



Northern Ireland
Assembly

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

Transport Bill

15 September 2010

NORTHERN IRELAND ASSEMBLY

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

Transport Bill

15 September 2010

Members present for all or part of the proceedings:

Mr Fred Cobain (Chairperson)
Miss Michelle McIlveen (Deputy Chairperson)
Mr Cathal Boylan
Mr Allan Bresland
Mr Danny Kinahan
Mr Billy Leonard
Mr Fra McCann
Mr Ian McCrea
Mr Conall McDevitt

Witnesses:

Ms Anne Breen } Department for Regional Development
Ms Doreen Brown } Department for Regional Development
Mr Sean Johnston } Department for Regional Development

The Chairperson (Mr Cobain):

The Committee now moves to the departmental briefing on the Transport Bill. Appearing before the Committee today are Ms Anne Breen, Ms Doreen Brown and Mr Sean Johnston from the Department. Good morning.

The Committee Clerk:

As the Transport Bill is quite large and there is a great deal of detail in clauses 1 and 2,

departmental officials will focus on briefing the Committee on those clauses today.

Ms Doreen Brown (Department for Regional Development):

The Transport Bill contains 50 clauses and two schedules. As the Committee Clerk said, we aim to look at clauses 1 and 2 today. Those clauses are important as they provide the framework for the new public transport service delivery arrangements and they are supported by the remainder of the clauses.

The Committee received detailed commentary from the Department on the clauses. It has also taken written evidence from stakeholders over the summer and has received the Department's response to the issues that were raised in those submissions. We will cover the provisions of clauses 1 and 2 and deal with any questions and comments from the Committee and see whether we can identify any further or outstanding issues on which the Committee might need further information.

Since clause 1 is long, it may be inappropriate for me to talk about the whole of it. Should I therefore discuss clause 1(1) and then pause to deal with any issues?

The Chairperson:

Yes.

Ms D Brown:

Clause 1 makes several key provisions: the duty on the Department to secure public passenger transport services; the power to contract and to award permits; powers to regulate fares, provide vehicles and ticketing systems and machines; and the power to exploit commercial opportunities. It also provides that most services will be provided by the Northern Ireland Transport Holding Company (NITHCo); it also creates an offence of providing an unregulated service.

Clause 1(1) states that:

"The Department must secure the provision of public passenger transport services with due regard to economy, efficiency and safety of operation."

In the evidence that the Committee received over the summer were suggestions that, in

fulfilling that duty, the Department should perhaps have regard to factors other than economy, efficiency and safety of operation, to include passenger need; sustainability or environmental impacts; accessibility; affordability for passengers; local public transport plans; and transparency in service delivery. We aim to cover each of those aspects in turn if the Committee is happy for us to do so.

In its response to the Committee, the Department said that it would consider whether an amendment in respect of passenger need would be helpful. The development of the local public transport plans will be a vehicle for identifying passenger need and designing the network to best meet the need of the public. However, that would have to be achieved within funding constraints, and it may be difficult to legislate for passenger need as the extent to which it can be met will be constrained by resource availability. The draftsmen could come up with a form of words that would recognise the concept of need while recognising that it would have to be taken account of from the Department's available resources.

The Chairperson:

Will that be considered in the broad sense of the word "need"? Different groups have different definitions of "need".

Ms D Brown:

We will need to have a clear idea of what we mean by "need" and whether it is about the needs of passengers or the public at large.

The Chairperson:

Or perhaps groups within the public.

Ms D Brown:

In its response to the Committee, the Department also said that it might consider how it might reflect sustainability in clause 1. Like all Departments, the Department for Regional Development has been under a statutory duty since 2006 to ensure that what it does contributes to sustainable development. The general rule that draftsmen go by is that if there is already a statutory duty in existence in one piece of legislation, it is not practice to replicate that duty in

another piece of legislation. However, the Department would want to have a clearer idea of what is meant by sustainability in that context. Generally, sustainability is thought of as having three pillars: social, economic, and environmental. The Department is interested in what the Committee thinks sustainability means in that context and what aspects of public transport passenger services it feels should be covered.

Accessibility to transport is an area in which there is already statutory provision. As I said: if a statutory duty exists in legislation, it is not practice to replicate it.

