

SMT Report – 3 September 2018

Attached is a draft response to the NILGA Consultation.

Once it has been amended by SMT, it will be submitted to P&R for approval on 12 September. Council powers will be requested at the meeting on 4 September as the closing date is 28 September.

Consultation: Devolution within Northern Ireland

31st July 2018 – 28th September 2018

RESPONSE TEMPLATE

NILGA is inviting councils to corporately respond to the questions outlined in this consultation and to provide any other comments and appendices that they wish to add by 28th September 2018, to Karen Smyth at the NILGA Offices (k.smyth@nilga.org).

Derek mccallan
Chief Executive

Date 31st July 2018

Q1: IN GENERAL, LOOKING AT PRINCIPLES AND CONTENT, WHAT IS YOUR COUNCIL'S OVERALL VIEW ON THE NPI REPORT "DEVOLUTION WITHIN NORTHERN IRELAND"?

In general terms, Fermanagh and Omagh District Council (Council) is supportive of the principle of the further devolution of powers to District Councils. A study of OECD nations, showed that those nations with the highest levels of decentralisation, as measured by the central–local revenue split, had the lowest levels of inequality, as measured by the Gini coefficient (Huhne 2007).

Consultation and Engagement

The decentralisation, or devolution, of powers requires a major co-ordination effort. At least four main groups must either support or acquiesce to reforms: central politicians; local politicians; the business and community/voluntary sectors and, of course, the public. These groups often have different interests, are not internally cohesive, and have differing priorities and values – all factors which provide challenges to successful delivery. As important, all of these groups have considerable power to block or undermine reforms they dislike.

In considering the effectiveness of devolution in England following the Cities and Local Government Devolution Act 2016, As the Commons Communities and Local Government Committee noted:

“For devolution to take root and fulfil its aims, it needs to involve and engage the people it is designed to benefit. There has been a consistent very significant lack of public consultation, engagement and communication at all stages of the deal-making process.”

Legislative Change

Councils continue to face challenges on a number of fronts, not least the challenge of continuing to deliver a wide range of services to local communities with reducing budgets. Transformational change is increasingly important to councils as they seek to improve local outcomes with less money. Successful transformation requires robust planning, clear and coherent leadership and suitably skilled staff. Another challenge is the changing landscape in which councils operate. These changes introduce significant uncertainty as well as increasing complexity. For example, the UK's decision to leave the European Union could have a significant impact on councils, but the detail of this is not known.

Civic Leadership

The future of local democracy is dependent on local councillors having a meaningful role, which is understood and valued by the public and which can attract a wide range of people who have the skills and enthusiasm to inspire trust and confidence

Cohesive, decisive leadership is required that brings officers, councillors and their communities together to address the major challenges councils face.

Funding

The underlying financial challenges facing the future delivery of public services are not solely, or even principally, a consequence of the current budgetary situation. They also reflect long-standing needs as well as new demands, particularly from demographic change.

Councils have to access a myriad of funding pots, some of them requiring competitive bids, which have different legal frameworks, different assessment criteria, business case requirements and timescales. This leads to inflexibility and duplication.

Unless consideration is given to altering the current balance of funding between central and local government local decision-makers will remain as dependent on central government grants as they ever were. In the current fiscal climate and with the potential

for significant cuts to the Rate Support Grant and other funding regimes, passing powers and responsibilities to local councils is potentially unsustainable. The imbalance of public funding raises serious concerns about local councils' ability to make the most of the powers and functions that might become available to it. Without a corresponding level of fiscal flexibility, the autonomy of local government will always be constrained, and any sense of direct responsibility will be limited. Not only does this reduce the ability of local government to respond flexibly to local needs and circumstances, but it is likely to have the effect of constraining the ambition of local government.

There is also a clear need to consider social justice in relation to the public finances. If, as argued above, there is to be a rebalancing of central–local government taxation and finance then this cannot happen without some degree of equalisation between geographical areas. Otherwise, those with the largest tax base will benefit disproportionately and inequality will grow.

