



Mr Sean McCann
Assistant Clerk
Environment Committee
Room 247 Parliament buildings
Stormont Estate
BELFAST
BT4 3XX

17 June 2010

Dear Mr McCann

Thank you for your letter dated 30 April 2010 seeking the views of the Northern Ireland Local Government Association (NILGA) on the Local Government (Finance) Bill. NILGA is pleased to be able to have an opportunity to comment on the proposals in the Bill and we trust that our comments will be taken into account when developing the final legislation.

This response has been developed in liaison with Association of Local Government Finance Officers (ALGFO) and the National Association of Councillors (NAC).

General

1. NILGA would share ALGFO concern that the proposed Finance Bill does not make adequate provision to support important new initiatives and models for service delivery in the future e.g. Waste Management. Councils currently have no powers to participate in Public Private Partnerships or Public Finance Initiatives. Consideration of whether the existing legislative framework supports such initiatives is required and if further amendments to the legislative framework relating to local government finance are required.
2. NILGA would also support the view that there is a need to update the limit referred to in Section 100 of the 1972 Act or subsequent amendment and would suggest that the Department should have the power to amend the limit by regulation.
3. The NILGA written response to the public consultation on the Finance Bill had recommended the Finance Bill includes provision for the inclusion of social clauses in public procurements including for example consolidation of the DFP "Guidance on Equality Of Opportunity And Sustainable Development In Public Sector Procurement" as referred to in DAO(DFP) 05/08; the proposals outlined by the Construction Industry Federation Northern Ireland Task Group in relation to promoting equality and sustainable procurement in construction; and the Scottish Social Enterprise Coalition guidance on Community Benefit Clauses.
4. It is understood the Department proposes to make an order (using powers available in the Local Government (Best Value) Act (Northern Ireland) 2002) to enable councils to

include social clauses in their procurement contracts to the extent that they are necessary or expedient to achieve Best Value. NILGA would urge this work is completed on a timely basis.

Part 1 Financial Administration

5. Section 96 (5)(a) of the 1972 Act currently requires all disposals of land for less than best price to be approved by the Department. It is recommended Section 96 should be repealed and replaced with an enabling power to make regulations. The Regulation should detail the purpose and limitations that would apply to disposals of land at less than best price including safeguards and scrutiny mechanisms necessary to prevent any possible mal-practice.
6. In relation to Clause 1 of the proposed Local Government (Finance) Bill, it is NILGA's view that, in accordance with CIPFA guidance, legislation is made to enable the separation of roles between that of the Chief Executive and the Chief Financial Officer and that the Department needs to make regulations prescribing the qualifications required for a Chief Financial Officer.
7. The local government accounting framework is very technical and therefore the Chief Financial Officer should be a professionally qualified accountant and subject to continual professional development requirements. The requirements of clauses 4(1) and 6(2) (robustness of estimates and adequacy of reserves) and indeed clause 7(3) (adequacy of controlled reserves) serve to support the view on qualifications.
8. In relation to Clause 4(1) NILGA would support the ALFGO view that clarification is required on the concept of robustness pertaining to an estimate. The Department should issue guidance on the issues to be considered by the Chief Financial Officer in order to determine whether estimated figures are robust.
9. In relation to Clause 7(1), NILGA shares the concern that the legislation allows the Department to specify any reserve a controlled reserve, if it so wishes. This would not be compatible with the objective of giving local authorities freedom to manage their own financial affairs.
10. NILGA is of the view that other funds established under Clause 9(1) should not be subject to any departmental control and therefore should not be designated as controlled reserves in accordance with Clause 7.
11. NILGA welcomes the removal of the legislative requirement to obtain departmental approval to borrow money and the inclusion of a power to borrow for any purpose.
12. Clause 4 requires the Chief Financial Officer to submit a report on the robustness of the estimates of the Council; Clause 6 requires the Chief Financial Officer to report to the Council on the adequacy of financial reserves. NILGA would suggest that there should be a requirement to report to the Council on the review of the affordable borrowing limit.
13. In relation to Clause 14 (2), it is NILGA's view that the legislation should restrict this provision to circumstances where a local authority has disregarded its duty or obligation under Section 13.

