

Committee for Regional Development

Report on the Off-Street Parking (Functions of District Councils) Bill

**Together with the Minutes of Proceedings of the Committee
relating to the Report and the Minutes of Evidence**

Ordered by the Committee for Regional Development to be printed on 8 December 2014

Membership and Powers

Powers

The Committee for Regional Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Regional Development and has a role in the initiation of legislation. The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.

The Committee has power:

- to consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- to approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- to call for persons and papers;
- to initiate enquiries and make reports; and
- to consider and advise on matters brought to the Committee by the Minister of Regional Development.

Membership

The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows

- Mr Trevor Clarke MLA (Chairperson) ¹²
- Mr Sean Lynch MLA (Deputy Chairperson) ⁶
- Mr Joe Byrne MLA¹¹
- Mr John Dallat MLA⁵
- Mr Alex Easton MLA⁸
- Mr Ross Hussey MLA⁴
- Mr Chris Lyttle MLA ^{1, 10, 13}
- Mr Declan McAleer MLA⁷
- Mr David McNarry MLA^{2, 3}
- Mr Stephen Moutray MLA ^{9, 14}
- Mr Cathal Ó hOisín MLA

- 1 With effect from 06 June 2011 Mr Stewart Dickson replaced Mr Trevor Lunn
- 2 With effect from 26 September 2011 Mr Michael Copeland replaced Mr Mike Nesbitt
- 3 With effect from 06 February 2012 Mr David McNarry replaced Mr Michael Copeland
- 4 With effect from 23 April 2012 Mr Ross Hussey replaced Mr Roy Beggs
- 5 With effect from 23 April 2012 Mr John Dallat replaced Mr Joe Byrne
- 6 With effect from 02 July 2012 Mr Seán Lynch replaced Mr Pat Doherty as Deputy Chairperson
- 7 With effect from 10 September 2012 Mr Declan McAleer was appointed as a Member
- 8 With effect from 01 October 2012 Mr Alex Easton replaced Mr Stephen Moutray
- 9 With effect from 16 September 2013 Mrs Brenda Hale replaced Mr Ian McCrea
- 10 With effect from 01 October 2013 Mr Kieran McCarthy replaced Mr Stewart Dickson
- 11 With effect from 07 October 2013 Mr Joe Byrne replaced Mrs Dolores Kelly
- 12 With effect from 24 September 2014 Mr Trevor Clarke replaced Mr Jimmy Spratt as Chairperson
- 13 With effect from 29 September 2014 Mr Chris Lyttle replaced Mr Kieran McCarthy
- 14 With effect from 06 October 2014 Mr Stephen Moutray replaced Mrs Brenda Hale

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List of Abbreviations and Acronyms used in this Report

DRD	Department for Regional Development
NIIRTA	The Northern Ireland Independent Retail Trade Association
NILGA	The Northern Ireland Local Government Association
PCN'S	Penalty Charge Notifications

Executive Summary

1. The Off-street Parking (Functions of District Councils) Bill was introduced in the Northern Ireland Assembly on 13th October 2014 was referred to the Committee for Regional Development the Committee/CRD) for consideration on completion of the Second Stage of the Bill on 21st October 2014
2. Sign posts were placed in the Committee web page, the Belfast Telegraph, the Irish News and the Newsletter inviting written submissions. The Committee also received copies of the written responses to the Department for Regional Development (the Department/DRD) consultation exercise. Following receipt of written submissions, the Committee invited the following organisations to provide oral evidence:
 - Antrim and Newtownabbey District Council;
 - Belfast City Council;
 - Fermanagh and Omagh District Council;
 - Mid and East Antrim District Council;
 - Mid Ulster District Council;
 - The Northern Ireland Independent Retail Trade Association (NIIRTA);
 - The Northern Ireland Local Government Association (NILGA); and
 - The Department for Regional Development (DRD)
3. In order to facilitate the Minister's request that the Committee Stage of the Bill be conducted within the statutory period defined by Standing Order 33(2), oral evidence sessions were held on 12th, 19th and 26th November 2014, which included a site visit to examine the condition of car parks in Enniskillen.
4. Whilst the Committee supports the principle of the Bill, Members have expressed reservations with regards to the scheme of transfer. The Committee will be seeking assurances from the Minister and his Executive colleagues in respect of these concerns, which include protection of the assets transferring, financial top-slicing, the condition of car parks being transferred, communication and provision of information and the principle of rates neutrality.
5. Members are also highly critical of the Minister and his official's non-cooperation with the Committee with regards to the turn-around of papers and information during the course of the Committee, particularly as the Minister had requested passage through the Committee Stage within 30 days to allow his Department to seek Royal Assent before the transfer date of 1st April 2015.
6. Recommendations have been made in respect of all these areas.

