate situations like this, because we are already aware of a significant backlog of pre-pandemic debt; in other words, previously unpaid rates bills that have yet to be written off. The methodology that supports the calculation of the rate that district councils will strike for non-domestic ratepayers and domestic ratepayers includes a reflection on how much debt will be written off in any single financial year. Over the pandemic period, there has been no debt written off, and, in previous years, the amount of debt written off was probably a lot less than the Department of Finance might have written off with the benefit of hindsight. I am sure that you will appreciate that writing off debt is a very legalistic process. It often involves going to the Enforcement of Judgments Office, and, even when you get there, there is no guarantee of any sort of success in recovery, and then a final decision has to be written off.

The mechanics of what will happen here, if we are faced with an absence of this legislation, is that it is highly likely that there will be a lot more appeals. Those appeals will, by definition, go through a three-stage process, ultimately, to the Lands Tribunal. If there are more appeals, more debt is likely to be written off. That written-off debt will then have an impact on the amount of rates income that a council can achieve from any given ratepayer, and that will cause them to put the rates up. It is a bit of a vicious circle. As I said a few moments ago, we are trying to sit on the fence to see what way this will go, because it is really hard to model outcomes in such uncertain circumstances.

Although that was long-winded, hopefully it gives you a bit of a flavour of what we are trying to do.

The Deputy Chairperson (Mr K Buchanan): Karen, do you want to comment on that?

Ms Smyth: I will just emphasise again the difficulties presented by the uncertainty in relation to this. We do not know whether the Bill will be enacted or not or the time frame involved in that. J J will keep me right here, but it is my understanding that councils need to strike the rate by mid-February, so it is knowing how to deal with all the potential impacts of that. J J and his team are doing a valiant job, but we would welcome the certainty provided if the Bill were enacted.

The Deputy Chairperson (Mr K Buchanan): I have one final question. Obviously there is a conversation regarding the £50 million Barnett consequential that will come to Northern Ireland because of this Bill. What are your thoughts on how that should be spent to support businesses?

Mr Tohill: Karen, do you want to go first, or will I answer?

Ms Smyth: I will defer to you. To be honest with you, we have not had a lot of time to look into the implications of that, because it has been quite a surprise for us. As I said, we welcome it, but we need to have further ongoing conversations with the Committee and with the Department to work out the implications of it. I would need to put a hold on giving you a definitive reply to that.

The Deputy Chairperson (Mr K Buchanan): Fair enough. I appreciate that, Karen.

Mr Tohill: Where I come from, we sometimes talk about being in a cleft stick, In other words, no matter what way you turn, it could break. If the Barnett consequential money is distributed among businesses, with nothing coming to councils to reflect the fact that their income will presumably be down if the pandemic continues in the same form as it has in the past 18 months, we will inevitably have to increase our rate to maintain the equivalent service levels. That will play across all ratepayers, not just non-domestic ratepayers. In other words, domestic ratepayers, who bear, in our council, approximately 60% of the burden.

On the other hand, if the money is in some way distributed so that councils get an allocation, that protects the non-domestic ratepayers to an extent, with the larger amount being directed towards the non-domestic sector through whatever support mechanism the Assembly considered appropriate. So, selfishly speaking, we want to see some of that support directed towards councils to compensate us for the continuing reduction in income that we face. That has a direct impact on the rates income that we have to generate, because a lot of our services are provided on a deficit funding model. In other words, it takes a certain amount of expenditure to provide a service. That expenditure is reduced by fees and charges that we levy, perhaps on participation, for example, at leisure centres, and the net cost is what the ratepayer has to pick up. If we have less income through the door, the net cost will be higher and ratepayers will have to pay a higher rate. However, I understand that it is a challenging decision for the Executive to face. Selfishly, we want to participate in any financial windfall that is possible.

Mr O'Toole: First of all, J J, that is the first Christmas tree that I have seen in video evidence, so fair play and merry Christmas. You mentioned that councils would like to get some of the Barnett consequential if the £50 million comes through. Can I just be clear? Do you mean that councils want some of that, even if the Bill passes and you have a bit more certainty that you are not going to face appeals related to COVID?