14. In relation to credit arrangements NILGA endorse the ALGFO viewpoint. It is ALGFO's view that trade creditors should be excluded from the definition of a credit arrangement as trade creditors are part of the working capital requirement and not long term debt. It is unclear whether Clause 17(3) (b) removes trade creditors from credit arrangements and therefore from the determination of the affordable borrowing limit. We are also concerned that longer-term liabilities such as provision for the closure and aftercare costs of landfill sites are to be included in credit arrangements. In essence Section 17 is confusing and it is unclear what liabilities are to be considered as credit arrangements. Furthermore there is no definition of what constitutes a prescribed liability in accordance with Clause 17(3) (c). It is ALGFO's view that the legislation should be amended to provide clarity and remove any doubt about what constitutes a credit arrangement and in particular what is a qualifying liability.
15. Capital receipts – it is ALGFO's interpretation that the new provisions remove the requirement for capital receipts to be applied in the first instance against any money borrowed by the Council for the purpose of acquiring that asset. However Clause 22 implies that by regulation the Department may require the capital receipt to be used to meet debts or other liabilities. NILGA would support ALGFO's view that in principle the legislation gives local authorities freedom to manage their own financial affairs and this is another example where such freedom can be constrained by regulation by the Department. It is our view that departmental control in this area is unnecessary and Clause 22 should be removed.

Part 2 Grants to Councils

16. NILGA welcomes the proposed extension of the legislation to allow all Departments, and not just DoE, to pay grants for other purposes to Councils.
17. Rates support grant –NILGA is concerned that Clause 27(6) is included to legislate specifically that no grant could be made available.

Part 3 Payments to Councillors

18. NILGA welcomes the commitment from the Department to implement outstanding recommendations from the Councillors Remuneration Working Group report (CRWG) (2006).
19. NILGA welcomes the consolidation of all provision dealing with payments to Councillors into one Act. Councils currently have a scheme of allowances that are generally available through publication schemes and therefore the regulations to publish a scheme of allowances will not have a major burden on Councils.
20. NILGA also welcomes the enactment of Clause 33 and the repeal of Section 38 of the 1972 Act, removing some of the restrictions on the payment of expenses incurred by Councillors in attending meetings and conferences. NILGA concurs with the ALGFO view that Section 38 of the 1972 Act was overly restrictive and inevitably led to situations of dispute between Members and Officers on the eligibility of certain expenses for attending meetings and conferences.

21. NILGA also welcomes the proposed legislation to facilitate the establishment of an independent remuneration panel to secure a common framework of allowances and equitable treatment for all councillors in Northern Ireland. We agree that the Department will appoint the independent chair and members for the Northern Ireland remuneration panel and that the process currently in place for public appointments will be utilised.
22. NILGA endorses the view that all expenses should be supported by appropriate evidence of expenditure incurred in accordance with HMRC requirements.

Part 4 Miscellaneous powers to make payments

23. NILGA supports consolidation of provisions relating to local government finance arrangements and payments by Councils into one piece of legislation.
24. In relation to Clause 36, payments for special purposes and the limit on expenditure imposed by Clause 39, NILGA on advice from ALGFO would query the requirement for this legislation in light of proposals to legislate for a general power of well being.
25. It would support the view that should it be necessary to retain Clauses 36 & 37, the wording of Clause 37(1) should be amended as follows:
"A Council shall not make payments under Section 36 unless, in its opinion, the direct benefit accruing...." The proposed amendment is in accordance with the wording in Clause 36.
26. In relation to Clause 38 – public appeals, ALGFO has suggested an amendment to the wording replacing the phrase 'particular event' with the word 'circumstances'. NILGA would support this proposal.

Conclusion

27. In conclusion, NILGA broadly welcomes proposals to modernise the current legislative framework relating to local government finance and councillors' remuneration in Northern Ireland. **For further information or clarification on issues within this response, please contact Helen Richmond, at the NILGA Offices: h.richmond@nilga.org (028) 90798972**

Yours sincerely



HELEN RICHMOND
Policy Officer