Summary of Recommendations

7. The Committee would respectively make the following recommendations:
8. The Committee wishes to ensure that stringent protection is applied through other sources. In that respect, the Committee seeks clarification as to the means and responsibility for the transfer of car parks under Section 122 of the Local Government Act (Northern Ireland) 2014 (paragraph 34).
9. The Committee further seeks a strong assurance from the Minister and/or his relevant Executive colleague(s) that the respective scheme of transfer is amended to include a reference to existing planning policies on replacement of car parking spaces to ensure that where car park spaces are used for local regeneration, spaces should be replaced either by a more efficient car parking arrangement or in another location that is conveniently located to the Primary Retail Core (paragraphs 28 – 35 inclusive).
10. The Committee recommends that the Minister, following consultation with his Executive colleagues in the Department for Finance and Personnel and the Department of the Environment, ensures that the transfer of all functions remains rates neutral not just at the point of transfer but also for the foreseeable future, subject to any changes in car parking charges and PCN'S tariffs implemented by respective local authorities (paragraphs 36 – 38 inclusive).
11. The Committee seeks an assurance from the Minister for Regional Development that all car parks will be brought up to an acceptable specification and standard, preferably in advance of the point of transfer. Where this is not possible, the Minister should provide the Committee and the relevant local authorities with a timeline for the upgrading of car parks to a specification and standard that is acceptable to local authorities (paragraphs 39 – 42 inclusive).
12. The Committee recommends that all relevant financial, legal and other relevant information is communicated to all local authorities as a matter of urgency. The Committee would also ask that the Department further coordinate and communicate a “satisfaction survey” with local authorities in advance of the point of transfer to allow the Committee and local authorities to gauge if all relevant information has been satisfactorily transferred (paragraphs 43 – 47 inclusive).
13. The Committee would strongly recommend that the Department honours the commitments the Minister makes in respect of officials working with the Committee. The Committee would also emphasise that it is for the Committee to decide and define the Committee Stage of Bills and that the Department should not attempt to corner the Committee into a timeframe that does not allow it to properly and appropriately undertake its statutory responsibilities with regards to the scrutiny of primary legislation (paragraphs 48 – 51 inclusive).
14. The Committee would respectively advise the Minister and his officials that they may wish to progress the Executive elements of future Bills accordingly (paragraphs 48 – 52 inclusive).

