

# REVIEW OF THE HISTORIC BUILDINGS COUNCIL AND THE HISTORIC MONUMENTS COUNCIL

AUGUST 2017

Historic Environment Division



Department for  
**Communities**  
[www.communities-ni.gov.uk](http://www.communities-ni.gov.uk)

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# 1. Executive Summary

## 1.1 Introduction

Historic Environment Division (HED) sponsors two Statutory Advisory Councils (SACs) – the **Historic Buildings Council** (HBC) and the **Historic Monuments Council** (HMC). These are Non-Departmental Public Bodies (NDPBs).

As identified in ***Public Bodies: A Guide for Government Departments***

*“It is important to regularly review whether individual NDPBs continue to be the best way to deliver these services for which they are responsible, and if they are how the delivery of these services can be improved”.*

**Chapter 9: Reviewing a Public Body** provides the basis for the Terms of Reference for this review (Appendix 1). It indicates that for small NDPBs, including advisory bodies, a “light touch” review is appropriate. These reviews should:

*“be carried out with sufficient frequency to give the Department confidence that the NDPB is delivering high quality services, efficiently and effectively and fits appropriately into the Department’s overall delivery structure”.*

The questions asked in the following sections of this review are based on those outlined in ***Public Bodies: A Guide for Government Departments***. This review also ties in with the Review of Arms Length Bodies (ALBs), agreed by the Executive on 22 November 2016 (Appendix 2).

This review was conducted as a joint review of the HMC and HBC, providing an opportunity to consider the functions and delivery of each Council in relation to their role in advising HED. It has been informed by submissions by Chairs of both the HBC and HMC (Appendix 3 and 4) and encompasses the following key areas, as detailed in the Terms of Reference:

- **Delivery mechanisms**
- **Governance and Accountability**
- **Performance**
- **The Future Organisation**

As part of this review process a stakeholder engagement event was held on 4<sup>th</sup> April 2017. A range of stakeholders who engage specifically with the two Councils were invited by HED to attend a morning session, followed by the wider ALB stakeholder event hosted by the DFC ALB Transformation Programme team. These proved to be very useful sessions with much positive feedback and input to the review, which is summarised at Appendix 11 and Appendix 12.

## **1.2 Strategic recommendations**

Having completed this review of the HBC and HMC the following have been identified as the four key strategic recommendations (See Section 6 for the supporting reasoning underlying these recommendations):

- 1. The retention of both the HBC and HMC, performing their remit as defined in the Planning Act (NI) 2011 and Historic Monuments and Archaeological Objects (NI) Order 1995**
- 2. The Councils should continue to function as separate bodies, and engage on matters of mutual interest, through the continued establishment and use of joint committees and regular meetings of the Chairs as appropriate**
- 3. A further review should be carried out in 2021, to allow the Department to consider whether retention of the Councils (either separately or jointly) continues to meet its requirements, prior to new terms of office due for both councils in 2022**
- 4. A review of the Historic Monuments and Archaeological Objects (NI) Order 1995 will formally commence within the next 12 months, with the intention, if possible, of presenting legislative amendments within this assembly mandate. Consideration will also be given to any need to review and revise the Planning Act (NI) 2011. Both the functions and the operation of the relevant Councils will be considered as part of the review.**

It is considered that this will provide an appropriate and value for money mechanism for providing the Department with advice in carrying out its statutory remit. Current retention of both Councils also fulfils the requirement in the Planning Act (NI) 2011 and the Historic Monuments and Archaeological Object (NI) Order 1995 (HMAOO) to have in place both the HBC and HMC.

## **1.3 Operational recommendations and action plan**

Whilst supporting the retention of the two Councils, it is clear from this review that there are a number of operational areas where improvements can be made which will allow these bodies to more effectively perform their function as both statutory consultees and advisors to the Department. These operational areas, with recommendations, are detailed at the end of each section of the review, and are summarised, with an associated action plan for delivery, at Section 6.

## 2. Background

This section identifies the statutory and policy remit of the HBC and HMC and outlines their operational functionality.

### 2.1 Historic Buildings Council

#### 2.1.1 HBC Statutory and policy remit

The Historic Buildings Council was first established under the Planning (Northern Ireland) Order 1972. Its current statutory authority is derived from Section 198 of the Planning Act (Northern Ireland) 2011. Its specific functions are listed below. Note that in these specific sections references to “the Department” now refers to the Department for Communities:

- i) under Section 80(3) the Council is required to be consulted on the listing of buildings of special architectural or historic interest (or amendment of lists so compiled);
- ii) under Section 84(3), the Council is required to be consulted on the issue of certificates stating that a building is not intended to be listed;
- iii) under Section 104(5)(a) the Council is required to be consulted on the designating of conservation areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance;
- iv) under Section 198(2)(a) the Council is required to keep under review, and from time to time report to the Department on, the general state of preservation of listed buildings;
- v) under Section 198(2)(b) the Council is required to advise the Department on such matters relating to the preservation of buildings of special architectural or historic interest as the Department may refer to it;
- vi) under Section 198(2)(c) the Council may exercise such other functions as are conferred on it by any statutory provision; and
- vii) under Part IV of the Finance Act 1976, the Council is required to be consulted on applications for the exemption of listed buildings from Capital Transfer Tax.

### 2.1.2 HBC Appointments

The HBC is defined under Schedule 5 of the Planning Act (NI) 2011 as consisting of a Chair and members, appointed by the Minister, for a term of three years, and eligible for re-appointment. Appointment is carried out in line with the Code of Practice for Ministerial Appointments:

[https://www.publicappointmentsni.org/sites/cpani/files/media-files/CPA\\_NI\\_Code\\_of\\_Practice\\_JL2-December\\_2016.pdf](https://www.publicappointmentsni.org/sites/cpani/files/media-files/CPA_NI_Code_of_Practice_JL2-December_2016.pdf)

Under this Code of Practice appointments for the same position are restricted to two terms.

The number of members of the HBC is not defined in legislation; it has generally consisted of a Chair and 12 members, although this had increased to a total of 18 at one point, in order to bring in specific areas of expertise. A decision was made by the Department to reduce these numbers, and currently the HBC consists of a Chair and 12 members. Under Schedule 5 of the Act the Council may regulate its own quorum and may appoint sub-committees, which may include persons who are not members of the Council.

Membership of the HBC consists of a wide range of skills and expertise. Current membership includes a number of professional architects, but also a barrister, engineers, a chartered surveyor and an accountant. This variety of backgrounds ensures that the Council brings a variety of experience and different approaches to its work.

Members receive an induction pack and attend an induction meeting with the Department on appointment to the Council.

### 2.1.3 HBC Meetings

The HBC usually meets 10 times during the year, with meetings lasting approximately a full day. The number of meetings required per year is not defined in the legislation, and the meeting schedule is decided by the Chair of the HBC, in liaison with HED, based on workload for the Council. The schedule of meetings is generally flexible and additional meetings can be arranged should the Chair consider they are required. A number of members also participate in the Joint Committee on Industrial Heritage (JCIH) which meets up to four times per year, for a half day, usually on the same day as an HMC meeting (which are usually a half day in extent). A member of HED staff, at Grade 7 level, attends the HBC meetings as liaison between the Council and the Department.

### 2.1.4 HBC Reports

Under Schedule 5 of the Planning Act (NI) 2011 the HBC must prepare and submit to the Department a report on its activities and the Department is required to lay a copy of this report before the Assembly. The HBC has produced 19 reports to date, one for each of their 3 year terms, the most recent being for the 2013 – 2016 term which is

accessible at: <https://www.communities-ni.gov.uk/publications/historic-buildings-council-northern-ireland-2013-2016>. These reports aim to provide the general public, as well as those who work in the heritage sector, with an insight into the key work areas of the Council.

### **2.1.5 HBC Budget**

Under Schedule 5 of the Planning Act (NI) 2011 the Department may cover travel and other out of pocket expenses incurred in connection with the business of the Council. There is no remit within the legislation for the Chair or members to be paid for their service on the HBC and therefore membership is in a voluntary capacity. A small joint budget of c. £12,000 p/a has been allocated to the SACs to cover travel, hospitality for meetings and other occasional expenses such as report publication or venue hire.

## **2.2 Historic Monuments Council**

### **2.2.1 HMC Statutory and policy remit**

The foundations of the Council can be found in the Ancient Monuments Advisory Council 1926 – 1970. The HMC itself was first established in 1971 under the provisions of the Historic Monuments (Northern Ireland) Act 1971. The authority of the Council is currently derived from the Historic Monuments and Archaeological Objects (NI) Order 1995 (HMAOO). References in this Order to “the Department” now refers to the Department for Communities. The specific functions outlined in the Order are:

- i) Article 3 provides the authority for the Department to compile and maintain a schedule of historic monuments for their protection. It is a requirement of Article 3 (6) that the Department consults the HMC on any proposed additions or deletions from the schedule
- ii) Under Article 22 there is to be a Council, known as “the Historic Monuments Council”, for the purpose of advising the Department on the exercise of its powers under the Order
- (iii) Article 28 (1) requires consultation with HMC regarding the disposal of any land acquired under Articles 13, 14 or 18 (i.e. State Care Monuments).
- (iv) Under Part IV Supplementary 44(2) the HMC shall be consulted by the Department prior to making regulations relating to scheduled monument consents

Planning Policy Statement 6 (Planning, Archaeology and the Built Heritage) states that the HMC is consulted by the Department on the identification of Areas of Significant Archaeological Interest.

In practice the Council also advises the Department on:

- Policy and guidelines
- Significant proposals relating to monuments in State Care.
- The general state of preservation and conservation of historic monuments, archaeological objects and the associated records and archives;
- Planning and development issues affecting Historic Monuments, their settings, and historic landscapes;
- Other matters relating to the preservation of Historic Monuments as may be referred to it;

### **2.2.2 HMC Appointments**

The Council is defined under Article 22 (2) of the HMAOO as consisting of a Chair and such number of other members so appointed as the Department, with the consent of the Department of Finance, may determine. Appointment to the HMC is carried out in line with the Code of Practice for Ministerial Appointments.

Currently the HMC consists of a Chair and 14 members. The term of office is not specified in the legislation, but Article 22 (2) states that the chairman and members shall hold and vacate office in accordance with their terms of their appointment. Under the Code of Practice for Ministerial appointments, appointments for the same position are restricted to two terms, and the maximum period in post must not exceed 10 years. Until 2012 the term of office for the HMC was three years, but this was then extended to 5 years. This has both pros and cons. It allows for continuity and reduces the considerable work required for the recruitment competition and appointments process. There also tends to be a rather limited pool of people in Northern Ireland who are interested in serving, and who can contribute their time voluntarily to the Council, which can make recruitment difficult. However, a five year term also reduces the turnover of members, potentially limiting “new blood”. In order to deal with this, a recruitment process for the HMC has recently been run in parallel with one for the HBC, to fill unexpected vacancies which had arisen in the HMC mid-term, and this process worked well to bring in new expertise. An issue generated by this approach, however, can be the creation of varying terms and end dates for members, which needs to be carefully managed in terms of the appointments process.

