



Northern Ireland
Assembly

**COMMITTEE FOR THE
ENVIRONMENT**

**OFFICIAL REPORT
(Hansard)**

**Derry City Council/Strabane Transition
Committee Briefing on Local
Government (Finance) Bill**

23 September 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Roy Beggs
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mr John Dallat
Mr Danny Kinahan
Mr Peter Weir
Mr Brian Wilson

Witnesses:

Mr Philip Faithful) Strabane District Council
Councillor Thomas Kerrigan)

Mr Joe Campbell) Derry City Council

The Chairperson (Mr Boylan):

We will now receive a briefing from the Derry City Council and Strabane Transition Committee on the Local Government (Finance) Bill. I welcome Philip Faithful, who is the chief executive of

Strabane District Council, Joe Campbell, who is the treasurer of Derry City Council, and Councillor Thomas Kerrigan from Strabane District Council.

Mr Philip Faithful (Strabane District Council):

First, I thank you for inviting our transition committee to give oral evidence. Obviously, the review of public administration (RPA) has changed dramatically the face of local government for the next few years. However, Strabane and Derry will continue their work, particularly on collaboration exercises. The transition committee continues to meet, and chief executives across the west, particularly those from Derry and Strabane, continue to meet.

I reiterate that the transition committee welcomes the new Local Government (Finance) Bill and the opportunity to modernise the current legislative framework on local government finance and councillors' remuneration in Northern Ireland. Committee members have a copy of our written submission, so I will not dwell too much on the clauses in the Bill. Instead, I want to highlight our key issues with it.

The legislation aims to give greater freedom to Northern Ireland's local authorities, especially in relation to the capital finance system, and we urge that that greater freedom should not be constrained through the use of regulation. However, we are pleased that the Department has committed to further consultation on any subordinate legislation.

Our transition committee makes the case for adequate legislative provision to support important new initiatives and models for service delivery in the future. It urges that that is clarified as soon as possible. Obviously, that includes the power to participate in public-private partnerships (PPPs), public finance initiatives (PFIs) and local asset backed vehicles (LABVs). It is envisaged that such initiatives may be required for councils to put in place arrangements for service delivery models, such as that for waste management, and effectively manage their own assets.

We also support the point made by NILGA that a new governance framework needs to be in place to complement the provisions in the Bill given the complexities in the local government accounting framework and in line with specific guidance that regulations should require the

designation of a chief financial officer and the separation of the roles of chief executive and chief financial officer.

It is noted that, under clause 1(2), the Department has proposed to take forward the separation of the roles of the chief executive and the chief financial officer in the forthcoming local government (reorganisation) Bill. We support that separation, particularly in light of the responsibilities that are placed on the chief financial officer to submit a report on the robustness of councils' estimates under clause 4, afford councils the adequate financial reserves under clause 6 and review the councils' affordable borrowing limits under clause 13.

We also support NILGA's recommendation that the Local Government (Finance) Bill should include provisions for the inclusion of social clauses in local government procurement similar to those in central government procurement.

Our transition committee also wishes to comment on the other specific clauses of the Bill. Clause 7 makes provision for specified reserves to be designated as controlled reserves. We support the finance officer's recommendation that, in the spirit of greater financial freedom, no reserves should be designated as controlled reserves by the Department. That is the case in the GB regulations that derive from the Local Government Act 2003. We further contend that the guidance that the DOE issued in December 2009 on the need to retain a minimum balance of at least 5% of the district fund achieves the same objective on a voluntary basis. Councils will also be expected to follow the guidance that is given in the 'Prudential Code for Capital Finance in Local Authorities'.