Introduction

15. The Off-street Parking (Functions of District Councils) Bill was introduced in the Northern Ireland Assembly on 13th October 2014 and was referred to the Committee for Regional Development for consideration in accordance with Standing Order 33 (1) on completion of the Second Stage of the Bill on 21st October 2014.
16. The Bill contains a single clause and one schedule. The Bill will, from 1st April 2014, transfer to district councils certain powers contained in the Road Traffic Regulation (Northern Ireland) Order 1997 relating to off-street car parking. It will also provide councils with the powers under the Traffic Management (Northern Ireland) Order 2005 to employ traffic attendants and to enforce certain parking contraventions occurring within those off street parking places.
17. The Bill contains only one clause. Subsection (1) of clause 1 provides that the functions presently exercised by the Department under Articles 10 to 14 and 25 to 27 of the Road Traffic Regulation (Northern Ireland) Order 1997 would transfer to the councils with effect from 1 April 2015.
18. Subsection (2) makes it clear that those functions do not include functions relating to park and ride or park and share parking places nor the making of regulations.
19. Subsection (3) of clause 1 provides that the functions presently exercised by the Department under Articles 3 to 28 of the Traffic Management (Northern Ireland) Order 2005 would become exercisable, from 1 April 2015, in relation to relevant contraventions occurring within off-street car parks within the district of a council to which those parking places have been transferred.
20. Subsection (4) defines relevant contraventions whilst Subsection (5) makes it clear that functions relating to contraventions occurring in park and ride and park and share parking places and functions regarding the making of regulations will not become exercisable by the councils.
21. During the period covered by this report, the Committee considered the Bill and related issues at six meetings. The relevant extracts from the Minutes of Proceedings are included at Appendix 1.
22. The Committee had before it the Off-street Parking (Functions of District Councils) Bill (NIA 40/11-16) and the Explanatory and Financial Memorandum that accompanied the Bill.
23. In addition to publishing a media sign posting notice in the Belfast Telegraph, Irish News and Newsletter seeking written evidence on the Bill, the Committee targeted key stakeholders inviting their views. Stakeholders were asked to structure written submissions to address the specific clause of the Bill. The Department for Regional Development were also asked to provide the Committee with copies of responses to its consultation on the Bill. In response to its call for evidence, the Committee received 8 written submissions and 8 stakeholders provided oral evidence on the policy area covered in the Bill. Copies of the written submissions are included at Appendix 3.
24. The Committee carried out formal clause by clause scrutiny of the Bill on 8th December 2014.
25. At its meeting on 8th December 2014 the Committee agreed its report on the Bill and ordered that it should be printed.

Consideration of the Bill

26. In response to its call for evidence, the Committee received eight written submissions and took oral evidence from all eight organisations. In addition, the Committee received and considered all responses to the departmental consultation exercise.
27. Whilst the Committee is supportive of the principle of the Bill, written and oral evidence raised a number of concerns. The Committee explored these with the Department both in writing and in oral evidence sessions.

Protection of the Assets Transferring

28. The value of the 336 plus car parks transferring to local government has varied from a value of £233 million in 2010 to approximately £65 million currently. Members of the Committee were keen to ensure that this substantial asset was protected from future on-selling by local authorities which they considered to be detrimental to local economic regeneration in towns across Northern Ireland.
29. This concern was further exacerbated during the Second Stage of the Bill whenever the Minister for Regional Development stated that, *“Many town or city centre car parks have already been identified as key sites in the development of possible regeneration projects for commercial centres”*. The Deputy Secretary, Transport NI, confirmed at the meeting of 3rd December 2014 that some of the assets were in the process of being sold. Members, understandably, felt that this could have led to the wholesale disposal of essential assets and the resultant degeneration of local retail provision in local towns and villages.
30. For this reason, the Committee began the process of considering an amendment to the Bill that would ensure the protection of these assets for local regeneration. It is unfortunate that the Minister choose to use the term *“restrictive conditions”* during his summing up at Second Stage as this communicated a negative connotation to the actuality of what the Committee wished to achieve, namely the protection of assets for the betterment of regeneration in local towns.
31. Many of the responses from local authorities refer to their opposition to restrictions being placed on the future on-selling of car parking assets. When the Committee pressed witnesses on their understanding of what the Committee wanted to achieve with regards to a possible amendment, almost all cited some unfounded desire to restrict future sale by the placing of a prohibition to sell for a set number of years. This has never been an option placed before Committee for consideration.
32. The Committee is strongly supportive of local economic regeneration. In considering how it might amend the Bill, in order that local retail outlets be protected and supported, the Committee was agreed that, where car park spaces are used for local regeneration, spaces should be replaced either by a more efficient car parking arrangement or in another location that is conveniently located to the Primary Retail Core.
33. In considering the potential to amend as outlined above, the Committee was advised that the draft amendment was most likely outside the Scope of the Bill, since the Bill dealt exclusively with the transfer of the functions of car parking, such as tariffs, enforcement and use of parking attendants, rather than the actual transfer of the assets, which are provided for in Article 122 of the Local Government Act (Northern Ireland) 2014.
34. Whilst disappointed that a primary legislative route towards protecting these assets is not available at this moment, the Committee still wishes to ensure that stringent protection is applied through other sources. In that respect, the Committee seeks clarification as to the means and responsibility for the transfer of car parks under Section 122 of the Local Government Act (Northern Ireland) 2014.