Quorum for the HMC is not defined in the legislation, and is a matter for the Council, subject to any direction from the Department. Currently no quorum is defined.

Members receive an induction pack and attend an induction meeting with the Department on appointment to the Council.



### **2.2.3 HMC Meetings**

The HMC generally holds 6 meetings per year, usually a half day in duration and usually also holds a number of full day field visits. The number of meetings required per year is not defined in the legislation, and the meeting schedule is decided by the Chair of the HMC, in liaison with HED, based on workload for the Council. The schedule of meetings is generally flexible and additional meetings can be arranged should the Chair consider they are required. A number of members also participate in the Joint Committee on Industrial Heritage (JCIH) which meets up to four times per year, for a half day, usually on the same day as an HMC meeting. A member of HED staff, at Grade 7 level, attends the HMC meetings as liaison between the Council and the Department.

### **2.2.4 HMC Reports**

There is no requirement under the HMAOO for the HMC to produce a report, but it has produced two to date, covering the terms 2003 – 2009, and 2009 – 2012. A third report on the 2012 – 2017 term is currently in preparation, and is due to be published by the end of the term extension period, in January 2018. These reports aim to provide the general public, as well as those who work in the heritage sector, with an insight into the key work areas of the Council.

A State Care Visitation Survey Report was also published in 2012, detailing the findings of a large body of work which the HMC had completed in its role as advisor to the Department.

### **2.2.5 HMC Budget**

Under Article 22 (4) of the HMAOO the Department may pay relevant expenses and travelling and subsistence expenses, incurred by the Chair and members in fulfilling their HMC duties. There is no remit within the legislation for the Chair or members to be paid for their service on the HMC and therefore membership is in a voluntary capacity. A small joint budget of £12,000 p/a has been allocated to the SACs for travel, hospitality for meetings and other occasional expenses such as report publication.

## **2.3 Committees**

### **2.3.1 Legislation relating to the establishment of Committees**

Under the Planning Act (NI) 2011, Schedule 5 the HBC shall:

4 (1): subject to sub paragraph 4, appoint such committees as the Department [DfC] may determine

4 (2): A Committee appointed under this paragraph may include persons who are not members of the Council

4 (4): the Department [DfC] may, by regulations or direction, make provision with respect to the appointment, constitution or functions of committees appointed under this paragraph.

Under the HMAOO Article 22 (3):

The Council (HMC) may, with the approval of the Department [DfC]-

- (a) Appoint committees; and
- (b) Appoint to any such committee persons who are not members of the Council

Although the legislation permits the appointment of persons to sub-committees who are not members of the Councils, to date this has not taken place. The Department needs to seek greater clarity as to whether appointments to any committee which may be established are Ministerial appointments, particularly where those committee members are not members of either Council.

Currently only one committee, the Joint Committee on Industrial Heritage exists.

### **2.3.2 Joint Committee for Industrial Heritage (JCIH)**

The JCIH was established in 1992. It brings together representatives of the HBC and HMC who volunteer to sit on the Committee as they have a particular interest in industrial heritage, and also issues relating to transport, infrastructure, water supply and other utilities. The Committee also often pursues an interest in issues relating to Defence Heritage. It acts as an advisory committee to the Councils and as such does not have separate governance documents. The Secretariat also provides services to the JCIH, and minutes and full records are maintained.

There is no defined minimum representation from the HBC or HMC on the JCIH, and thus membership balance between the Councils is dependent on the number of those with an interest in industrial heritage currently on each Council. Membership is approved by the relevant Chair. The Chair of the JCIH is alternated between HMC and HBC, and is usually not the current chair of either Council. Members of the Council are asked to put themselves forward for the position of Chair of the JCIH and a decision to appoint is taken by the Council chairs.

The JCIH has proved to be particularly useful in discussing the “grey area” between what should be scheduled as a historic moment under the HMAOO and what should be listed as a building under the Planning Act. It provides a useful forum to bring together the expertise from both Councils to discuss which would provide the better

protection in each individual and unique set of circumstances. It also provides advice, through the Councils, on the Departmental policy approach on this issue.

### **2.3.3 The need for additional Committees**

The Councils and the Department should consider, as part of their regular business planning, whether a single Committee is sufficient to deal with needs. Options include retaining only the JCIH; retaining the JCIH and each Council separately or jointly creating a number of additional Committees for specific topics; retaining the JCIH and creating another more general “Joint Working Committee” which deals with a wider range of issues; or broadening the remit of JCIH to become a general Joint Working Committee. The role of a Joint Working Committee may be particularly relevant for issues such as the Local Development Plans and Community Plans and associated liaison with local councils, where a joined up approach will have more consistency and impact. Other issues such as the incorporation of data that is being generated by local heritage groups, community groups, universities, research grants etc. into a coherent and accessible knowledge base may also benefit from a joint committee. There needs to be a recognition, however, that the establishment of further committees may result in additional work which would require additional Secretariat resources. This issue should be explored further in business planning meetings between the Chairs and HED.

### **2.3.4 Background – Summary of Recommendations**

- i) The Department needs to seek greater clarity as to whether appointments to any committee which may be established are Ministerial appointments
- ii) The Department and the Councils should consider, as part of their business planning, whether there is any need for additional committees, and membership of any such committees



Kilfeaghan Dolmen (HED)

## 3. Delivery Mechanisms

**This section considers the functions of the SACs, and how those are currently delivered.**

### 3.1 How do the SACs contribute to the delivery of government and departmental objectives?

HED works in collaboration with a wide variety of individuals and organisations in the public, private and third sectors to ensure that it records, protects, conserves and promotes our heritage in ways which sustain the economy and our communities. The Division provides expertise and skills, seeking to improve the understanding, caring for and appreciation of our heritage, and to ensure a suitable balance between respecting a rich past and building a successful future. The HBC and HMC are key strategic advisors to the Department in the delivery of this work.

Full details of the range of functions which the SACs provide, is set out in Section 2 above. This work is supported by a Memorandum of Understanding for the relationship between the Department and the SACs (Appendix 5).

Under the Planning Act (NI) 2011, there are a number of specific items on which the HBC must be consulted. However, Section 198 also notes that their role is “to advise the Department on such matters relating to the preservation of buildings of special architectural or historic interest as the Department may refer to it”. In relation to the HMC, the range of specific items on which the HMC must be consulted is more limited. However, Article 22 defines the purpose of the Council as “Advising the Department on the exercise of its powers under this Order”.

Whilst the majority of work for both Councils relates to advising the Department on the designation and protection of heritage assets, i.e. the listing of buildings and scheduling of historic monuments, this authority for both to provide wider advice to the Department enables HED to consult them on a range of issues. This includes the acquisition of heritage assets, policy, guidelines, proposed changes in practice, and on responses to consultation from the local councils or Department for Infrastructure (DfI) on significant or complex planning applications. The SACs provide the Department with a forum of highly experienced professionals and knowledgeable individuals from across the sectors who can act as a “critical friend”, and provide a peer review function, as well as input, facilitating the development of higher quality proposals by the Department.

A key objective for HED is the protection and conservation of heritage assets. A method of delivering this has been by providing advice as a consultee through the Development Management (i.e. planning application) process. Responsibility for planning approvals now rests with the local councils, and with DfI for regionally significant applications. HED is a statutory consultee in relation to historic environment matters and contentious or particularly significant proposals are brought by HED to the

SACs for their consideration and advice. HBC and HMC themselves are not a statutory consultee for planning applications, but often provide comment directly to the local councils through the public consultation process. The SACs also provide input to the Local Development Plans, which will strategically influence how the historic environment is managed in coming years.

The Chair of the HBC has raised concerns that with the move of responsibility for planning decisions from the Department within which HED sits (as it was previously in DOE), to the local councils and DfI, he feels it is now more difficult for the SACs to make appropriate representation with regards to these applications. He has noted that with the move to 11 councils there is a lack of a central point of contact and enquiry, and it is difficult to build relationships and a knowledge base with each individual development control team.

The SACs provide a strong challenge function to the Department on the key issues of removing existing protection from heritage assets (de-listing or de-scheduling) and enforcement. This ensures that the Department can seek advice to deliver consistency and impartial and appropriate actions relating to the protection of heritage assets. This is particularly important as these are often controversial decisions, with potentially significant impacts, particularly in relation to listed buildings.

The HBC and HMC also contribute to the development of strategic approaches for the historic environment. HED is at present leading a stakeholder engagement group on the heritage sector in Northern Ireland, including both Chairs of the SACs, to consider ways in which the sector as a whole can be more joined up and can deliver more effectively. This group will be instrumental in influencing the approach of the sector in future years. The Chair of the HMC is also currently participating in a Northern Ireland archaeological sector stakeholder group, with the challenge of producing a strategic way forward for this diverse group. Council members also represent the SACs by participating in a number of Local Landscape Partnerships in order to forward the remit of protecting and conserving the historic environment.

### **3.2 Is there a continuing need for the SACs?**

As described in Section 2 of this report, the HMC and HBC are both a statutory requirement under the current legislation. It would be possible in future, in the planned review of the legislation, for this requirement to be amended or removed should it be thought appropriate at that time. Until any amendments are in place, however, the Councils must both continue to exist, and be consulted as required.

Under the current legislation there is a statutory requirement for the HBC to be consulted on the listing of buildings (currently approximately 8,900 buildings and structures). In the 2013-16 term the HBC considered 467 listings / delisting, and 132 to date in the current 2016-19 term. It expects these numbers to increase significantly as there is currently a Second Survey of listed buildings underway. Agreed Departmental targets for completion of this survey to stage 1 includes approximately 1300 buildings by 2020 and stage 2 by 2026 will consider the grading of a further 2200 buildings.

Similarly, for the HMC, there is a statutory requirement to consult the Council on the Scheduling of monuments for protection. The Department is currently undertaking a review of the schedule (of over 1900 monuments), and the HMC is providing advice on this review.

Proposals for listing, scheduling or removal of protection from these features must be presented to the Councils for consultation. This process of articulating and demonstrating the reasoning for these proposals to the Councils ensures that Departmental staff give due consideration to the decisions and the impacts that they may have. Decisions taken relating the listing of historic buildings and scheduling of historic monuments can have significant impacts in terms of works which can be done to those heritage assets, planning permissions, grants and funding etc. On occasions the decision to list or schedule can be controversial. Bearing these factors in mind it is useful for the Department to have an independent body, including knowledgeable and highly regarded professionals, which it can consult. The Councils provide a strong challenge function to the Department, robustly testing proposals for designation, or the removal of protection from heritage sites, questioning and exploring the rationale behind the detail of proposals, such as the location of designation boundaries, and ensuring that the Department gives each proposal the due diligence and thorough research that it requires.