Mr Tohill: If the Bill passes, it will give us a little more certainty, but we are already facing a significant amount of pre-pandemic debt that has to be written off. I have no doubt that businesses are under significant financial pressure, and we are going to see a lot more businesses under strain, so inevitably there will be even more debt to write off. Those debt write-offs factor into our rate. We want to see some support for councils because, regardless of what way the Executive go with this, there will be fewer people availing themselves of council services. Fewer people using those services means smaller contributions towards our costs in providing those services and, therefore, a higher rate. Not to get that funding would mean that our rate would be higher than it would be if we did. Therefore, I am making make a representation on behalf of the sector for some financial support, regardless of how this turns out.

If the Bill passes and it limits, potentially, the number of appeals, as Mr McHugh said, there will still be a right of appeal. That inevitably reduces the quantum of successful appeals but, in any given financial

year, those appeals will not be written off. That will be done in a future period, because it takes time to get from A to B. There will be a process whereby any appeal that comes in gets considered by a valuer and appealed up through the system, ultimately, to the Lands Tribunal, so we may not see the financial effect of such appeals for a long time. The fate of those appeals is being decided now, by you — whether you are going to allow them or not. However, we will not feel the financial pain of those appeals for three or four years' time, possibly longer. That is part of the problem with the existing system, in that there is a backlog of tens of millions of pounds of old debt that needs to be written off. As it is written off in any given financial year, it will reduce the amount of money that councils are able to derive from their rate base. That will therefore mean that we have to strike a higher rate.

I will summarise by saying that, regardless of whether the Bill passes or not, on behalf of the local government sector, I suggest that the Committee and Executive consider making some of the funding directly available to councils.

Mr O'Toole: OK. That is helpful.

Ms Smyth: I would like to come back in, if that is OK, Chair. I want to follow up on a point that Roger Pollen made earlier about the outworkings of the funding not being a desk-based exercise. This has to be a co-design. I would like to think that local government would be part of the co-design for how that funding is put out. Obviously, it will have to include the small business sector as well and the business sector generally, but there are other implications, and J J has made a very good case for involving local government.

Mr O'Toole: That is helpful, thank you. My other point is for J J. You mentioned a number; I think that you said that 20% of valuations have been appealed. Was that in Mid Ulster or in general?

Mr Tohill: That was across Northern Ireland.

Mr O'Toole: OK.

Mr Tohill: We get those figures from LPS.

Mr O'Toole: Yes, they are from LPS.

Mr Tohill: We have no *[Inaudible.]*

Mr O'Toole: OK. That is helpful. Do you know whether those figures include COVID-related appeals — the appeals that will be invalidated if this legislation passes?

Mr Tohill: To be honest, I do not know definitively. We get statistics that tell us what the quantum of appeal is: the numbers and the financial element of the rate base that those numbers represent. However, we are not aware of the rationale for each appeal, so I honestly cannot give you an answer to that.

Mr O'Toole: Is 20% higher than your average? That is my last question.

Mr Tohill: Again, to be honest, I cannot answer that question. We do not deal directly with those figures. We get updates from LPS, and the last update was in 2015. I do not want to say that this is an absolute fact, because it is very difficult to say that when it is not your information, but I can say with a good degree of confidence that we understand, from LPS, that the LPS valuation process is very robust and that, in the context of the UK appeals mechanism — although "mechanism" is probably the wrong word — the level of successful appeals is ultimately much lower in Northern Ireland than in other jurisdictions. I am sorry that I cannot be definitive in saying whether or not that is a normal figure. It came to me from LPS, so I do not know.

Mr O'Toole: OK. Thank you.

Mr Wells: I am somewhat bemused. In addition to your role of securing funding for council services, you have a general community responsibility to look after businesses within your 11 council areas, as it were. The impression that I get from you, however, is that you are only looking to secure the money and are giving very little consideration to the thousands of businesses in your council areas that have

suffered so badly as a result of coronavirus. You used the word "selfishly", and you were correct: you were selfish. It was all about getting the money in and securing certainty of funding for services. Have you given any consideration to the businesses that will be denied the right of appeal, despite being devastated by coronavirus?