Affordability for passengers was also raised. We believe that that issue can be taken into account as part of the fares regulation process, with the aim of keeping fares as low as possible. However, that has to be balanced with the resources available, as is the case now.

The Chairperson:

Before you leave that issue, Doreen, will the subsidising of fares conflict with any EC regulations?

Ms D Brown:

No, as long as we can show that we are not overcompensating an operator; that is the key.

The last time that we were here, we mentioned local public transport plans. We have not included in the Bill a statutory duty to prepare such plans, because we do not believe that public transport plans could or should be developed in isolation from the wider plans that the Department has developed with the existing plans that are in operation and which it would be developing for the future.

The final point was about transparency. We believe that the existing legislation on procurement, freedom of information and the reporting arrangements of EC regulation 1370/2007 already meets the need for transparency.

That covers a great deal. Perhaps the Committee will want to raise issues with me now rather than my going on further.

The Chairperson:

Last week, I said that we wanted to see definitive coverage in the Bill of accessibility for passengers with disabilities such as deafness and blindness. I take your point about finances, but we are still awaiting the audio-visual equipment for new buses. That is a disgrace, and we will not stand for it. We either have a public service that is available to everyone or we do not. I realise that I am repeating myself, but you have been at Committee meetings often enough to know that that is a big issue for us. People who represent individuals with such disabilities make representations to the Committee and to the Department; to have brand-new buses on the road without such apparatus is not acceptable. We would like to see the Bill address that.

Last week, you gave us a guarantee about ticketing for people with disabilities.

Ms D Brown:

Yes.

The Chairperson:

You are on record telling us that that will not be an issue. The Committee feels strongly about people with disabilities, as it is a huge embarrassment for them to get on a bus and have to ask someone where they are. That is a big issue for us in a modern society.

Someone raised the issue of sustainability.

Mr McDevitt:

I endorse what you said, Chairperson. I will begin by asking Ms Brown about need and follow that with a question about sustainability. It seems strange that we would not include a provision to ensure that the Department was able to develop a public passenger service that met the needs of the public in a public transport Bill. It seems to be an essential foundation of what you do. Those needs are linked to sustainability, because they are social and economic needs, as well as the needs that the Chairperson outlined. If we are serious about sustainable transport at a regional level, it would be a very powerful statutory foundation to lay and would send a clear signal, not just in policy terms. The current generation of legislators would put to future generations of

legislators and bureaucrats that we build public transport around the needs of the people who live in this region. Why would we not want to have that philosophy and spirit at the heart of everything that we do in this legislation?

Ms D Brown:

I was keen to get clarity on what sustainability in public transport services would be so that I had an understanding of whether it was merely environmental or included social and economic sustainability.

Mr McDevitt:

Perhaps I could give my opinion. To me, it is social, environmental and economic. It is environmental to the extent that — as you rightly point out, Ms Brown — we are under a plethora of duties to behave sustainably in an environmental sense, yet we are failing, and nowhere are we failing more than in the transport sector at a regional level. In my opinion there is an absolute need to turn up the temperature and put ourselves under greater pressure to behave in the interests of environmental sustainability. It is also social because public transport is most failing those most in social need. If we are serious about improving access to cities and to transport — fulfilling the right to access — there is a significant social sustainability link.

It is also economic, because on the downside of the economic argument we are walking ourselves into serious infringement territory in the years ahead. We do not know what the fiscal policies, either at a European level in relation to indirect fiscal influence, at UK level, or even regionally, will be five or 10 years hence; but we can be sure that if we continue with the current carbon footprint it will cost us regionally and it will cost consumers.

Public transport must play a significant role in sustainable economic development, with a more sustainable public transport infrastructure, better buses, lower-emission buses, and also in relation to the wider implications and benefits to the green collar economy here. There are bus builders in this region — and many of us know them, because we visited them recently — who wish to become world leaders in a particular type and concept of bus. Not making it a statutory duty for us to put sustainability at the heart of public transport is a missed opportunity.

Ms D Brown:

It is very helpful to get your clarification on how you regard sustainability specifically linked to public transport.

Mr McDevitt:

What is your opinion?

Ms D Brown:

It is not for me to say what is a good or a bad idea. We want to hear the considered views of the Committee, on which our Minister will reflect. All I can offer is a personal view, and I am not sure that that is what the Committee wants.