As well as their statutory role, both the HBC and HMC are also responding to consultation on the Local Development Plans (LDP) and Community Plans, which are currently being developed by the 11 local councils across Northern Ireland, which is a significant volume of work. DfC will be consulting the SACs on the guidance document on Strategic Environment Assessment relating to heritage assets. This document will be provided to the local councils to help them through this LDP process, which is new to their remit. The HMC will be inputting to the proposed designation of Areas of Significant Archaeological Interest as part of this plan process, as required by the Strategic Planning Policy Statement. Other key advice documents for the local councils, such as on the setting of heritage assets will also be presented to the SACs for their detailed input and advice in the near future.

With the move to the Department for Communities, HED is also currently reviewing its suite of advice and guidance notes targeted towards the owners, guardians and managers of heritage assets as well as those undertaking development work which may impact on them. Both SACs will have input to these revised documents.

An issue which has arisen at both the HBC and HMC in recent meetings is the number of community, historical and academic groups etc. who are carrying out research and generating data, which is then not being stored in any central repository, made consistently publicly available to a wider audience or being synthesised to produce broader, useful information. The Councils are to give this issue further consideration, and bring forward suggested solutions, and as their membership covers a wide range of background this is something which they are particularly well-placed to do.

As noted in section 3.1 there is a stakeholder group working on developing the way forward for the archaeology sector and also one carrying out similar work with the wider heritage sector as a whole in Northern Ireland at present. The Chairs of both the

HBC and HMC are very active participants in these groups. They represent the views of their members, whose wide range of backgrounds, and spread of focus, makes them well placed to provide considered opinions and input which is often based on professional experience. This enables them to provide a critical overview of how things work at present, where things do not work or could work better and identify potential solutions. The fact that members of these Councils come from a range of backgrounds also facilitates the identification of potential for future delivery partnerships, which is a key element that these stakeholder working groups aim to address. The ongoing involvement of both SACs will be therefore provide useful and independent input.

In the immediate future the HMC will be involved in four large areas of work: the review of archaeological licensing, development opportunities at State Care monuments, resolving the archaeological archives issue for Northern Ireland in conjunction with the National Museums, and finally a review of the legislation governing issues relating to sites, monuments and archaeology in Northern Ireland, the HMAOO. This legislation is now approaching 25 years old and predates the introduction of the current development control (planning) process which generates most archaeological work in Northern Ireland. The legislation requires a detailed review and update, which will be a substantial area of work. As detailed above, the range of backgrounds and professional expertise of the HMC makes them particularly well-placed to provide input to each of these four areas. The research / academic, commercial and charitable archaeological practitioners on the HMC allows for a discussion which is informed by years of active experience in working with and / or implementing these items. The HMC, with their ongoing relationship with and understanding of the work of the Department, will be better placed than only using a stakeholder group to inform this review.

The above discussion indicates that as well as the present legislative requirement to retain both Councils, and their role as statutory consultees, the body of work currently underway supports the ongoing need for them as strategic advisors to the Department. This view was very much supported by feedback from the HED stakeholder engagement event, hosted as part of this review process with relevant bodies in the heritage sector, where the question ‘Do you think the functions currently delivered by the Statutory Advisory Councils are needed?’ was posed. There was a unanimous positive response to this, particularly relating to strategic issues and policy direction (Appendix 11). This was also strongly reflected in the feedback from the ALB Review Stakeholder Engagement event (Appendix 12).

### **3.3 Is there a need for independent SACs?**

The SACs provide an independent voice, or “critical friend” to review the work of the Department. Whilst the Department has a range of skills in-house, the Councils provide an opportunity to engage with those from a diverse background, many of whom are extremely knowledgeable in relevant areas through their professional roles, previous employment or simply as passionate “amateurs”. These members are also often the people who have had to implement the Department’s policies on the ground,



or work with the decisions which the Department has made, so they bring an external, operational perspective that it is impossible for the Department to have in-house.

The policies developed by HED are wide reaching, often having significant impacts on strategic issues for Northern Ireland such as wind farm development, large scale infrastructure projects and major regeneration projects, such as Ebrington Barracks. Listing buildings, identifying monuments for scheduling or recommending the designation of an Area of Significant Archaeological Interest can be controversial. This is particularly the case where there are associated complex issues, or where there is strong public feeling. Some of these areas, such as the ASAs are large scale and will have significant impacts. The importance of having an independent body, to which the Department can refer its proposals, cannot be over-stated. The range of interests represented on the Councils, as described in Section 3.2 above, can ensure that the Department is taking the right decision, and has considered all the options.

HED has links with professional colleagues across the UK and Ireland and regularly liaises with them. However, this independent review from outside of the government bodies can provide a helpful, perspective. It is also often useful to have a voice from outside the “professional” group, which can provide a community point of view. This has been articulated well by Historic England which in an internal report on the Review of Advisory Committees and Panels (October 2015) noted:

‘Historic England benefits enormously from its volunteer group of external experts. They provide:

- An infusion of knowledge and best practice into the organisation;
- A ‘real-world’ check on our views – mitigating the risk of Historic England becoming ‘one-eyed’;
- Added authority to the views staff express because of the external expert challenge;
- A means of passing on new knowledge and information to the sector;
- Potential advocacy of Historic England’s work; and,
- A means by which staff can learn of new issues arising in the sector.’

In considering the question of whether the functions delivered by the SACs are needed, the stakeholder engagement group emphasised very strongly the need for the SACs to be independent, particularly to provide outside advice and views in to government (Appendix 11 and Appendix 12 pg. 20).

### **3.4 How is the role of the SACs provided in other jurisdictions?**

The way in which listing and scheduling function, and how advice relating to this is provided, varies in the different jurisdictions of the UK and in Ireland.

## England

In England it is the Secretary of State for the Department of Culture, Media and Sport (DCMS) who makes the final decision as to whether a building or site should be protected by listing or scheduling. This decision is based on advice from Historic England (HE), who also carry out the scheduling and listing process and maintain the National Heritage List for England (which consists of all designations including scheduling, listing, protection of wrecks etc).

Historic England is obliged under its founding statute (the National Heritage Act 1983) to maintain at least one committee to advise it on ‘ancient monuments’ and another on ‘historic buildings’. This has been fulfilled by a combination of Historic England Advisory Committee (HEAC) and the London Advisory committee (LAC) which consider both monuments and buildings issues, but are divided on geographic lines. There are also a number of Panels including on Industrial Archaeology, Historic Wrecks, Historic Parks and Gardens and Battlefields.

A review of the Committees carried out in 2015 recommended the retention of the Committees to meet statutory requirements, but also the establishment of an external expert advisory group that all current members of the advisory committees and panels would join. This overall aim is that HE can make better and more efficient use of its wide group of advisors by treating them as a single group rather than a number of differently constituted bodies and individual experts. As noted in section 3.3 above, Historic England has identified that it benefits enormously from its volunteer group of external experts.

## Scotland

Historic Environment Scotland (HES) was formed in October 2015 as a non-departmental public body following the merger of Historic Scotland and the Royal Commission on Historic and Ancient Monuments Scotland. HES is responsible for providing expert advice to Ministers on the historic environment but deals directly with all matters affecting scheduled monuments and listed buildings, including their designation. Whilst HES may occasionally seek an external view about the possible interest of a particular type of site it is not a requirement.

HES previously had a Historic Buildings Council for Scotland and an Ancient Monuments Board. They were abolished, along with various other public bodies, by the [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003](#) and its functions were taken up by a new advisory body, the [Historic Environment Advisory Council for Scotland](#) (HEACS) which was in turn abolished on 1 August 2010. Reasons for its dissolution were given in a Scottish Government policy memorandum at the time as:

*‘The key driver behind dissolution of HEACS is duplication. Historic Scotland is responsible for providing expert advice to Ministers on the historic environment and in recent years has increased both its capacity to deal with policy analysis and its degree of consultation and engagement with stakeholders. This has enabled the Scottish Historic Environment Policy programme to progress. As such, in today’s landscape,*

*Ministers do not need an Advisory Council as well as a dedicated Agency to provide expert advice on Scotland's historic environment.'*

## Wales

In Wales the Welsh Ministers, through Cadw, compile a Schedule of Ancient Monuments and a List of Buildings of Special Architectural or Historic Interest. Cadw was previously advised by a Historic Buildings Advisory Council and Ancient Monuments Advisory Board, which were abolished in June 2010. Cadw have noted that the main reason for the abolition was that both bodies had become rather dated in terms of process and remit and the membership had not kept in step with the range of activities Cadw undertook – i.e. Cadw's activities had expanded considerably and neither body provided sufficient challenge to Cadw across the range of activities or brought additional perspectives from which the historic environment might benefit. Cadw considered the advice to be specialist and narrow and that the advisory bodies could not cover all bases in a climate where Cadw were encouraging partnership working and the development of synergies. (This contrasts starkly with the current HMC / HBC membership where there is a strong challenge function and a wide range of advice from current practitioners). As a result Cadw considered that the abolition of the Historic Buildings Advisory Council and the Ancient Monuments Advisory board had little impact on its work. It was agreed instead to establish a 'call-off' panel of leading experts for advice and this was a precursor to the Historic Environment Act 2016 which has now made provision for the establishment of an Advisory Panel for the Welsh Historic Environment, although these powers have yet to be commenced. The purpose of the panel will be to provide the Welsh ministers with advice on matters relating to the formulation, development and implementation of policy and strategy in relation to the historic environment in Wales.

Between England, Scotland and Wales there is also an informal arrangement with their counterparts to act as a 'critical friend' and peer review specific cases.

## Ireland

Decisions regarding legal protection, designation etc. of monuments and buildings are taken by the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, under the terms of the National Monuments Acts.

When the Heritage Council was set up in 1994 it took over the functions of the National Monuments Advisory Council (which included buildings), the Historic Monuments Council and the Wildlife Advisory Council. The Heritage Council does not function as the NMAC did, however, and there is now limited input in terms of advice to the Department. A senior official with the National Monuments Service has noted that

“There are times when we really miss having an independent body such as the old NMAC to provide advice and assistance – particularly when dealing with controversial cases. I would certainly argue in their favour”.

What emerges from the other jurisdictions is therefore a range of approaches to seeking external advice with no clear-cut, single solution. What comes across strongly however, particularly from the Historic England report noted in section 3.3 above, but also from, the comments from officials in Ireland and the intention of Wales to reintroduce an advisory panel, is that a group of volunteer experts, which sits outside the Department in an advisory and consultative role, is considered to provide significant benefits.