On clause 27, the statutory formula for the rates support grant needs to be reviewed post RPA to confirm that it continues to meet its objectives, especially in light of the establishment of any potential new local authorities in the future and functions that may transfer from central government to local government. Furthermore, it is important that the rates support grant is adequately resourced and ring-fenced to prevent cuts, such as those that occurred this year with the general grant resources budget, which was cut by 5% prior to the start of 2010-11. That was followed by an end-of-year cut of almost 6% by the end of July. I can only speak from Strabane council's perspective, but the overall cut of 11% impacts very much on the poorest councils in

Northern Ireland. That is particularly so in the case of our transition committee.

The combined cut in resources grant amounts to £365,000. That total is made up of £215,000 from Strabane and £150,000 from Derry City Council. That is essential funding lost to both councils, which, when combined, have the highest unemployment and deprivation statistics in Northern Ireland coupled with the poorest health, social and educational statistics that are associated with high unemployment and deprivation.

With your approval, Chairperson, I have produced a profile of Strabane for members, which I will pass around. I will not refer to it, but Councillor Kerrigan may do so later. The profile highlights the particular needs that we have in Strabane. If the general grant resources were to be phased out entirely, it would result in a funding loss of almost £1.9 million for Strabane District Council, which would equate to a district rates increase of 25%. For Derry City Council, the elimination of the general grant would result in a loss of almost £1.4 million, and equate to a district rate increase at 4.2%. The ratepayers in both councils would, therefore, be at a distinct disadvantage compared to ratepayers elsewhere in Northern Ireland. That is why we strongly request that the new rate support grant is adequately resourced and ring-fenced.

The transition committee of Derry and Strabane councils broadly welcomes the provision of the Bill. Thank you for allowing us to make the presentation this morning.

The Chairperson:

Do any other council members to speak?

Mr Joe Campbell (Derry City Council):

No, Chairperson; that is our oral evidence.

Councillor Thomas Kerrigan (Strabane District Council):

I thank the Committee for listening to us this morning. The chief executive, Philip Faithful, has covered most of the ground related to our particular concerns. As some members know, our area has been referred to as maybe the poorest of the north-west. We do not always want to come along with a begging bowl, wiping the tears away, and giving the impression that we are always

in need. However, at this juncture, because of the recession and so on, industries, such as the building industry, have slowed down. They have slowed down right across the Province, but we are looking for a rate base, because we would suffer heavily if things were to be implemented the way that they have been set down over a three-year period.

As the chief executive said, if we had to suffer a loss of something like £1.9 million from our base, I think it really would put the light out. Our population is small, and we have very little to work on. Members have a profile of Strabane and know the history of the area. I ask you to look sympathetically at the cause of the people of Strabane District Council.

I have represented Strabane District Council since 1981. I know that things have been up and down, but we have always tried to keep a steady hand. Let us hope that we will be able to steer through this time. I ask you to look at the presented evidence and the profile as sympathetically as possible.

Mr J Campbell:

At the end of the day, as highlighted by Strabane District Council, the north-west, in particular, relies very heavily on the resources grant. The cut, which is around 11% so far, represents a combined income cut funding cut of £365,000 for the two councils. At the start of the year, the overall resources grant allocation was £19.5 million, but that has been cut by 11%. To put that in context, the Derry, Strabane and Limavady councils, which make up the north-west group, receive almost 24% of that £19.5 million. That illustrates the type of impact that there will be, particularly in the north-west. Other councils are in similar positions, but those in the north-west, in particular, rely on almost 24% of that baseline allocation.

The Chairperson:

Thank you for your presentation. You are welcome to this morning's meeting, Councillor Kerrigan. I take on board your comments on resources, but I have a few questions about the Bill. Obviously, you believe in the separation between the roles of the finance officer and the chief executive officer in both Derry and Strabane councils. Should the designation of an officer to that role lie with the local council?

Mr J Campbell:

If the 26 councils are to continue, that designation will have to be a matter for each council. It will be a matter for Strabane District Council and Derry City Council to decide.

The Chairperson:

You require that flexibility?

Mr J Campbell:

Yes.

Mr Faithful:

It will vary from council to council, and I am sure that some of my colleagues will have different attitudes from mine. If we were in the transition period of 11 councils, the role would certainly lie with the chief finance officer, as we reported.