Mr Leonard:

Is there a clash between the aspiration and the legislative language? Do you see problems in trying to boil down 20 points outlining such wide-ranging aspirations to the draftspersons?

Ms D Brown:

It is difficult to know how wide or narrow the concept of “need” will be, as there might be a definitional aspect involved; I do not know that there would be the same difficulty with sustainability. However, there will have to be some recognition that the duty would have to be carried out with reference to certain constraints, such as resources.

Mr Leonard:

That is just to help me.

The Chairperson:

When Jim Wells was on this Committee he was a great champion of the issues relating to carbon footprints. In the Programme for Government, the Executive have laid out a road map for tackling emissions, which we are nowhere near. To take Billy’s point about aspirations, the Programme for Government is clearly aspirational; this issue is more definitive. Will we put something in the Bill that deals specifically with the Department for Regional Development and our contribution to reducing carbon footprints? We are a big player in that, and this is a chance

for us to put into a Bill something that is not aspirational and which forces the Department to take the matter seriously.

Ms D Brown:

The Bill deals only with public passenger transport services, so there are other —

The Chairperson:

Carbon footprints are an important issue when discussing environmental sustainability, and the Department has an important role in doing something about them.

Ms D Brown:

Transport carbon footprint issues go much wider than that.

The Chairperson:

Yes; I know.

Ms D Brown:

As do measures to reduce the carbon footprint. We are dealing with just one aspect of the transport world here. You could consider sustainability in the Bill; but be conscious: it does not overtly apply to the wider transport world or to wider transport measures dealing with freight, roads, walking or cycling.

The Chairperson:

Yes, but let us deal with what we are responsible for. Long journeys start with one small step; let us take the small step. The Executive do not take carbon footprints seriously. That is just how it is.

Ms D Brown:

We are part of the inter-departmental group that is looking at reducing greenhouse gas emissions; we also did a baseline study to try to give a more definitive picture of where we are. Therefore we hope that we take the issue more seriously now than perhaps in the past.

The Chairperson:

Than you did last week. *[Laughter.]*

Mr Boylan:

Doreen, we have an opportunity through this Bill to address passenger need and accessibility; however, we need to be realistic and see what moneys and resources we have. Every morning, 70,000 cars come down the M1, with perhaps 60 or 70 going up the other side. Our starting point should be how we remove some of those vehicles from the roads.

You mentioned accessibility. The Chairperson always talks about disability, but we are talking about accessibility, even in the rural community. We harp on about that. We have an opportunity in the Bill to look at that, which is what we should be doing. That ties into sustainability, including the decentralisation of jobs and everything else. The Bill could drive that forward.

Mr McDevitt:

Ms Brown, is it the Department's opinion that people should have a right to access to public transport in this region?

Ms D Brown:

I can say yes to that. However, we have to define the quality of public transport anywhere, at any time and —

Mr McDevitt:

I suspected that you would say yes, and I am glad that you did; otherwise we would be in trouble. How does one qualify that? The most obvious way is in accordance with need. You may then need to qualify need, but the next obvious step is to reaffirm the right of residents in Northern Ireland to have access to public transport in accordance with their needs.

Ms D Brown:

As you say, you would have to qualify need.

Mr McDevitt:

You would. However, I agree entirely with Mr Boylan that that is the step change that we need in order to be able to put the priority behind public transport that we all feel it lacks.

Mr Sean Johnston (Department for Regional Development):

One would have to make a business case before doing that and weigh up the practicalities, the economics and the benefits to the public and to transport users. There will always be choices to be made

The Chairperson:

We will revisit that before the scrutiny is over. At the moment, we are getting a flavour of where we will go, after which we will go through the Bill clause by clause when we have additional information from witnesses. The big issue will be how to define need. That has always been a difficulty.

Ms D Brown:

That problem comes up in health and education, among others.

Mr Kinahan:

You said that the local public transport plans are not included. However, there must be some linkage in how that works.