### **3.5 What links do the SACs have with other organisations?**

Both the HBC and HMC have many informal links with other organisations through their participation in stakeholder engagement groups etc. In terms of formal links, they have a well-defined relationship with the Council for Nature Conservation and the Countryside (CNCC) which, under the former Department of the Environment, was the 3<sup>rd</sup> advisory Council to that Department. With the review of government departments in May 2016 sponsorship of CNCC moved to the Department for Agriculture, Environment and Rural Affairs (DAERA), whilst the HBC and HMC moved to DfC. The three Councils remain very conscious of the need to retain close working relationships to ensure that a consistent approach is taken to managing our natural and built environment, and there is a belief in the “stronger together” approach, particularly at a time when new Local Development Plans are being drafted by the local councils, which will have a significant impact on the environment as a whole.

This need for an ongoing, joined up approach was emphasised by those who attended the joint HMC / HBC / CNCC Symposium *Future Places: Using Heritage to Build Resilient Communities*, hosted by the Councils in November 2016. To facilitate this the Chairs of the HBC, HMC and CNCC have arrangements in place to meet twice per year, along with their respective sponsor branches.

The HBC also has some links with the Ministerial Advisory Group for Architecture and the Built Environment (MAG). These are explored further in section 3.6 below.

With the responsibility for development management (planning approval) now resting with the local councils and DfI, rather than the former Department of the Environment, the Chairs of the SACs have emphasised the need for them to develop a relationship with the local councils which will enable them to promote the value, benefits and protection of heritage assets. Both SACs are currently considering how best they can create effective engagement with the local councils.

### **3.6 Are there other bodies carrying out similar or complementary functions, which could be merged with the SACs, or functions transferred?**

There are currently no other groups carrying out a similar function to the HMC.

In relation to the HBC, its function is similarly unique, although there are some areas of overlap with MAG, particularly in terms of landscape and heritage which are two of the 10 subject areas on which they work. MAG however is a non-statutory advisory body whose primary role is to challenge all government departments on the implementation of the cross-Departmental Architecture and Built Environment Policy which has three guiding principles, including heritage. Design reviews forms a major part of their activity.

<https://www.communities-ni.gov.uk/articles/work-ministerial-advisory-group-architecture-and-built-environment>

In this regard MAG have no statutory functions and perform a very different role than the HBC. However, whilst there is no obvious scope for the transfer of functions, it seems clear that the HBC and MAG do share areas of common interest which could benefit from further links and this is noted in section 3.7 below.

An obvious question is whether the HBC and HMC should be merged, subject to amendments in the legislation to address the current statutory requirement for the two Councils. This has been discussed in detail with the Chairs of both the HBC and HMC as part of this review. The strong opinion of both was that whilst the twice yearly meeting of Chairs is very useful and there are clearly areas of overlap, particularly on the industrial and defence heritage, addressed through the JCIH, the remit of both Councils, and the expertise they require are in fact very different. This is not least because the two Councils operate, and provide advice in relation to two very different pieces of legislation. If a merger was sought, resulting in one single Council, it is likely that this would require a reduced number of members, as a Council of 30 participants would almost certainly be unwieldy and result in exceptionally long meetings. This would therefore result in a reduction in the amount of skill, expertise and professional opinion which is currently given to the Department on a voluntary basis. It may be possible to negate this by establishing a panel of call-off experts. However this would result in additional recruitment work and potentially a lack of consistency in advice.

The current workload of both Councils, particularly the demanding timetable of the Second Survey in relation to listing and delisting of buildings, and the upcoming policy and legislative reviews for the HMC, must also be considered. With a merged Council it would be necessary for to meet on more occasions to process the joint workload, and this would obviate any potential savings or efficiencies from a merger. It also seems unlikely that the Department will be able to attract volunteers who are willing to give up more of their time than the 1 or 2 days per month minimum that the Council members already have to commit to. Expecting volunteers to commit to more than this seems excessive, and there is currently no legislative remit for offering payment for services – which would also increase costs. Many of the current volunteers on the Councils join specifically because of their professional background or a personal interest in either monuments or buildings, and it may be more difficult to sustain this

interest in a Council with a wider remit. This is probably demonstrated by the small number of members on each Council who volunteer to sit on the JCIH, and discussion with Historic England in relation to their larger advisory group has indicated that they have found this to be a problem in a joint council – with members feeling that they have nothing to contribute to large parts of the meeting because it does not fall within their range of expertise of interest. On balance, therefore, it appears that currently a merger of the two Councils would be neither practical nor beneficial. This was a view strongly supported by the stakeholder engagement groups (Appendix 11 and Appendix 12, pg 17). The JCIH currently provides a suitable forum for discussing areas of mutual interest between the two Councils, and ensuring that advice is provided to the Department on appropriate statutory protection and policy.

### **3.7 Are new partnerships or relationships needed with other NDPBs operating in this area?**

Whilst there are no other NDPBs which provide a specifically similar function to the HBC and HMC, there are other bodies which are carrying out work in the heritage sector within the Department. This includes MAG, as mentioned above, but also the Northern Ireland Museums Council and National Museums Northern Ireland. There may also be potential to engage with the Construction Industry Training Board in relation to construction skills in the heritage sector.

An annual meeting of the Chairs and interested members of these groups within the heritage sector could develop relationships and identify areas of mutual interest and where added value can be gained from working in partnership. Other adhoc engagement could then follow, should specific issues arise which the NDPBs feel would benefit from additional liaison.

Another option may be for the establishment of Committees which deal with specific sub-categories of work, or to provide specific overlaps with other bodies. The potential to establish Committees, including members who are not members of the SACs is noted in Section 2 above, and this should be considered further, although additional committees will generate additional Secretariat workload and a proliferation of small sub-committees may be counter-productive and hinder good communication rather than promoting it.

### **3.8 Is there a need for a standing body or can the advice be sought on an ad hoc basis directly, or through consultation with industry, the voluntary sector etc? Can the SAC be reconstituted as a body through one of these other sectors rather than as a Government sponsored NDPB?**

As noted previously, under the current legislation both the HBC and HMC are a statutory requirement, although in future it would be possible to amend this by removing the requirement to have an advisory council from both pieces of legislation. Appointments to the Councils are currently made by the Minister, and are made in line with the Commissioner for Public Appointment's Code of Practice for Ministerial Public

Appointments in Northern Ireland. Should there be a move towards another method of provision of the functions of the Councils the implications with regards to the requirement for Ministerial appointment would need to be fully explored.

There are a number of advantages to having a standing body. The application and interview process assures a high standard of advice which is targeted towards the skills and expertise which the Department has identified as needing. The standing body also ensures a consistency of advice. Advice is also occasionally required on an urgent basis, for example in the case of an emergency scheduling to prevent damage to a historic monument. In these circumstances it would prove almost impossible to seek advice on an adhoc basis from the sector.

It is likely that procurement of advice on an adhoc basis from the commercial archaeological or architectural sector will cost more than the small costs associated with both advisory councils. As the Department licenses and consents certain activities, in the field in which the commercial sectors work, there is also potential for the advice received from the sectors to be influenced by their own work areas and conflicts of interest have the potential to arise (something which is closely monitored with the SACS).

Members of the HBC and HMC all serve in a voluntary capacity. The only expenses covered are travel and subsistence, and there would be a similar requirement if the department was to seek advice from the voluntary sector, outwith the existing standing councils. There is therefore no obvious cost or time saving with this approach.

It would be possible to reduce the number of members of the HMC and HBC, having a smaller core group, supplemented by a panel of expert advisors. This would be along similar lines to the way in which the MAG service is provided, and could potentially help with ensuring a supply of “new blood” to the provision of expert advice. However, the larger standing Councils, as noted above, provides for a consistency and range of advice by people with a detailed, and up to date knowledge of the Department’s functions, policies and approaches, which it seems unlikely would be improved on by this change. If additional members of the Councils are required, for example to fill unexpected vacancies which arise through illness etc, this can be addressed by piggybacking the competition for membership of one Council onto the competition for the other Council, a technique which worked well in 2016, providing 2 new members to the HMC mid-term.

### **3.9 Stakeholder feedback on delivery mechanisms**

The HED stakeholder engagement event (Appendix 11) posed the question ‘do you think the functions could be delivered in a better way, e.g. through merging the Councils with each other or with other organisations, using a different body to carry out the work, or delivering them directly by the Department or local government etc?’ The unanimous view of the stakeholder group was that the two Councils should be retained and should remain as separate bodies, to avoid “blunting the instrument”. It was felt that there would be little to be saved or gained by merging the two groups, and that larger meetings would be unwieldy, with members unable to contribute to

issues outside their specific areas of monuments or buildings expertise. Merging the Councils and reducing the number of members would reduce the amount of expertise available, and this was emphasised in the DfC ALB Stakeholder event report (Appendix 12 pg. 10). In relation to MAG the stakeholders noted the scope for confusion / conflict between MAG and the HBC as both have a remit relating to historic buildings and currently do not have any formal overlap or communication, potentially leading to conflicting positions of advice to the Department or public position statements. It was considered that this relationship should be explored further and that there would be value in at least an annual meeting between HBC and MAG to provide forum for discussion on issues of mutual interest

### **3.10 Delivery Mechanisms – Recommended Actions**

- i) Explore further the potential to develop the relationship between HBC and MAG.
- ii) An annual meeting should be established with the chairs of other NDPBs who operate within the heritage sector.
- iii) Consider the establishment of Committees which deal with specific sub-categories of work, or to provide specific overlaps with other bodies.



## 4. Governance and Accountability

**This section considers the terms of reference for the SACs, whether they provide value for money, procedures, roles and responsibilities, skill sets, governance arrangements, accountability, reporting, openness and transparency.**

### 4.1 Do the Terms of Reference for the Chair and Members properly define their roles?

Both the chair and members of the HBC and HMC are issued with Terms and Conditions of Appointment. These are revised and agreed in liaison between the sponsor branch and the Governance Support for Sponsor Branches Unit (GSSBU) at the start of each appointment process, in order to ensure that they reflect the needs of the Department. Current Terms and Conditions of Appointment for both Councils are attached at Appendix 6.

### 4.2 Does the appointments procedure operative effectively?

Appointment to the SACs is carried out in line with the Code of Practice for Ministerial Appointments. The appointments process is run by GSSBU within DfC. The most recent competition was held in 2016 for members of the HBC and was also used to replace 2 members of the HMC where unexpected vacancies which had arisen during the term. The Unit has also delivered a complex series of extensions (for both 1<sup>st</sup> term and 2<sup>nd</sup> term members) for the HMC in January 2017, identifying and efficiently dealing with issues relating to Ministerial appointments arising from the unexpected Assembly elections and subsequent absence of a Minister for Communities. The use of this centralised unit to run the appointments process within the Department has proved to be very effective as the team are up to date with the most recent requirements and processes relating to public appointments. They have useful contacts in place and are therefore able to effectively manage unexpected issues which may arise.