Mr Tohill: Thank you for the question, Mr Wells. I hope that I do not upset anybody, but I am unapologetic about being selfish. Local government provides services to businesses and domestic ratepayers. There are statutory services that we cannot fail to provide, and they cost money. If we do not secure funding, services inevitably cannot be delivered. That benefits nobody: neither businesses nor domestic ratepayers.

We have a very high regard for businesses. Throughout the pandemic, we worked closely with various Departments to distribute funding. We re-profiled all our economic development funding as best we could in the circumstances to try to support businesses and communities. We came together with other agencies to support food distribution centres etc. I am not personally closely involved with those areas, and I would therefore do them a great injustice if I tried to describe everything that they did, but at the heart of what councils do is the delivery of statutory services and other services that are not preordained as obligations, and those more discretionary services include supporting businesses and working with central government and other agencies to try to help businesses in times just like this.

As I said, I do not believe that it is wrong to be selfish when we have such a wide range of stakeholders and people that we need to support. We work with a lot of agencies to try to minimise the impact of these situations. Ultimately, the amount of expenditure that we control in the Northern Ireland public sector is very small. It is only about 4% of the public purse. We need to factor in the fact that we have to collect, recycle and dispose of waste and provide avenues for the public generally in relation to leisure and recreation. We have been increasingly involved in promoting the healthy living agenda and the Live Here Love Here campaign to try to help people to help themselves, if you like, and therefore reduce the longer-term pressure on the public purse. I do not think that it is in any way disingenuous for me to say, on behalf of SOLACE, that we want certainty of funding, because that is the only way that we can have certainty of delivery, and there are so many people and businesses that depend on us.

I will close by saying that it would be unfair to reach the conclusion that we have had very little consideration for businesses. A lot of our elected members have been extremely active over a long time now in reaching out to businesses, listening to their needs and trying to get officers like me and those who are more closely involved with the delivery of services to find ways that have never been found before of engaging with multiple agencies to try to have a joined-up service. Again, if that means that I have to appear selfish today, I am unapologetic about that.

Mr Wells: Based your accent, are you from Cookstown, by any chance?

Mr Tohill: Well, I am from Mid Ulster. I am actually from just outside Swatragh near Maghera, but I have worked in Magherafelt for so long that I think my accent has —

Mr Wells: It cannot be all bad, because my wife is from that neck of the woods. Say that you have a travel agent in Maghera, which is your nearest big town, and it was absolutely devastated by coronavirus and may never return to the level of trading that it experienced in 2019. You are denying it the right to appeal, even though it is evident that its business has been devastated by coronavirus. You are happy, as long as Mid Ulster District Council gets its money.

Mr Tohill: I offered my presentation to your Committee in that fashion. The councils are not making this legislation. As I understand it, we have been asked to give an opinion on how we feel about it. As councils, we have a duty to all domestic and non-domestic ratepayers across the whole of Northern Ireland. If we do not represent the interests of all those ratepayers, they will all suffer. Of course, in our locality, we are extremely concerned about the smaller ratepayers who do not have the resilience that we assume and perceive larger entities to probably have — that may be an inaccurate assumption at present. We do our best to reach out to those ratepayers.

I am not sitting here on behalf of the local government sector and saying that this is ideal. I am not saying in any shape or fashion that the process in which we have been engaged with the relevant Department is ideal, because it has not been ideal, but we are where we are. I am making the case, or at least submitting the view, that anything that is reasonable — it will be up to the Committee to decide whether it is reasonable; it is not for me to say — and that will protect the rate incomes of councils has

to be for the good of society. I am not trying to put one business or ratepayer down or to sacrifice one for the sake of another. I can only deal with the finances that we get as a council, and we will apply them as best we can and as our members see fit. That includes trying to reach out to those smaller businesses in our local towns. I am only here to talk about how, if this legislation goes through, it will help to secure our income, but whether or not that is reasonable is a decision for you, not for me.

The Deputy Chairperson (Mr K Buchanan): No other members have indicated that they wish to ask questions. Thank you, Karen and J J, for your information and the answers that you put forward to us. I appreciate your honesty.

Ms Smyth: Thank you.

Mr Tohill: Thank you.