The Chairperson:

What guidance would you like to see handed down from the Departments in relation to investments, for instance?

Mr J Campbell:

At the moment, there is not a lot of guidance from the Department on investments. Most of the controls are currently on spend. If we wished to undertake a capital project, we would have to get loan sanction for borrowing. If we wished to allocate funding from the capital fund towards capital projects, we would need to get departmental approval. By and large, we follow the guidance on investments that is issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

Mr McGlone:

Thank you for your presentation. It is good to see you, Tommy. I know that Mr Campbell was here last week, and he was accompanied by a representative group of councillors. The fact that you had somebody from Craigavon Borough Council is probably what brought things into sharp focus for me. You are asking for flexibility in finance, but serious questions are being asked

about Craigavon Borough Council and the way in which it has spent ratepayers' money. It has been said that, on a number of occasions, the money has been spent with some degree of disregard for guidance from the local government auditor. How will sufficient checks and balances be brought in to prevent against the abuse of ratepayers' money and a cavalier attitude towards it?

Mr J Campbell:

That is an important issue. Better governance would be achieved if responsibility for that lay with a chief finance officer in a role that was separate from that of the chief executive. If there was a situation in which members of a particular council wanted to spend money in a certain way, the safeguards that are in the Bill in relation to the adequacy of reserves, affordable borrowing limits and the robustness of rates estimates are all safeguards to be brought.

What we have asked for so far is that councils should be given flexibility. However, with greater freedom comes responsibility, and there will be matters where there may be conflict between the local government auditor and councils. I think that is provided for in the Bill. I am not sure that by designating certain controlled reserves that you would necessarily avoid such situations, but, by and large, we all work very well with the local government auditor.

Guidance, and it was only guidance, was issued suggesting that when councils set their rates, they should aim to maintain a district funding reserve of 5% or more. That guidance was largely followed last year. There may well be good reasons why, from time to time, councils might not be able to maintain that 5%, but in the longer term, there would be an aspiration to keep it at 5% and above, rather than end up in a situation where they have invoked one of the controlled reserves. Flexibility, if responsibly managed by the councils, would be a better way to go.

Mr McGlone:

That is the problem; it has not been responsibly managed in this case. I am sorry for pouncing on you, but you are one of the people at the coal face; you are the person with experience. If abuses are happening in the current regime and you are asking for further flexibility, how would you see the legislation having sharp enough safeguards to prevent that from happening? Rather than wait until the horse has bolted and the abuse has happened, how would you see finance being managed

responsibly in circumstances where people are quite clearly working to an agenda that is riddled with irregularities and abuses?

Mr J Campbell:

I hope that that is an extreme example. Whether there is a controlled reserve or not, I think that there could be similar issues if councils wanted to go in certain directions. I think that there could still be that conflict whether there is a controlled reserve or not. The local government auditor is very much the safeguard here in that his staff carry out an audit every year and that would highlight those types of matters if they arise. My question is whether a controlled reserve would necessarily control that. I would have thought that you could end up with a situation where it would be reported back that a controlled reserve had been breached. It may be done in that way, so it could still be retrospective.

Mr McGlone:

I just want to tease this issue through to conclusion, Mr Campbell. Do you see local government having sharper, more defined powers of intervention?

Mr J Campbell:

That is a possibility. Maybe all councils would have to accept controlled reserves because of what one council might do. My understanding is that, under the Bill, reserves can be designated as controlled reserves at any point. Maybe, in that case, that should be done at individual council level rather than collectively.

Mr Faithful:

I suppose it comes back to the element of governance within each council as well. It depends on what kind of scrutiny role the council has already put in place. For example, Strabane council has an audit committee, external and internal auditors, and independent members who monitor the position of the council regularly. Surely that is protection even before we get to external audit? If we try for a major development opportunity, we would always run it past the chief auditor.