Ms D Brown:

They are not included in the Bill as a statutory requirement on the Department; we do not have a statutory requirement to produce transport plans. However, we do produce transport plans that flow quite naturally from the regional transportation strategy. We felt that a statutory requirement for the production of local public transport plans would sit rather strangely alongside the lack of statutory responsibility to produce wider transport plans. In fact, a public transport plan does not stand on its own two legs; it needs a third leg from being melded into a wider transport plan. Therefore, we felt that although local public transport planning will be carried out, it is not necessary or appropriate to create a statutory duty for the production of local public transport plans.

Mr Kinahan:

OK.

Ms D Brown:

Clause 1(2) deals with the provision of public passenger transport services. The Department has no powers to contract for the provision of public passenger transport services, and the power to contract in that way is required as a result of EC regulation 1370/2007. Paragraphs (a) to (c) of clause 1(2) provide the Department with the necessary powers to enter into agreements for public passenger transport services that have been directly awarded to NITHCo/Translink and which have been competitively tendered.

It also provides us with the authority to issue permits for services on routes that are outside the contracted public transport network to operators who have identified a commercial gap in the market and who are prepared to take on the provision of services at their own risk. The details of the permit system that will apply in those circumstances are dealt with in clauses 3 to 17, which the Committee will come to later in its consideration.

It also allows us to enter agreements for ancillary services to support public transport provision such as, for example, the provision of passenger information, the procurement of ticketing systems and the installation of equipment at rapid transit halts. No specific issues were identified on those provisions during the Committee's call for evidence in the summer.

Mr Leonard:

I have a general point. If we are to find some way of building need, sustainably and affordability into the issues that we have discussed, clause 1(2) might need to read:

“For that purpose the Department may, and in conjunction with 1(1)”

If the wording of clause 1(1) is broadened, there may need to be a roll-out from that; otherwise the licence operators will have to do it in that context.

Ms D Brown:

Clause 1(2)(d) refers to fares regulation and gives the Department power to determine the general

level of fares for services that are provided under contract or services that are provided under permit where the Department gives some subsidy or funding through a concessionary fares scheme or a fuel duty rebate. That will apply if the operator receives any public funding. Fares will not be regulated by the Department if operators operate under the permit system or take the financial risk themselves and get no money from us.

In your call for evidence, NITHCo, Translink and the Northern Ireland Committee, Irish Congress of Trade Unions (NICICTU) asked how fares would be regulated and whether we would go for net-cost or gross-cost contracts, which determines whether the commercial risk would lie with the Department or with the operator. The mechanisms for the regulation of fares will be defined during the implementation phase. We are not yet at the stage of saying what form of contracting we would follow or whether it would be a hybrid system. There are different examples in operation in different jurisdictions, and we want to choose the one that is best for here. The form of contracts can be changed over time; we do not have to be stuck with one approach. We can change our approach depending on the circumstances and on how well the existing contracts are working, for instance. We might want to use a variety of contracts, and we will want the legislation to allow some flexibility rather than being tied to net- or gross-cost contracts.

We have looked at Transport for London, for example, which has a similar enabling power in legislation to allow it to judge its approach according to circumstances.

The Chairperson:

The definitive approach is that you will have to regulate for any fare subsidy that the Department introduces.

Ms D Brown:

If an operator is receiving public funding, they will be part of the regulatory structure.

The Chairperson:

Therefore a permit holder who gets no funding is not required to observe any of the fare regulations.

Ms D Brown:

That is right: he or she would be taking the financial risk and, therefore, getting the financial rewards if people choose their service.

Mr McDevitt:

How is the concept of general level defined? Does it mean that the Minister could say that operators can charge between an upper and lower limit?

Ms D Brown:

It would probably mean something along those lines. Operators would be set a headline figure, above which they would not be permitted to go in their fare levels.

Mr McDevitt:

In theory, it does not prevent competition in a subsidised market.

Ms D Brown:

That is right. Operators would have a basket of more detailed fare provision below that. The Department would not be setting the fare level for every time of every day on every route. Translink has various promotional deals, and I do not think that the Department would see itself as either devising or micro-regulating them.

Mr Johnston:

The regulated system prevents competition on the route. Once they have the contract or the licence, they are safeguarded.