GSSBU has also provided an efficient liaison with the Commissioner for Public Appointments Office. The Commissioner has emphasised the need to ensure diversity in the membership of NDPBs and GSSBU liaise with both the Commissioner's office and the Sponsor Branch to consider ways of encouraging a range of applications at the time of each recruitment process.

The last appointments process for the HBC was run for a Chair in June 2013 and for members in January 2016. The competition for the Chair had to be run on two occasions before someone who passed the selection criteria was found and appointed. In terms of members the appointments process identified sufficient members who were deemed appropriate to be appointed to fill the vacancies. Whilst this could be considered a successful competition it should be noted that the

competition did not provide a pool of eligible applicants which provided the Minister with a choice of appointees.

The HMC recruitment process for a Chair was last run in 2009 and for members the most recent substantial process was in 2012. These filled the vacancies on the first round of recruitment. As part of the HBC recruitment process in 2016, however, this opportunity was also used to fill two unforeseen vacancies on the HMC which had arisen due to personal circumstances of the members. The two vacancies were filled, but again there was not a wider pool of successful candidates from which the Minister could make a selection.

These recent competitions suggest that in this respect the recruitment process is just about meeting its needs. Both the criteria and how / to what audiences the opportunities are being advertised will need to be carefully considered for any future competitions in order to maximise applications and ensure a good range of suitable candidates. It may also be necessary to consider whether remuneration of these positions (subject to a change in the relevant pieces of legislation) would be appropriate, to encourage additional applications. However, this would substantially increase the cost and require an additional budget allocation and currently appears to be unnecessary given that both Councils have successfully recruited sufficient suitable members in recent years.

Ideally the process to recruit a Chair should be run to allow sufficient time to appoint a person to that position, and enable them to then sit on the selection panel for the members of the Council who will serve with them during the upcoming term. This has happened previously and the Chairs of both Councils have indicated that they believe this is a very useful process and should continue in future, wherever possible.

#### **4.3 Do the SACs have governance arrangements that maintain effective lines of accountability?**

A Management Statement and Financial Memorandum (MSFM) is not in place as the Councils are advisory bodies only and do not control any budget or have any staff resource, and an MSFM may be rather 'heavy' in these circumstances. However, governance and accountability is provided by the MOU for the Relationship Between and Department and the Councils (Appendix 5), the Service Level Agreement for the Provision of Administrative Support (Appendix 7) and the Financial Control Agreement (Appendix 8). These were most recently signed off by the Chairs of both Councils and the Department in October 2015. The documents are currently due to be reviewed annually, and also need to be updated to reflect the new Department for Communities, but this process has currently been postponed and incorporated into this overarching review of the Councils. Details of the governance and accountability procedures within these documents relating to performance assessment, operational procedures and financial activities are dealt with individually in the following sections.

Whilst the documents generally provide an effective governance structure, it is clear that there is substantial duplication between them, and occasional points where they conflict with each other. A single document, encompassing the necessary elements of

each, and more in line with a standard MSFM, would provide a consistent arrangement, and would be more easily managed, reviewed and updated. This revised document should be drafted, taking into account the recommendations of this review, and agreed with the Chairs of both Councils as soon as possible.

The Chairs of the SACs meet twice yearly with the Director of HED, with additional meetings for specific purposes as required. This, combined with a Grade 7 liaison, provides good oversight of their ongoing work and allows for issues to be raised in a timely manner and the Councils should continue to liaise through these formal meetings. The current MOU, drafted within the Department of the Environment, notes that the Director of HED will report on the performance of the Councils to the Departmental Board on an annual basis, although this proposal was never agreed with the Departmental Board itself. Given the size of the Department for Communities, however, with over 20 ALBs and NDPBs, and following discussion with the ALB Transformation Programme team, it is considered more appropriate for only the end of term reports of the Councils (3 years terms for the HBC and 5 year terms for the HMC) to be presented to the Departmental Board. It should be confirmed that the Departmental Board is content with this arrangement.

Under the legislation, quorum for both Councils is to be decided by the Councils, subject to any direction of the Department. HBC has set the quorum as Chair and four members. Quorum for the HMC has not been defined, and this should be established, following discussion between the Department and the Chair to agree a suitable number, to facilitate the operation of the Council, should the need arise. As the JCIH does not in itself make recommendations to the Department (rather, it provides advice to the Councils) defining a quorum is not considered necessary.

#### **4.4 Do the HBC and HMC have the right mix of skills and experience?**

As part of the appointments process the “Role and Person Specification” document is drafted by the Department. This allows the Department, in liaison with the current Chair of the SAC, to identify the necessary expertise to serve on the Councils, and particularly existing skills gaps. These documents can be tailored at each round of appointments.

Currently both Councils have a wide range of skills and experience. This consists of both professionals from the archaeological and architectural fields, and those who may not work in the professions but who have a strong interest in and knowledge of built heritage issues. The HBC currently has a membership which, as well as architects, includes engineers, surveyors, solicitors, accountants, lecturers and media. The membership of the HMC, as well as professional archaeologists, also encompasses a similar range of skills as the HBC, but also includes those with a background in construction, art history and museums. Whilst the professional expertise or knowledge of built heritage issues is obviously the priority in recruiting members, this mix of experience and backgrounds ensures that the Councils understand the wider value of the historic environment. In discussion of built heritage issues they can make

connections to the bigger picture and articulate the potential of heritage assets and why they are important for both communities and the economy.

The skills of the Councils are reviewed prior to each appointment process. An example of a skills deficit which has been recognised is the lack of commercial sector archaeologists on the current HMC, despite the fact that this is one of the largest archaeological sectors in NI. The Department is aware of this gap and will consider ways to address this in any future appointment process.

#### **4.5 Operational Procedures and business planning**

Operational procedures are set out in the MOU for the Relationship between the Department and the HMB and HBC (Appendix 5) and the SLA for the Provision of Administrative Support (Appendix 7) detailed above.

An Internal Audit, carried out in October 2012 and subsequently reviewed in March 2015, identified a number of areas relating to the SAC procedures. These included:

- Establishing an MOU and SLA
- A Register of Members interests should be completed on appointment and reviewed annually
- A Central Register of Interests should be developed, maintained and routinely checked
- Declarations of Interest at meetings must be appropriately documented
- A Formal review of the SACs should be undertaken
- Members must sign on receipt of induction documentation
- Hospitality procurement must be in line with Departmental guidelines

A formal annual work list or calendar which identifies items which need to be completed at the relevant point in the year for each Council would ensure that processes are completed in a timely fashion and promote compliance with audit requirement and good practice. As noted at Section 4.3, the MOU and SLA should be replaced with a single, comprehensive governance document.

#### **4.6 Business planning**

The Chair of the HMC has officially raised concerns that the reorganisation and reallocation of roles within HED has impacted on the relationship between HED and the HMC, with HED not consulting HMC in a timely fashion on significant policy issues, and providing verbal updates to the Council rather than official papers. In order to address this issue HED needs to clarify internally those documents or issues which should be brought to the HBC and HMC. To ensure that this continues to be implemented the issue of any papers which need to be presented to the SACs should be regularly reviewed at the HED Senior Management Team meetings.

Previously there has been relatively little overlap between the Councils and the Department in business planning, and although the HED Balanced Scorecard and Risk Register were presented to both Councils for the 2016-17 year this was in May 2016, after both documents were already in place. In order to better align the work of the two Councils with that of the Department a meeting has taken between the Chairs, representative members of the Councils and HED to facilitate business planning for the 2017-18 year. This will help to ensure the alignment of the aims and objectives of the Councils with the work of the Department, and facilitate the Councils in fulfilling their role as strategic advisors. It is envisaged that this will be an annual process which will enable the Councils to plan a “pipeline”, or steady, consistent stream of work for their meetings during the year.

#### **4.7 Reviews of performance of the SAC Chairs and Members**

There are a number of processes in place for the reviews of the Councils:

##### **4.7.1 Annual review of the performance of the chair and members**

The Commissioner for Public Appointments NI *Code of Practice for Ministerial Public Appointments in Northern Ireland* section 4.5 notes that Departments must have in place performance assessment processes that provide evidence for the consideration of reappointments. A performance assessment should be carried out annually for each Chair and Board member and -

- No-one can be reappointed unless he or she has performed satisfactorily during his/her current term;
- For audit purposes and for the investigation of complaints, it is essential that all performance assessments are fully documented;
- Performance assessments for the Deputy Chair and the members must be completed by the Chair.

The process for annual reviews of the performance of the Chair and members is dealt with in the MOU between the Department and the SACs in section 7.6 and Annex 2:10. A standard template for the reviews is provided by HED.

##### **4.7.2 End of Term performance appraisals**

The MOU between the Department and the SACs lays out the process for end of term performance appraisals at Section 7.3 and Annex 2.10. End of term appraisals are to be completed within 4 weeks of the end of term of appointment; the Chair completes these appraisals for each of the members and the HED Director completes for the Chair. The HMC and HBC currently use two separate templates for these end of term appraisals and it is recommended that these should be standardised for consistency of reporting.

**4.7.3** In order to inform the annual and end of term assessments a system of monitoring members attendance at meetings has been introduced. This is retained on an Excel spreadsheet in HPRM and provided for the Chair to facilitate the completion of the assessments.

#### **4.8 Are the arrangements for administrative support effective?**

A small secretariat of 1 x EOI (reduced hours of 4 days per week) and 1 full-time AO provides support to both Councils. The Service Level Agreement (SLA) between the Department and the SACs for the provision of administrative support services (Appendix 7) outlines the scope of the service provision, and performance measures for the Secretariat are also included in the MOU (Appendix 5).

This in-house service follows a move away from using an external recruitment agency to provide the service in 2012. Lines of accountability are clear, with the AO reporting to the EO1, who in turn works closely with the Grade 7 Liaison Officer between the SACs and the Department. This allows for a clear oversight of work and issues arising, and ensures that staffing is appropriate to the workload. Where spare capacity is identified within the Secretariat (for example during the summer when the Councils do not meet) the Secretariat staff can be redeployed onto other Departmental work, as appropriate.

The secretariat functions well, and has received praise for helping to ensure the smooth running of events such as the joint symposium on Future Places delivered by the SACs at Cultra Manor in November 2016. However, staff changes within both HED and the Secretariat within the last 18 months have resulted in some loss of knowledge of procedures and practice. A desk instruction for the secretariat role, to ensure that information on the procedures is readily available, would address this issue. As with any desk instruction, this will need to be reviewed regularly.