Mr McGlone:

Who or, more importantly, what are the independent members of the audit committee?

Mr Faithful:

They are people who have responded successfully to a public advertisement. A qualified accountant, for instance, scrutinises the role of Strabane District Council. He asks independent, searching questions on the performance of our council. That is how we operate.

Mr J Campbell:

The provisions in the Local Government (Finance) Bill are strict. Until now, councils have not had to submit a report stating that their estimates are robust, that the reserves are adequate or that they are staying within an affordable borrowing limit. Those are rigorous statements to which somebody is going to have to sign up.

Mr McGlone:

If those things are not being reported, I would like to know why.

The Chairperson:

We are going through a Bill process, but it needs to be for every council. It should not be about rapping knuckles or disciplinary procedures; it is about a proper procedure to deal with finance and value for money for the ratepayer. I know that there are examples out there, but that should be our starting point.

Mr Dallat:

Chairperson, I am sure that you and all members will agree that when one council does something terribly out of place, it damages the image of local government. We are like a two-tiered cake. The Assembly has its role to present, as does local government, and the failure to introduce the review of public administration means that there will be another four years of that.

The legislation is sadly lacking in control of investment. I am sure that you remember the Barings Bank saga and how some of our local councils got their money back. Others did not, but it was brushed under the carpet. You said that the matter was largely under the control of some organisations, but I missed that part.

Mr J Campbell:

One organisation is CIPFA —

Mr Dallat:

Will you explain what that is?

Mr J Campbell:

CIPFA is the Chartered Institute of Public Finance and Accountancy.

The Chairperson:

It will brief us later today.

Mr J Campbell:

CIPFA is inclined to set the financial guidance for all of the public sector. It has produced guidance for councils on how they should set their Treasury management policies that determine how they invest. I accept the point that is being made about investments, particularly in this financial climate and considering the state of the banks. More regard should be paid to investments so that the likes of the situation with Barings Bank is avoided.

Mr Dallat:

That is the point that I was trying to drag out, and I am glad that we have got it. It is something that the Committee needs to look at, because, even in stringent times, there is a need for investment and long-term planning. We need legislation that has some kind of control. CIPFA —

The Chairperson:

You can ask its representatives all the questions that you want to in 10 minutes' time.

Mr Beggs:

I declare an interest as a member of Carrickfergus Borough Council. I would like to explore the issue of controlled reserves, which you advocated, for safety purposes, should not be counted against council assets. I am aware of two areas of control: the marina, which is dredged every

five years and, for some councils, landfill sites. Millions of pounds can be required to cap and seal them off, etc. If you want to avoid yo-yo rates — low rates one year and sudden hikes — I would have thought that it would make sense to have controlled reserves. If you had those, a huge increase in rates would not appear as soon as a landfill site was closed off and the reserves that were set aside for that were used up. The failure to have controlled reserves means that rates have to be hiked suddenly in such a situation. Does it not make sense to have controlled reserves?

Mr J Campbell:

It really comes down to the needs of individual councils. In some of those examples, you may have little choice for regulatory reasons. Councils have to put proper financial plans in place, and taking account of the provisions in the Bill will be a very important consideration in doing that.

It is my understanding that there are no controlled reserves under the GB legislation. In Northern Ireland, councils have signed up to guidance, which was issued last year in the run up to RPA, that councils should maintain 5% of their reserves. Some time should be given to see whether that works before controlled reserves are introduced.

The issue with controlled reserves is that you are transferring the decision from the local council to the Department. Where possible, it would be better for such decisions to be made by the local council, albeit giving due regard to the financial state of the council.

Mr Beggs:

Do you agree that sealing off a landfill site may exceed the 5%? Also, as we are in the middle of the RPA, some councils may decide to pass the problem on to the new councils, and, therefore, inappropriate expenditure decisions could be made. Do you agree?