Ms D Brown:

Clause 1(2)(e) is about the provision of vehicles, ticketing machines and so forth, and it gives the Department power to provide facilities associated with the provision of services to operators on such terms as the Department thinks fit. We could, for instance, supply vehicles for an operator to be used in carrying out a contract. The Department would retain control of those assets, and, should the services cease to be provided by the operator, the Department would take back control

of those assets and use them again for another operator. That is an example of the freedom that paragraph (e) of clause 1(2) gives us.

We are aware of your point that any ticketing systems be fully accessible to people with disabilities and take account of their needs. I will say it again: we have absolutely no problem with that; we would find it bizarre if a ticketing system operated in such a way that would put people off using public transport. We will ensure that any new ticketing systems take account of the needs of people with disabilities.

Mr Leonard:

I have one thought on the practical workout of ticketing. Will there be an obligation on the licensed or permitted people to be part of the integrated ticketing system? Can we do that?

Mr Johnston:

It depends on what they are doing. Generally, they are small operators, and it might not be economical or possible to include them. The complication arises because of the accounting at the backend of the process and making sure that the money for the service that is being delivered is received. The more operators, the more complicated it becomes.

Mr Leonard:

Hostages to fortune, is it?

Ms D Brown:

Their fare structures could be so different from the operators who are part of the main contracted network that it could be very difficult. They would sit outside the system doing their own thing, and that would have to apply to ticketing as well. Integrated ticketing will be a hard enough nut to crack for the mainstream operators.

We are looking at the development of an IS/IT strategy for public transport. That work is being led by the Department. That will help to identify the information systems and technology that are required to best support public transport. In developing those systems, we will take account of the needs of the different types of passengers who use the systems, although we also

have to have regard to the funding that will be required and the affordability of the system. Our financial position could constrain the time that we have to do all the things that we want to do. There are examples of the successful implementation of integrated ticketing systems in other jurisdictions, and we can learn from them what worked and what did not. We are not exactly starting with a blank sheet.

Clause 1(2)(f) refers to commercial opportunities and gives the Department the power to exploit them. That would, for example, allow us to generate revenue from advertising at rapid transit halts; we need a specific power to enable us to do that. Translink and the Federation of Passenger Transport were worried that the Department would use that power to undermine their commercial activities. However, we do not intend to use the power to take over their revenue streams; it is a power to generate our own revenue streams as new opportunities arise and new facilities come on stream.

Clause 1(3) provides — subject to EC regulation 1370/2007 and the Department's duty to have regard to economy, efficiency and safety of operation and whatever other provisions that are put into clause 1(1) — that most services would continue to be operated by the Northern Ireland Transport Holding Company (NITHCo). We know that NICICTU's preference is for Translink to have an exclusive right to operate and that no other operator be allowed to compete, except perhaps for a small role for private operators to operate as subcontractors of Translink. It will continue to provide most of the services, but there will still be opportunities for other operators to enter the market in a regulated way. We are not giving Translink a monopoly.

We intend that Translink will receive a direct award contract, which is in line with European regulations. In so doing, however, we have to demonstrate that we are not overcompensating, which is where our work on benchmarking and on the outline business case will come into play. There is already quite a range of other operators in the market, perhaps not in mainstream public transport, but for urban door-to-door services, rural community partnership services, taxi services, including some black taxi services, and some private bus operators. We see those continuing. We will have rapid transit and, we hope, park-and-ride facilities being developed further. Those will be opportunities for other operators to enter the market if they can demonstrate that they would do it more efficiently and effectively than Translink.

The Older People's Advocate asked why Translink is deemed to be the most appropriate body to deliver the bulk of public transport services. Our view is that Translink is best placed because it has significant experience as well as the necessary infrastructure. Allowing it to continue to provide most of the services will help to maintain continuity of service. The idea of this exercise was never to throw everything out and start from scratch. When we went out to public consultation on the proposals, we made it clear that one of the proposals was that Translink would continue to be the main supplier, and we heard very few dissenting voices.

Mr Boylan:

There is a time frame for people who take out subcontracts and they have to operate viably. How do you ensure that they continue to operate properly? You want them to prove to you that they can undertake the role viably, because people get used to a service, but how do you ensure that the contract does not fall through six months down the line?