#### **4.9 Does the SAC provide value for money?**

The legislation for both the HBC and HMC allows the Department to cover relevant expenses of the Councils and travelling and subsistence expenses for the Chairs, members and Committee members incurred in fulfilling their duties. There are no salaried positions on either Council and this is not an option under the current legislations.

**Table 1: Spend by HBC, HMC and JCIH 2013 - March 2017**

<b>Financial Year</b>	<b>HBC spend</b>	<b>HMC spend</b>	<b>Total</b>
<b>2013/14</b>	£5,955	£3,542	£9,497
<b>2014/15</b>	£5,740	£3,060	£8,800
<b>2015/16</b>	£5,955	£2,592	£8,547
<b>2016/17</b>	£4,430	£2,941	£7,371

The Department has been conscious over recent years of the need to closely manage spend and a number of initiatives have been put in place to monitor and reduce costs associated with SACs. Expenditure is recorded through the use of spreadsheets maintained by the Secretariat, and monitored by the Grade 7 liaison. Travel and subsistence claims are all completed on a pro forma, correlated by the Secretariat and signed off for approval by the Grade 7 before being processed for payment by Account NI. Careful monitoring of Travel and Subsistence through the use of a spreadsheet enables the spend to be monitored against budget during the year, and also allows those members who have not claimed for some time to be identified, to avoid the problem of the submission of large claims being unexpectedly submitted for an extended period.

Council meetings are now almost exclusively carried out in government buildings, where a room hire charge will not be incurred. Exceptions are occasionally made where the Council wish to engage with a particular issue which may involve a site visit, or where they are meeting with district councils for the purposes of engagement. In these instances shared travel is encouraged.

Hospitality for the Council meetings has been significantly reduced in recent years, and rather minimalist catering is now provided for the meetings. This is procured in line with Departmental policy, and included on the Gifts and Hospitality Register.

Moving to an in-house Secretariat service, rather than providing this through an external recruitment agency has also reduced expenditure.

Council members also often undertake duties beyond their statutory remit, for example providing responses to key consultation documents, such as the Programme for Government, or attending meetings, such as the Heritage Stakeholder Group and this provides added value.

The Chairs have previously raised the issue that the budget for the SACs has not been discussed with them, so they are unaware of the spend associated with the operation of the Councils. It would be useful for the budget to be discussed at the start of each financial year, potentially as part of the business planning meeting discussed above at 4.6, and an update provided at the mid-year meeting of the chairs with the Director of HED.

As Table 1 above shows, costs associated with the SACs are minimal. Given the range of experience available on the Councils, the number of members with specific expertise and the fact that their time is given voluntarily it is considered that they provide excellent value for money, for the small outlay. In future, it may be necessary to consider whether remuneration of the positions on the Councils (subject to a change in the relevant pieces of legislation) would be appropriate, to encourage additional applications for the positions. However, this would substantially increase the cost and require an additional budget allocation and currently appears to be unnecessary given that both Councils have successfully recruited sufficient suitable members in recent years.

#### 4.10 Do the Councils operate in an open and transparent fashion?

Both Councils publish a report at the end of each term. This is a statutory requirement for the HBC every three years, and whilst not a requirement for the HMC they have published at the end of the two previous terms, and the report for the 2012-17 term is currently in preparation. These reports review the work of the Councils during the term and highlight key issues which they have dealt with. The reports are published in a limited number of hard copies and made available online.

<https://www.communities-ni.gov.uk/publications/historic-buildings-council-northern-ireland-2013-2016>

<https://www.communities-ni.gov.uk/publications/historic-monuments-council-northern-ireland-2nd-report-2009-2012>

Minutes of the meetings of both Councils were previously published online when they each maintained their own independent websites. These websites were removed as part of the Departmental review c. 2014 which aimed to significantly reduce the number of Departmental web pages, and removed all those which were receiving only a very limited number of viewings. Both Councils now have a single web page each on the Departmental website. Minutes are not currently published through these web pages, although they are provided to the public upon request. However, Departmental Communications team have confirmed that a link to the minutes could be provided on the web pages and this is something that should be considered as part of the wider review of ALBs which the Department is undertaking, with regard to consistency between bodies. Information Management Branch within DfC have advised that they would encourage the publication of minutes for transparency and ease of responding to FOI requests, but they do not have any standard policy with regard to this for the ALBs. Minutes are currently retained by the Secretariat as permanent record, and transferred to PRONI in accordance with the NICS schedule.

Both the HBC and HMC maintain a Register of Interests. Members declare any interests on appointment, and declaration of interest is a standing item on the agenda for each meeting, recorded in the minutes. The procedures relating to the Register of Interests is laid out in Section 13 of the MOU (Appendix 5). Information Management Branch have again advised that they would encourage the publication of a Register of Interests for transparency and ease of responding to FOI requests, but they do not have any standard policy with regard to this for the ALBs. Again this is something that should be considered as part of the wider review of ALBs, with regard to consistency between bodies.



#### **4.11 Do the SACs operate in accordance with the requirements of the FOI Act 2000 and data protection requirements?**

No FOI or EIR requests relating to the HBC or HMC have been received in the last 5 year period up to 31 March 2017. Any FOI requests to the SACs will be directed, via the Secretariat, to the Department, and will be dealt with in accordance with Departmental procedures.

The SACs themselves hold very limited data, rather this is held by the Secretariat in line with Departmental policies.

#### **4.12 Do the SACs make appropriate use of IT and new technologies?**

The SACs have limited requirements for technology, but use email and PowerPoint, telephone conferencing etc. on a regular basis. Both Councils have a small web presence within the DfC website which is updated as appropriate (last updated January 2017.).

<https://www.communities-ni.gov.uk/articles/historic-monuments-council>

<https://www.communities-ni.gov.uk/articles/historic-buildings-council>

The Secretariat has a dedicated email inbox for correspondence. In line with Departmental policy, all Council papers and correspondence are stored digitally in the appropriate HPRM containers rather than in hard paper format, unless there is a specific requirement to also retain hard copies.

#### **4.13 Governance and Accountability – Summary of Recommendations**

- i) A single, streamlined and consistent document to replace the MOU, SLA and Financial Agreement
- ii) Quorum for the HMC should be identified, to facilitate the operation of the Council, should the need arise
- iii) An annual work list or calendar for the Councils which identifies the operational activities due each month
- iv) HED to clarify internally what papers, policies etc need to be presented to the Councils, and to use Senior Management Team meetings to remind staff of this requirement

An annual business planning meeting is to be held between the Councils and the Department to facilitate the Councils in fulfilling their role as strategic advisors and enable them to plan a “pipeline” of work for their Council meetings during the year.

v) Standardisation of the End of Term Performance Appraisal Forms for both Councils

vi) Provide a desk instruction manual for the Secretariat, to be reviewed regularly

Budget to be discussed at the start of each financial year, as part of the annual business planning meeting, and an update provided at the mid-year meeting of the chairs with the Director of HED

vii) The provision online of minutes of Council meetings and Register of Members' Interests to be considered as part of the wider review of Departmental public bodies, with regard to consistency between bodies.



Crumlin Road Gaol (HED)

## 5. Performance

**This section of the review considers how the SACs are performing, how successful they have been in achieving aims and objectives, their contribution to policy development and their relationship with the Department.**

### 5.1 Performance on aims, objectives and targets

Performance measures for both Councils, are laid out in Annex 2 of the MOU (Appendix 5), but these are very much focussed on day to day operation of the Councils.

In terms of wider aim and objectives, the HBC does not have a defined programme of work which identifies specific annual targets. Rather the work tends to be reactive to items the Department brings to the Council for their consideration and advice, as described in the role of the Council in the relevant legislation. In the case of the HBC this is consistently a very substantial workload, dominated by proposals for listing and delisting, which leaves limited scope for any additional programmed work. In the period from March 2013 – June 2017 the HBC had reviewed a total of 599 buildings in this respect. It also expects this number of consultations to substantially increase in the near future as the HED work on the Second Survey of Listed Buildings gets back into full operation in coming months, after a period in abeyance. As noted previously, decisions on listing and delisting can often be complex with significant implications, and the Council will often have considerable debate on individual proposals before providing their advice to the Department. The advice of the HBC in relation to each listing proposal is recorded and minuted.

The HBC also considers and provides advice to the Department on policy development, and recent examples of such advice includes Ecclesiastical Exemption, the Historic Environment Fund and the Protocol for the Care of the Government Historic Estate. The Chair of the HBC is an active member of the Craigavon House Working Group, advising the Department on its proposals for this heritage asset. A significant area of key strategic work at present for both the HBC and HMC is input to the Local Development Plans and Community Plans by the local councils, which will inform planning policy in relation to the historic environment for the coming five year period.

Table 2 below lists the statutory functions of the HBC under Section 198 of the Planning Act (Northern Ireland) 2011 and notes actions against each.

**Table 2: Statutory Functions of the HBC**

	<b>Function</b>	<b>Actions</b>
1.	Section 80(3): the Council is required to be consulted on the listing of buildings of special architectural or historic interest (or amendment of lists so compiled);	Records presented to HBC during March 2013 – Feb 16 term – 349 records for listing, 110 for delisting and a further 8 were presented as ‘record only’ giving a total of 467.  Records presented during current term March 2016 to date (June 2017) – 120 records for listing, 10 for delisting and a further 2 presented as ‘record only’, giving a total of 132.
2.	Section 84(3): the Council is required to be consulted on the issue of certificates stating that a building is not intended to be listed;	None required in current or preceding term
3.	Section 104(5)(a): the Council is required to be consulted on the designating of conservation areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance;	None required within this term or the preceding term
4.	Section 198(2)(a) the Council is required to keep under review, and from time to time report to the Department on, the general state of preservation of listed buildings;	Reports published at the end of each 3 year term. Most recent report published for 2013 - 2016 period.
5.	Section 198(2)(b) the Council is required to advise the Department on such matters relating to the preservation of buildings of special architectural or historic interest as the Department may refer to it;	Items regularly referred for consultation, most recently including the Historic Environment Fund, Ecclesiastical Exemption, the Protocol for the Care of the Government Estate and consultations on submissions to the local councils on key planning applications.  Number of referrals not recorded.
6.	Section 198(2)(c) the Council may exercise such other functions as are conferred on it by any statutory provision; and	N/A
7.	Part IV of the Finance Act 1976, the Council is required to be consulted on applications for the exemption of listed buildings from Capital Transfer Tax	None referred in this term or the preceding term

The HMC has a Programme of Work for the 2012 – 2017 term which was agreed by the Council in September 2012. This has four key elements, as noted below. The full Programme and details of the related work activities are provided at Appendix 9.