Rural Disadvantage and Rural Policy Gap

Poverty and social isolation exist in both urban areas and rural areas; however, those living in rural areas often experience poverty and social isolation differently as a result of factors relating to geographical isolation, lower population density and the dispersed nature of many rural settlements. Living in a rural area can also exacerbate the effects of poverty and social isolation for certain groups. For example, additional costs of living in a rural area such as higher fuel or transport costs can have a greater impact on people on low incomes while some groups such as young people or people with disabilities may experience greater difficulties accessing transport services in rural areas than in urban settings.

There are three critical factors to reducing disadvantage for people living in rural areas which need to be addressed by policies:

1. Financial Poverty – address issues of low rural incomes due to no wages, low wages or small pensions; foster rural business initiatives.
2. Access Poverty – local accessibility or transport planning to assist people with limited access to transport; local service delivery and provision.
3. Network Poverty – improved community support provision;

Many policy evaluations are process oriented, looking for example at how things are working, rather than outcome evaluations assessing whether the policy has achieved its aim. The needs of rural areas and the cost of meeting them are often compared with the needs and costs in urban areas. Some policy evaluations fail to pull out the rural dimension in their analysis.

Although the variability of rural settings can make it difficult to generalise findings from one area to another, there is sufficient evidence to suggest that services are more expensive to provide in rural areas and the more remote the area, the more likely it is to suffer relative disadvantage. Providers of services in rural and remote areas have identified a range of challenges that drive up costs, including distance, lack of transport, shortages of skilled staff, economies of scale, and insufficient funding.

There needs to be an acknowledgment that there are additional costs to delivering services in rural areas. Rural service providers require an equitable allocation of resources to enable them to deliver effectively, and rurality needs to be properly reflected in resource allocations.

Devolution of Responsibilities and Powers

The Transfer of responsibility must include the transfer of powers for the delivery and future development of the function. The relationship between central and local government should be revisited to enhance the status, powers, responsibilities and role of local government and, to set out the way in which central and local government will operate together.

Conclusion

Council is supportive of the further devolution of powers which further the following objectives:

- public services are built around people and communities, their needs, aspirations, capacities and skills, and work to build up their autonomy and resilience;
- public service organisations work together effectively to achieve outcomes;
- public service organisations prioritise prevention, reducing inequalities and promoting equality; and
- all public services constantly seek to improve performance and reduce costs, and are open, transparent and accountable.

Q2: WHAT ARE YOUR COUNCIL'S COMMENTS REGARDING THE "POTENTIAL FOR LOCAL GOVERNMENT IN NORTHERN IRELAND", AS PER PAGES 6 AND 7 OF THE NPI REPORT?

Council agrees with the potential for devolution as outlined. However, it is important that services which represent seven per cent of the total expenditure in Northern Ireland, are only transferred when a robust business case has been developed which outlines:

- a. How the devolution programme work will be funded;
- b. Establishes the true costs of the transferring functions, including staffing, ICT requirements, accommodation requirements where applicable;
- c. A clear indication of the sustainability of funding for transferring functions; and
- d. The disaggregation of funding and resources.

Q3: WHAT ARE YOUR COUNCIL'S COMMENTS REGARDING THE PREMISE OF DEVOLVING NEIGHBOURHOOD SERVICES TO COUNCILS IN NORTHERN IRELAND, AS PER PAGES 13 AND 14 OF THE REPORT?

Council is supportive of the premise of devolving Neighbourhood Services as outlined. The arguments on Pages 13 and 14 are intrinsically linked to the potential development of Unitary Authority Status in Northern Ireland.

In England, Unitary Authorities are often formed by combining two or more Councils, sometimes District Councils and sometimes a County and one or more District Councils. In Wales, whilst some of the local councils are smaller, the idea in the current consultation "Strengthening Local Government: Delivering for People" is to merge a number of smaller councils in forming a new Unitary Authority.

Before resolving to pursue an application for unitary authority status, Councils will wish to satisfy themselves that such a transition would

- enhance democratic accountability by providing strong, effective and accountable strategic leadership;
- deliver genuine opportunities for neighbourhood flexibility and empowerment, together with opportunities to improve service performance and resident satisfaction; and
- deliver value for money and equity on public services.