Ms D Brown:

The Department has a responsibility to monitor what is happening in any contract or service; standards would be set that the operator would have to meet. An operator failing to meet those standards could render a contract null and void and their licence could be taken away. In practice, the operator would be told where they were falling short and given an opportunity to improve their performance; if that did not happen, the contract would be removed and the service re-contracted. It would be important to ensure that the people who needed that service were not disadvantaged during any changeover. We have faced that already in relation to work that we have been doing in urban door-to-door services where we have had to ensure that we have contingencies in place.

Mr Boylan:

It is the passenger that I am thinking of. That is the important part.

Ms D Brown:

Absolutely. That is the main thing, particularly for services that operate for disabled people, older people and the vulnerable. The system must ensure that if something went wrong with a

contract, people would not be bereft of a service. We have experience of developing contingencies to pick up on things like that for the very simple reason that people should continue to receive the service.

Still on the point about most services being provided by NITHCo, NILGA wrote in its submission to you that it is vigorously opposed to any move towards privatisation of the main provider. We reiterate that that is not our intention at all: there is no intention to privatise the public transport system now or in the future. NITHCo will remain a public corporation maintaining its status under the Transport Act (Northern Ireland) 1967.

Clause 1(7) is the offence of providing —

Mr McDevitt:

Clause 1(2)(f) states that the Department may exploit any commercial opportunities which it considers appropriate. How will that sit against the policy intention never to privatise NITHCo? Could it provide a statutory basis on which the privatisation of part or all of NITHCo could happen?

Ms D Brown:

I cannot speculate on that because the Minister's line is that Translink will not be privatised.

Mr McDevitt:

That is the policy statement, but I am curious about whether it opens up the opportunity for future Executives to say that they have the power in law to exploit any commercial opportunities that, as Minister, I consider appropriate. Does that open the door to possible full or part privatisation?

Mr Johnston:

That is not the intention of the clause.

Mr McDevitt:

I understand that. It is a very general clause.

Ms D Brown:

That is a very interesting point.

Mr McDevitt:

It is a very general clause, and it deals with the overall provision of public transport services. However, I would not want us accidentally to make a provision so obviously against current policy and the settled will of the Assembly.

Mr Leonard:

It is the “wedged door” principle. I am not a draftsman nor am I the son of a draftsman, but surely “exploit any commercial opportunities” could be qualified to ensure that that provision cannot be lifted to another context.

Ms D Brown:

That is something that we would ask the draftsman about. In other spheres where privatisation might be an option at some stage, we have received advice that there needs to be a specific power to privatise before privatisation can go forward. I am happy to explore that with the draftsman, because it is not the intention of the clause.

The Chairperson:

It should be more definitive.

Mr Johnston:

If you were going to go down the privatisation route, the whole 1967 Act would have to be revised, so I doubt that that clause on its own would be sufficient.

Mr McDevitt:

It could be sufficient. It is the wedge principle: you could begin to exploit significant commercial opportunities but stop short of privatisation, which would amount to a huge change in policy that is contrary to the spirit of the Bill. Do you understand?

Mr Johnston:

Yes; I understand.

Mr F McCann:

It is all open to interpretation, and that is where the difficulties lie.

Ms D Brown:

Clause 1(7) deals with the offence of providing an unregulated service. An operator that provides a service without a contract or a permit or another authorisation, such as cross-border authorisation, would be committing an offence. There are fine levels up to level 5 on the standard scale, which is £5000. No one raised an issue about that in the call for evidence. Are members happy to move on and discuss clause 2?

The Chairperson:

We will be going back over it again.

Ms D Brown:

Clause 2 provides for the content of service agreements for contracts under Regulation (EC) No 1370/2007 and for the review of contract award decisions.

Clause 2(1) deals with the content of service agreements and gives us power to make regulations and subordinate legislation on matters that:

“may or must be dealt with in service agreements.”

Those include the requirements of the EC regulation, but we also envisage that the service agreements will contain other elements, such as vehicle specifications, and they could include issues to do with accessibility; emissions; age; the key performance indicators of reliability and punctuality against which the operation of contracts could be monitored; and customer information requirements.

In its evidence, Translink drew attention to the need for service agreements to take account of the impact of civil unrest. That is an example of a matter that could be included in regulations and dealt with in the contract. There would be enough power to allow the competent authority to take emergency measures in the event of a disruption to services or the immediate risk of such a situation. We are very happy to engage with Translink in the development of the regulations in a

way that, pragmatically and sensibly, deals with obvious operating difficulties that civil unrest can cause.