- i) Valuing: Council will address how the value of Northern Ireland's diverse range of historic environment assets can be best utilised and enhanced
- ii) Understanding: integration of the historic environment with wider Government objectives relating to climate change
- iii) Protecting and Caring: protection and care of the primary evidence of the historic environment
- iv) Enjoying: Promotion of the HMC Visitation Survey

A new work programme for the HMC will be put in place when a new term for the Council commences in 2018, and will be informed by the Business Planning meetings held with HED and HBC, and by the recommendations of this review and any relevant recommendations of the wider ALB review being conducted by the Department.

The HMC has considered a total of 76 schedulings or re-schedulings in the current term to date. This number has reduced significantly in this term of the HMC due to a much lower number of new schedulings proposed by the Department as a result of reduced staff time to deal with new designations. However, the HMC has considered a significant number of policy papers and similar documents within this term, as part of its role as strategic advisor to the Department and a full list of the papers presented to the HMC during the current term to date is provided at Appendix 10.

The HMC has also provided advice on Departmental projects at State Care monuments – for example its views were sought at various stages of the major development project for the management and presentation of Tullaghoge Fort, and on proposals for development at Dunluce Castle, and the chair of the HMC sat on the Project Management group for this project. The Chair also sits on both the Navan Advisory Group and the Core Group of Historic Environment stakeholders.

Of particular importance has been the advice which the HMC is supplying in relation to the designation of Areas of Significant Archaeological Interest. This is key at present because of the new Local Development plans currently being developed by the local councils, and which will designate these areas. A field inspection with HED staff in June 2017 to look at a number of these areas demonstrated clearly the usefulness and benefits of the HMC as an independent advisory body – amendments will be made to the proposed boundaries of the ASAs as a result of this field inspection and discussion.

Another major aspect of the work of the Council is detailed submissions to key consultation documents, such as the Draft programme for Government 2016 – 21, the Waterways Ireland Heritage Plan and the NI Regional Landscape Character Assessment. The HMC has also made submissions to the local councils on key planning matters that are referred to it by HED for consideration. Detailed written

submissions are also provided by the HMC directly to the Planning Appeals Commission in certain significant cases, for example relating to the wind farm development at Feystown Co. Antrim and Mullaghturk, Co. Tyrone and the Council has also attended PAC hearings to make representation. The HMC has also taken a proactive interest in the archaeological archives issue, not only providing advice on papers presented by the Department, but also visiting the Public Records Office NI (PRONI) to consider their approach to the issue.

Table 3 below identifies the statutory functions of the HMC under the Historic monuments and Archaeological Object (NI) Order 1995 and the associated actions.

**Table 3: Functions of the HMC**

	<b>Function</b>	<b>Actions</b>
1.	Under Article 3 (6) that the Department consults the HMC on any proposed additions or deletions from the schedule of historic monuments	76 have been brought to the HMC in the 2012 – 2017 term to date
2.	Under Article 22 there is to be a Council, known as “the Historic Monuments Council”, for the purpose of advising the Department on the exercise of its powers under the Order  In practice the Council advises the on: <ul style="list-style-type: none"> <li>• Policy and guidelines</li> <li>• Significant proposals relating to monuments in State Care.</li> <li>• The general state of preservation and conservation of historic monuments, archaeological objects and the associated records and archives;</li> <li>• Planning and development issues affecting Historic Monuments, their settings, and historic landscapes;</li> <li>• Other matters relating to the preservation of Historic Monuments as may be referred to it;</li> </ul>	A wide range of papers has been brought to the HMC for consideration – see Appendix 10 for the full list within the 2012 – 2017 term to date
3.	Article 28 (1) requires consultation with HMC regarding the disposal of any land acquired under Articles 13, 14 or 18 (i.e. State Care Monuments).	No disposal has taken place within this term
4.	Under Part IV Supplementary 44(2) the HMC shall be consulted by the Department prior to making regulations relating to scheduled monument consents	No regulations made during this term
5.	Planning Policy Statement 6 states that the HMC is consulted by the Department on the identification of ASAs	ASAI consultation paper presented in 2013, and field inspection in June 2017

The HBC and HMC have also successfully delivered a joint symposium in November 2016 on *Future Places: Using Heritage to Build Resilient Communities*, which was jointly launched by the DfC and DAERA Ministers. A report on the proceedings of the symposium was also produced. The responses from this conference have helped to inform the Department's business planning for the 2017-18 financial year.

Whilst both Councils have a large and varied workload, which both influences and contributes directly to the work of the Department, limited record is currently maintained which details instances where their advice has been accepted / rejected or has had an impact on decisions of the Department (except in the case of listing and scheduling proposals, where the recommendations are minuted as part of the record of the meeting). This issue clearly needs to be addressed and a record of issues which the Department has referred to the Councils, and the results of that referral should be initiated and maintained for ease of performance monitoring. This monitoring will be facilitated in future by the development of programmes of work at the annual business planning meeting, as discussed at section 4.6 above, against which performance can be actively measured. The monitoring and assessment of performance is also considered further at section 5.7 below, in relation to stakeholder feedback on this issue.

## **5.2 Are the current aims, objectives and targets sufficiently focussed?**

The HMC is coming toward the end of its current term, and there will be a significant number of new appointments, including the Chair, (subject to the outcome of this review and the decision of the Minister). It will be appropriate for the HMC to consider its new work programme, objectives and targets if a new Council is appointed. This programme will be derived from the annual business planning meetings with the Department, noted at section 4.6 above.

Due to the number of proposals relating to the listing or delisting of buildings which are being brought to the HBC as a result of the Second Survey, the HBC work has very much focussed on this, with no formal wider work programme, objectives or targets in place. However, the Council are currently undertaking a body of work to review and engage with the Community Plans and Local Development Plans being produced at present by the local councils. As with the HMC, the annual business planning meetings with the Department should start to develop a further programme of work with the HBC, based on the three year terms of the Council, but informed by these meetings. At the point at which the Second Survey work is complete the role, operation and objectives of the HBC will need to be reviewed.

As noted as section 3.1 above, HBC are not a statutory consultee for planning applications, but often provide comment through the public consultation process. The Chair of the HBC has emphasised the need for HBC to develop more effective relationships with the local councils in their role as decision makers on planning applications. The HBC are currently considering how best this can be achieved in future, including holding HBC meetings in local authority areas to promote engagement. A joint approach with HMC is also currently being considered, in order

to make sure that engagement is done efficiently and to maximise the impact this liaison may have.

When reviewing the work programmes, objectives and targets of the Councils a careful consideration of their role as defined in the HMAOO and the Planning Act (NI) 2011 will be necessary to ensure that they both fulfil their statutory remit, whilst not straying outside the bounds of their authority, which is defined in the legislation as advisors to the Department. There is some concern that certain items of work being considered by the Councils, for example responding directly to public consultations from other Government Departments and District Councils or making representations to the Planning Appeals Commission may be outwith the remit of the Councils. HED need to seek further advice on this and provide clarity to both Councils.

### **5.3 What contribution has there been to the Department's policy formation?**

Section 3.1 above notes the contribution of the SACs to the delivery of government and Departmental objectives, and much of this work reflects their contribution to the Department's policy formation. This is also dealt with in detail in section 5.1 above, relating to their aims, objective and targets. As noted in these sections both the HMC and HBC are regularly consulted by the Department on the development of new policies relating to the historic environment. This covers a wide range of issues which are important to both the Department and the wider public, with potentially significant financial and other implications, such as Ecclesiastical Exemption or the introduction of the Historic Environment Fund. A list of the papers presented to the HMC, including many relating to policy development, is provided at Appendix 10. Both Chairs sit on the stakeholder group which is taking forward the debate and key actions on the future for the Heritage Sector as a whole in Northern Ireland, and the Chair of the HMC is also sitting on the "Archaeology - The Way Forward" stakeholder group. These groups will be fundamental to development of the role of the wider heritage sector and related policies and procedures implemented by the Department in future.

Often the Councils will provide a detailed, written response to consultation from the Department, and this input, from an external body, with a range of viewpoints is vital for developing successful policy. The Councils are also keen to contribute to wider government policy development, and will respond to public consultations on new policy proposals by various Departments, where they have the potential to impact on the Historic environment, including, for example, the Programme for Government, emphasising the need for the historic environment to be represented within the document. This is particularly relevant in relation to the new Local Development Plans and Community Plans currently under way as noted in section 5.2 above, however, the Department needs to seek clarity on the remit of the Councils to respond directly to public consultations.



#### **5.4 How successful is the relationship of the SACs with the sponsor Department and Ministers?**

The Department has appointed a liaison at Grade 7 level for each Council, and a pre-meeting is held between the liaison and the Chair in advance of each Council meeting to consider agenda items, and advise the Chair of any significant matters arising since the previous meeting etc. One of the Grade 7s also has oversight of the SACs and Secretariat to ensure consistency and provide a single point of contact with the Governance Support for Sponsor Branches Unit in terms of central exercises.

As noted previously, the Chair of the HMC has recently raised concerns that with the recent re-organisation within HED there has been a period in which they have not had sight of proposed policy papers at an appropriate point in their development which would allow the Council to fulfil their role as an advisor to the Department. As a result a recommendation has been provided at section 4.5 above that the HED Senior Management Team should be reminded to consider issues for the Councils at their monthly meetings.

The Department welcomes the input of the Councils, which is consistently based on professional opinion and careful consideration of proposals which the Department puts to them. There is clearly added value in seeking the opinion of the Councils on significant proposal or policy development, given their range of expertise as discussed earlier. A close working relationship has developed with both Councils, whilst still enabling the Councils to maintain their role as external advisors.

Although these posts are Ministerial appointments, both Councils tend to have limited direct engagement with the Minister; rather this tends to be through engagement and feedback to senior Departmental officials. However, former Minister Givan provided the key note address at the joint HBC / HMC / CNCC symposium in November 2016 and has expressed his recognition for the work of the Councils. He also attended the December 2016 meeting of the HMC which was held in Stormont. This provided an opportunity for the Minister to sit in on some of the business of the Council and for a number of key issues to be raised directly.

#### **5.5 Assessment of the performance of the Councils**

In recent years there has been no formal process for the regular assessment of the performance of the Councils. The last overarching review of the functions of the bodies (including the CNCC as the third advisory Council under the DOE) was preliminarily drafted in 2011, but was not completed. In order to address this lack of regular review, Section 7.2 of the MOU between the Department and the SACs, introduced in October 2015, states that the HED Director will present an annual assessment of the Councils performance to the Departmental Board. As noted at Section 4.3 above, however, given the size of the new Department for Communities, with over 20 ALBs and NDPBs, and following discussion with the ALB Transformation Programme team, it is considered more appropriate for only the end of term reports of the Councils (every 3 years for HBC and 5 years for HMC) to be presented to the Departmental Board, with

an accompanying review of performance at that time. This will ensure that the Department is considering the role and function of the SACs and their performance on a regular basis. As stated previously, it should be confirmed that the Board is content with this proposal. Section 5.1 above also notes that whilst the Councils are carrying out a substantial range of work involving consultations, advice, policy development etc, the impacts of this are not currently clearly recorded, and this should be done in future to facilitate more detailed performance monitoring.