Q4: THE APPENDICES TO THE REPORT EXPAND ON WHAT ARE CONSIDERED TO BE 'NEIGHBOURHOOD SERVICES'. IF YOUR COUNCIL HAS ANY PARTICULARLY STRONG VIEWS ABOUT INDIVIDUAL SERVICES THAT YOU BELIEVE SHOULD OR SHOULDN'T BE INCLUDED IN THIS PROCESS, PLEASE COMMENT BELOW:

In considering the list of services outlined in the appendices, Council would stress that further work needs to be undertaken in scoping out the nature of the service and a clear and common understanding of the totality of the issues involved, such as funding, legislation, staffing and governance.

It should also be borne in mind that there are currently two City Deals which are being progressed in Northern Ireland. City Deals are bespoke packages of funding and decision-making powers negotiated between central government and local authorities.

The Belfast Region City Deal (BRCD) comprises the six councils of Antrim and Newtownabbey Borough Council, Ards and North Down Borough Council, Belfast City Council, Lisburn and Castlereagh City Council, Mid and East Antrim Borough Council and Newry, Mourne and Down District Council.

Derry City and Strabane District Council is currently in discussions with the Northern Ireland Executive, and the Department for Communities and Local Government in London which is the responsible department for Local Growth policy and initiatives and City Deals, with regard to progressing a City Deal for the City and District that will deliver on the key catalyst projects outlined in the recent Strategic Growth Plan.

The making of devolution deals remains an essentially top-down process. The devolution deals and agreements must be negotiated with central government. It is ultimately for the centre – in the form of the Treasury – to have the final say about the content of devolution deals.

As regards the content of devolution deals, they are bespoke and ad hoc. The rationale for this is that previous efforts to devolve to local government were hampered on the basis that unless all areas did things the same way, then nothing would happen. The devolution deals allow combined authorities to negotiate what is appropriate for them rather than a one-size fits all approach. Devolution is asymmetric across the UK; it will also be asymmetric within Northern Ireland. This is particularly relevant when considering the mechanisms and methodology needed to undertake a further devolution of powers in relation to Neighbourhood Services.

Q5: WHAT ARE YOUR VIEWS ON HOW A DRIVE FOR DEVOLUTION OF NEIGHBOURHOOD SERVICES AND / OR OTHER POWERS & SERVICES COULD BE MATERIALLY LINKED TO THE PROGRAMME FOR GOVERNMENT, COUNCIL COMMUNITY PLANS AND THE ASPIRATIONS OF COUNCILS FOR THEIR RATEPAYERS AND THEIR DISTRICTS?

Clearly timing is of critical importance in considering the further devolution of powers. The Fermanagh Omagh Community Plan 2030 and associated Action Plans are due to be formally reviewed in 2021. The Programme for Government covers the period 2016 – 2021. There is a natural synergy there to allow reflection on the potential for changes in responsibility for service delivery. However the challenge will come in the fact that the legislative progress will only be at the commencement stage in 2022; no firm commitments can be made until that time which will impact upon the agreement of Action Plans.

Q6: WHAT ARE YOUR COMMENTS REGARDING THE SIX RECOMMENDATIONS AS PER THE CONCLUSION AND PRACTICAL NEXT STEPS SECTION OF THE REPORT (PAGES 17 AND 18)?

Recommendation 1 – Review of Local Governance

There is clearly a need for continued dialogue and engagement between central and local government in respect of any future prospect of the devolution of powers to local government, the scope of such transfers and the practical and financial implications for councils. It will be important that the both Councils and Northern Ireland Departments affected by any proposed devolution, are actively involved in the process in ensuring that adequate information and assistance is available in relation to the preparatory work required.

Recommendation 2 – Identify the Executive Powers wanted.

Council agrees with this recommendation and stresses the importance of undertaking a meaningful public consultation exercise to build engagement with the process from the public, community/voluntary and business sectors.

Recommendation 3 – Short list of subjects on matters where local communities desire different outcomes from those delivered now.

This recommendation will be relevant if the powers are to be devolved on the basis of bespoke packages to individual Councils or to Councils working in partnership, rather than the adoption of a “one size fits all” approach. It will be important however, to ensure that the potential for achieving different outcomes is linked to the delivery of appropriate funding mechanisms to address existing under investment.

Recommendation 4 – Process of application for “Unitary Status”

There is a need for clarity between the introduction of a process for obtaining Unitary Status and the development of City Deals, with a clear rationale and understanding of the differences and benefits linked to the two initiatives.