Clause 2(2) concerns contracts under Regulation (EC) 1370/2007 and provides us with the power to enter service agreements under clause 1(2), including power to award public service contracts. It also allows for the direct award contracts with NITHCo/Translink that we have already mentioned. No issues were raised on that clause in the Committee's call for evidence.

Clause 2(3) gives us the power to make regulations that provide for the review of public service contract award decisions. That is required by the EC regulation; we need to have an appropriate review procedure to ensure that decisions can be reviewed effectively and rapidly at the request of an aggrieved party. No issues were raised on that in the Committee's call for evidence.

The Committee Clerk:

Before you go, I will recap some of the issues that came up, so that I can have clarity, and we will write to you about them.

First, references were made to statutory duties that exist in other legislation. Perhaps the Department could clarify what that legislation is. What is the nature of the duty that it places on the Department — in other words, what does the Department have to do to fulfil it? What is the mechanism to ensure that that is actually happening? Does someone monitor it; is there a reporting requirement? Is it an active or a passive duty? For example, does redress have to be sought by an individual or is there a requirement that it would go through a body such as the Equality Commission?

Secondly, in light of today's briefing, perhaps the Department could illustrate what mechanisms might be put in place to ensure that the local transport plans actually reflect the network planning that will go on through the agency, the regional transportation strategy and the regional development strategy (RDS). I am thinking particularly about whether there is a letter of compliance, a permission or a clearance mechanism or something like that. You also referred to the range of different operators in the market already; perhaps you could quantify those. You

spoke about door-to-door services, taxis and so on. I am not sure whether you can provide an estimate of the monetary value that those services collectively add to the Department.

Finally, does clause 1(2)(f) open the door for future Administrations to privatise in full or in part? Perhaps you could illustrate how clause 1(2)(f) will interact with anything in the 1967 Act, or the other legislation governing NITHCo/Translink and the holding company arrangements, that speaks to those issues — whether it permits it or whether there is a copper fastening or a requirement there. Is there a belt and braces in some other piece of legislation?

Mr F McCann:

I would just like to raise one question; forgive me if it has already been discussed at other meetings. I see nothing in the first Part of the Bill that would commit a service provider to taking on board the views of local communities or associations that may find that a route on any part of a road is detrimental to the well-being or safety of the people. I do not know whether that would be tied into it, but I am seeking advice on it.

Mr Johnston:

Generally speaking, the routes are designed to be helpful to the people and get them around, but a permit application would have to be supported by user need, so there would have to be evidence that they had done some work to prove —

Mr F McCann:

You are missing the point. The instances that I am talking about involve traders and people who live in the communities. Those people may have an opinion that a bus route is detrimental to the well-being and safety of people in a given street. That could be spread right across the board. Is there anything in the Bill that would commit Translink, or whoever, to speak to people and ensure that they are consulted?

Mr Johnston:

They would consult with the councils on that aspect, and, if there was evidence that it was detrimental, I presume that they would know about it.

Mr F McCann:

I am a councillor in Belfast, and that is not always the case. I know of one or two instances of that, and there may be a lot more. Is the provider tied to some type of consultation with local people before a bus route is established?

Mr Johnston:

Only in relation to evidence of need. That is the only thing that I am aware of.

Ms D Brown;

There will be consultations with councils and other groups in the development of local public transport plans. We aim to have a wide-ranging public consultation that would look at localised services. If anyone has concerns about the existing network that operates in a locality, that would be the opportunity to raise them.

The Chairperson:

How would that be done?

Ms D Brown:

That comes back to a conversation that we had last week about how local-transport planning would be carried out. If we are still working with existing arrangements, we envisage it being done in the way in which we have carried out consultation and work on RDS and existing transport plans, particularly subregional transport plans, whereby public consultation would be open to anyone. It would focus on councils' views as well. Taking our consultation on aspects of the RDS as a model, we would consult physically throughout the Province, because that is the best means by which to try to ensure that local views are not lost. It would not be a centrally run process but a locally based process.

Mr F McCann:

I will leave that issue for now. However, I want to come back to it later.

The Chairperson:

Thank you.