Mr Faithful:

I accept that, and, in light of the RPA, councils may have anticipated that happening. If all 26 councils are going into a new environment, whether or not it is the 11-council model, they will still be local councils. Forgetting about the old council and thinking that an issue is for the future council to deal with is not an option. The reserves are very important. I have always said to my

officers that the reserves need to be kept at 5%, simply because we do not know what the future holds, as you said.

Mr Beggs:

Mr Campbell seemed to accept that landfill capping and dredging may be appropriate areas for controlled reserves. In what areas would it not be appropriate to have controlled reserves? Will you give me examples of areas where there are presently controls but there should not be?

Mr J Campbell:

I was not necessarily agreeing that there should be controls. The likes of landfill capping, which is a necessary but very costly exercise for councils, is an issue that the local government auditors pay very close attention to when they do an audit of the accounts. Our council already has the full provision for that; the cost to Derry City Council of closing and capping its landfill site will be £9 million. We have already set aside the money for that, and the work is just about to start. My understanding is that that is something that the auditor would comment on quickly if he or she found that other councils had similar liabilities but had not made adequate provision for them. Therefore, it can be managed, by and large, without the need for control. Control may stop you from doing something that is your environmental responsibility.

Mr Beggs:

I do not understand what the problem with control in that instance could be, because you would still have the provisions sitting there.

Mr J Campbell:

I do not think that anybody is arguing against controls. Really, we are saying that the guidance that has already been agreed for councils to maintain a 5% reserve is sufficient. If that works, why not do it by voluntary guidance, rather than through controls?

Mr Beggs:

Do all councils follow that guidance? That is the question. I am not sure whether they do.

Mr J Campbell:

I cannot speak for all councils, but that guidance was issued last year, and I would have expected all councillors to follow it. Mr Weir: On that point; I see the point on the controlled reserve side of it, but if there were no controls, there would be nervousness. Is there a sort of half-way house for the 5% figure in regulations that would mean, for example, that the council would have to have due regard for any advice given by the auditor? Could something be put in that, while it would fall short of a controlled reserve, would have some level of restriction or compulsion to do something which, realistically, most people are doing voluntarily anyway? Is a compromise route forward possible?

Mr Faithful:

The question is whether the local government auditor would give the council flexibility on that in the long term, because that rests with him. If a council decided to have a 3% funding reserve, it could have problems.

Mr Weir:

Presumably, the auditor would suggest what the level would be. If something was put in place to which the council had to have regard — a little bit beyond what is entirely voluntary at present — it may fall short of the restriction that is there by way of controlled reserves.

The Chairperson:

What the Bill proposes to do, or should do, is ensure that there are proper financial practices in councils. Are you saying that that could operate within controlled reserves or outside of that?

Mr J Campbell:

A controlled reserve would take an awful lot of freedom away from councils, but I reiterate that with more freedom comes more responsibility for councils, not less. The Bill designates a chief financial officer to sign off all those statements, and I fully accept that councils should be paying due regard to that now; it should not take a new Bill to make them sign off on those statements. However, although we all do it, the requirement to report is much more formal.

I think that controls take away flexibility. For example; there may be good reasons why a

council may not be able to maintain a 5% reserve in one particular year, because if it is not possible to maintain a 5% reserve, all that a council can do is to put more onto the rate. That is the only way it can replenish the reserve, so there may be good reasons why a council may want to be flexible from year to year. That is something that, currently, would always have to be fully discussed with the local government auditor in order to ensure that it would be acceptable. Guidance allows that to happen. Controls mean that a council has breached it, and therefore has to do something about it. It just gives that wee bit more flexibility. However, as I said, greater freedom means greater responsibility for the councils, particularly for the chief financial officer who will have to sign off on it.

The Chairperson:

With proper checks and balances?

Mr J Campbell:

Yes.

The Chairperson:

Thank you for your presentation. I suggest that we invite the Chief Local Government Auditor to give his opinion in relation to controlled reserves.

Mr McGlone:

I think that would be very useful.