Recommendation 5 – Level of financial resources available and method of allocation

The success of any initiative is clearly linked to the availability of sufficient and sustainable funding levels. English local government finance is part way through a series of major changes that will see its focus shift from being based on redistribution according to spending needs, towards more emphasis on providing financial incentives to tackle needs and increase local revenue-raising capacity. In this context, the government is undertaking a ‘Fair Funding Review’. This is aimed at designing a new system for allocating funding between councils.

In particular, the Review will update and improve methods for estimating councils’ differing abilities to raise revenues and their differing spending needs. The government is looking for the new system to be simple and transparent, but at the same time robust and evidence based.

A survey by the Local Government Association (LGA) in England found that more than eight out of ten Councils said a lack of revenue funding was stopping them from investing in sustainable travel.

The LGA said councils would be able to do more to promote exercise and reduce car use if the Government provided long term funding certainty for sustainable travel.

Cllr Judith Blake, transport spokesperson for the LGA, said: ‘Uncertainty and a lack of revenue funding are highlighted as clear barriers to investment.’

The need for sustainable and realistic funding regimes is nowhere more apparent than in the any consideration of the transfer of additional powers in relation to roads. In this Council area we have relatively small numbers of Class A Roads but significant numbers of Class U roads. The ability to address the backlog of maintenance costs and actions will affect Councils’ ability to move towards preventative maintenance which would prove more cost effective in the longer term. It is important that funding allocations ensure that Councils are able to strike a balance between managing and maintaining existing assets and developing new infrastructural improvements.

Recommendation 6 - PfG mechanisms should reflect successor activity

Council agrees with this recommendation.

Q7: WHAT ARE YOUR VIEWS REGARDING THE 'ILLUSTRATIVE TIMELINE' TEMPLATE, ALSO PROVIDED (ATTACHMENT 4) ?

Council feels that the illustrative timeline is challenging. There is a need to establish a clear and unequivocal political will to deliver a devolution programme or initiative.

The legislative process itself is challenging as could be seen in the withdrawal of the Regeneration Bill when the then Minister said ““Whilst some good progress has been made on taking the Bill forward, a number of fundamental policy issues have been raised which have slowed down the legislative process, making the timetable for putting this legislation into place extremely challenging.”

Another area of concern is the legal basis for devolution. In Scotland and Wales, the devolution legislation is to include guarantees that the devolved institutions are permanent parts of the UK's constitutional arrangements. By contrast, English devolution arrangements will involve various orders and statutory instruments made under the 2016 Act, which is itself simply framework or enabling legislation. This is hardly a secure legal basis. It would be open to the Government to bring back any functions or powers through secondary legislation. It will therefore be important to ensure that any such legislation in Northern Ireland is reflective of the Scottish and Welsh arrangements.

Q8: WHAT DOES THE COUNCIL THINK WOULD BE NECESSARY TO HAVE IN PLACE TO UNDERPIN ANY FUTURE TRANSFER OF RESPONSIBILITIES (INCLUDING THE TYPES OF MECHANISMS NEEDED TO BRING SUCH RESPONSIBILITIES FROM CONCEPT TO REALITY)?

As case studies show, reforms led by central government are likely to work only where local government is consulted, listened to, and (usually) accommodated. Not only is their buy-in and consent likely to be vital to achieving decentralisation, but there is a

serious and positive case to be made for their involvement in the planning process: they will have valuable local insights and experience to draw on and will help in anticipating any further obstacles. The importance of a coherent and comprehensive planning process is also relevant for bottom-up demands for decentralisation.

Any devolution of powers can only take effect when there is clarity and a joint agreement on:

- the scope of the functions and powers to transfer to Local Government and the associated legislative and policy frameworks which underpin them;
- Definition of the existing operational arrangements for delivering the functions and powers transferring from Central Government;
- Robust estimation of the direct and indirect financial costs, staffing and other resources deployed in support of these functions and powers (including central support costs);
- Robust estimation of the assets and potential liabilities which will transfer to Local Government;
- The number, type and designation of staff currently deployed in the delivery/direct support of those functions and powers to transfer to Local Government.
- The current operational arrangements for delivery of the functions transferring from Central Government to Local Government, including resource allocation models or other mechanism for resource prioritisation;

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