## **5.6 Stakeholder feedback on performance**

Members from the heritage sector attending both the HED stakeholder event (Appendix 11) and the DfC ALB Review Stakeholder Engagement event (Appendix 12) were positive about the need for the two SACs to provide advice to the Department on managing and protecting the historic environment. However, on the HED event question of ‘do you think the functions are delivered well in the current arrangement’ it was clear that whilst there was a good knowledge of the general functions of the bodies, and their activities, there was a lack of detailed awareness of the full range of actions which they perform, and a feeling that it was therefore difficult to provide specific feedback on how well the functions were being delivered. Whilst the end of term reports were acknowledged as a way of conveying this information, it was noted, for example, that there is no indication in the reports how often advice from the Councils has been accepted or rejected. This ties in with the point noted above at section 5.1. It was felt that clearer reporting on performance would be useful, and that this should be done more regularly than only at the end of term. One way of achieving this would be for the Councils to provide a summary of their previous year’s work at the annual business planning meeting – an end of year review. This would then provide useful material for planning for the incoming year, and when it comes to both the production of the end of term report, and for the HED director when presenting these reports to the Departmental Board.

## **5.7 Performance - Recommendations**

- i) A record of issues which the Department has referred to the Councils, and the results of that referral should be initiated and maintained to facilitate performance monitoring
- ii) An annual programme of work for the HMC aligned with their remit under the HMAOO and PPS6 / SPPS and informed by the annual business planning meeting with the Department. This will develop a “pipeline” or steady and consistent stream of work for the Council for the incoming year.
- iii) An annual programme of work for the HBC aligned with their remit under the Planning Act (NI) 2011 / SPPS and informed by the annual business planning

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meeting with the Department. This will develop a “pipeline” of work for the Council for the incoming year.

- iv) At the point at which the Second Survey work is complete the role, operation and objectives of the HBC will need to be reviewed
- v) HED will seek clarification on the remit of the Councils, in particular their ability to respond directly to public consultations, make representations at Planning Appeals etc
- vi) The end of term reports of the Councils to be presented to the Departmental Board, with an accompanying review of performance at that time. This will ensure that the Department is considering the role and function of the SACs and their performance on a regular basis.
- vii) Brief annual performance summaries from the Councils, to be presented to HED at the annual business planning meeting.



Discussions at SAC symposium (HED)

## 6. The Future Organisation

**This section considers whether the current delivery mechanism is effective and should continue to be the preferred option for the future, taking into account the broader review of NDPBs.**

This report has provided a detailed review of both the HBC and HMC, in line with the requirements of *Public Bodies: A Guide for NI Departments* and “to give the Department confidence that the NDPB is delivering high quality services, efficiently and effectively and fits appropriately into the Department’s overall delivery structure”.

### **Key recommendations**

- 1. The retention of both the HBC and HMC, performing their remit as defined in the Planning Act (NI) 2011 and Historic Monuments and Archaeological Objects (NI) Order 1995.**

It is considered that this will provide an appropriate, effective and value for money mechanism for providing the Department with advice in carrying out its statutory remit, subject to the implementation of the actions in the recommendations below. Retention of both Councils also fulfils the current statutory requirement in the HMAOO and the Planning Act (NI) 2011.

This recommendation is based on the high quality of independent, professional expertise which the Department receives from these bodies, on a voluntary basis with remarkably low associated costs. Having standing bodies in place ensures a consistency of advice, from a group of who, over the course of their terms of appointment, gain an in-depth understanding of the Department’s functions and policies and how these are implemented, allowing them to fulfil the role of statutory advisors to the Department. The system of recruitment to the Council works sufficiently well to allow the positions to be filled with members with relevant knowledge and / or professional expertise as well as from a wide range of backgrounds. Stakeholder engagement within the heritage sector was very strongly in favour of retaining the Councils. Liaison with other jurisdictions in the UK and Ireland indicated a range of approaches to the provision of independent advice, with no alternative method identified that clearly offers a better system and indeed Historic England specifically reporting that it “benefits enormously from its volunteer group of external experts” and Ireland noting that “I would certainly argue in their favour”.

Implementation of the actions at Section 6 will strengthen the business planning of the Councils, provide a more clearly defined role and ensure the more detailed monitoring of their performance, allowing the Councils and the Department make sure they are operating effectively, and identify the impact which they have, and where this can be improved in future.

**2. The Councils should continue to function as separate bodies, and engage on matters of mutual interest, through the continued establishment and use of joint committees and regular meetings of the Chairs, as appropriate.**

This will facilitate the Councils in delivering focused expertise and advice to the Department, with appropriate workloads, taking into account the voluntary status of the Chair and members. Discussion with the both existing Councils and with stakeholders from the heritage sector strongly indicated a preference for the continued operation as two separate Councils. Given the depth of expertise on each body, the low associated costs, and the extensive workloads little benefit can be identified in merging the Councils and indeed the analysis suggests that this is unlikely to be a particularly feasible option. Joint committees or working groups should be used to address those areas where there are overlaps, for example in Local Development Plan consultations, to eliminate duplication and allow maximum impact to be achieved.

**3. A further review should be carried out in 2021, to allow the Department to consider whether retention of the Councils (either separately or jointly) continues to meet its requirements, prior to new terms of office due for both Councils in 2022.**

A review in advance of those renewals would both fit in with the generally accepted timescale for reviews of such bodies. It would also allow the Department to consider whether retention of the two Councils continues to meet requirements and should reflect any changes in workload or review of the relevant legislation. This timescale would also allow the operational recommendations below to be enacted, bedded in and assessed. The annual business planning meetings with the Councils, and revised performance monitoring will ensure that the Department and Councils are regularly reviewing performance and effectiveness in the period before the next review.

4. **A review of the Historic Monuments and Archaeological Objects (NI) Order 1995 will formally commence within the next 12 months, with the intention, if possible, of presenting legislative amendments within this assembly mandate. Consideration will also be given to any need to review and revise the Planning Act (NI) 2011. Both the functions and the operation of the relevant Councils will considered as part of the review.**

HED has committed to a review of the HMAOO, with the intention that amendments to the Order will be sought within this assembly mandate. As part of that legislative review, consideration will also be given in parallel to the Planning Act (NI) 2011. This provides an opportunity to consider the function of the Councils. Any exploration of amending the statutory requirement to retain and consult the Councils should be informed by discussion with the relevant sister organisations in the UK and Ireland as these have already undertaken a similar process. The review of the legislation will also allow consideration to be given to more clearly defining the scope of function and remit of the Councils. This would also be an opportunity to consider whether remuneration of the chair and or members should be introduced.

Whilst supporting the retention of the two Councils, it is clear that there are a number of areas where improvements can be made which will allow these bodies to more effectively perform their function as both statutory consultees and advisors to the Department. It is also apparent that whilst there is good monitoring of performance in relation to the clearly defined statutory functions of the Councils, there is less evidence gathered relating to the wider advisory functions which they deliver, and this makes consistent and useful reflection of their work and impact difficult for review purposes. Recommendations have been provided at the end of each section in this report and these have been collated into a table below with proposed dates for implementation.

### **Arms Length Body Transformation Programme**

This report reviewing the HBC and HMC has been produced prior to the publication of the wider DfC review of the Department's ALBs. Any additional recommendations made in that report should be taken into account and the action plan below amended to incorporate them, subject to agreement with HED.

Where there is conflicting recommendations between the two reports this should be discussed between the Directors of the review teams, and the recommended actions at Section 6 amended to reflect the outcome as required.

# Summary of operational recommendations

Section	Recommendation	Date for Implementation
<b>2. Background</b>		
2.3.1	The Department should seek greater clarity as to whether appointments to any committee which may be established are Ministerial appointments	September 2017
2.3.3	The Department and the Councils should consider, as part of their annual business planning, whether there is any need for additional committees, and membership of any such committees	March 2018
<b>3. Delivery Mechanisms</b>		
3.6	Explore further the potential to develop the relationship between HBC and MAG.	March 2018
3.7	An annual meeting should be established with the Chairs of other NDPBs who operate within the heritage sector.	December 2017
3.7	Consider the establishment of Committees which deal with specific sub-categories of work, or to provide specific overlaps with other bodies.	March 2018
<b>4. Governance and Accountability</b>		
4.3	A single, streamlined and consistent document to replace the MOU, SLA and Financial Agreement	September 2017
4.3	Quorum for the HMC should be identified, to facilitate the smooth operation of the Council, should the need arise.	September 2017
4.5	An annual work list or calendar for the Councils which identifies the operational activities due each month	September 2017
4.6	HED to clarify internally what papers, policies etc need to be presented to the Councils, and to use Senior Management Team meetings to remind staff of this requirement	September 2017
4.6	An annual business planning meeting is to be held between the Councils and the Department to facilitate the Councils in fulfilling their role as strategic advisors and enable them to plan a “pipeline” of work for their Council meetings during the year.	March annually



4.7	Standardisation of the End of Term Performance Appraisal Forms for both Councils	September 2017
4.8	A desk instruction manual for the Secretariat, to be reviewed annually	September 2017
4.9	Budget to be discussed at the business planning meeting at the start of each financial year, and an update provided at the mid-year meeting of the chairs with the Director of HED	September 2017
4.10	The provision of minutes of Council meetings and Register of Members' Interests online to be considered as part of the wider review of Departmental public bodies, with regard to consistency between bodies	October 2017
<b>5. Performance</b>		
5.1	A record of issues which the Department has referred to the Councils, and the results of that referral should be initiated and maintained to facilitate performance monitoring	February 2018
5.2	A new programme of work for the HMC, aligned with their remit under the HMAOO and PPS6	March 2018
5.2	The Programme of Work for the HBC to be revised when the Second Survey is complete	-
5.2	HED will seek clarification on the remit of the Councils, in particular their ability to respond directly to public consultations, make representations at Planning Appeals etc	September 2017
5.4	An annual business planning meeting should be held between the Councils and HED prior to the commencement of each financial year	Annually - March
5.6	The end of term reports of the Councils to be presented to the Departmental Board, with an accompanying review of performance at that time. This will ensure that the Department is considering the role and function of the SACs and their performance on a regular basis.	End of term
5.7	Brief annual performance summaries from the Councils, to be presented to HED at the annual business planning meeting	Annually



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Supporting and sustaining vibrant communities and a strong economy through realising the significant, ongoing value of our historic environment.

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