35. **The Committee further seeks a strong assurance from the Minister and/or his relevant Executive colleague(s) that the respective scheme of transfer is amended to include a reference to existing planning policies on replacement of car parking spaces to ensure that where car park spaces are used for local regeneration, spaces should be replaced either by a more efficient car parking arrangement or in another location that is conveniently located to the Primary Retail Core.**

Financial Top-Slicing and the Principal of Rates Neutrality

36. Local authorities had an expectation that, whenever transfer of car parks were first muted, the revenues from car parking tariffs and Penalty Charge Notifications (PCN'S) would be sufficient to cover the cost of maintaining the network of car parks within their respective areas.
37. However, the Committee was advised that that this would not be the case, since these revenues would be expected to net-off the costs of transferring other functions, such as planning. Whilst this would ensure that the transfer of all functions would be rates neutral, there is still a significant concern among local councils that, ultimately, responsibility for off-street car parking will be a financial burden for ratepayers since the revenue potential of car parks is reduced by the transfer of other functions and the current/future tariff policies of the Executive.
38. **The Committee recommends that the Minister, following consultation with his Executive colleagues in the Department for Finance and Personnel and the Department of the Environment, ensures that the transfer of all functions remains rates neutral not just at the point of transfer but also for the foreseeable future, subject to any changes in car parking charges and PCN'S tariffs implemented by respective local authorities.**

Condition of Car-Parks

39. Without exception, all local authorities responding to the Committee call for evidence indicated their concerns as to the condition of car parks scheduled to transfer to them. One such car park, a multi-storey in Ballymena, had been estimated to require an investment of approximately £1.5 million to bring it up to an acceptable standard.
40. Officials from the new Fermanagh and Omagh District Council specifically referred to the condition of its car parks in their written submission to the Committee. Members would wish to thank the Chief Executive and his officials for facilitating an inspection of some of these sites on the late evening of 25th November 2014. This inspection allowed Members to gauge a variety of car park conditions ranging from those susceptible to flooding and subsidence, those without any visible bay markings and those which had been upgraded to an extremely high standard for the G8 conference.
41. It was very evident, from this one sample inspection and the written and oral evidence provided by other local authorities, that the physical conditions of car parks was extremely variable across local authorities. The Committee is very concerned that all car parks will be of an acceptable specification and condition at the point of transfer.
42. **The Committee seeks an assurance from the Minister for Regional Development that all car parks will be brought up to an acceptable specification and standard, preferably in advance of the point of transfer. Where this is not possible, the Minister should provide the Committee and the relevant local authorities with a timeline for the upgrading of car parks to a specification and standard that is acceptable to local authorities.**

Communications and Provision of Information

43. Again, the Committee received evidence, both written and oral, as to the Department's inability to provide local authorities with relevant and timely information. The Committee has some substantial experience of this as will be discussed at a later point.

44. The majority of local authorities responding to the Committee call for written and/or oral evidence detailed a multitude of information requirements that had not been provided to them. These ranged from maps of the sites to be transferred, financial histories in respect of claims and revenues of each car park down to the very basic question of what car parks would actually transfer.
45. Indeed, whenever Members and officials conducted a site visit to a car park in Enniskillen on the evening of 25th November 2014, they were advised that officials from Transport NI had contacted officials from Fermanagh and Omagh District Council that day to advise that almost one quarter of spaces in a car park (Castle) would remain in DRD ownership as a public road ran through the car park and they were, therefore, deemed to be “on-street” car parking. The fact that these “on-street” spaces were only on one side of the “public road” and that those adjacent to the other side of this “public road” would be transferred further confused the situation.
46. The Committee is very concerned at the very piecemeal method in which very relevant financial and legal information is being communicated (or not) with local authorities.
47. **The Committee recommends that all relevant financial, legal and other relevant information is communicated to all local authorities as a matter of urgency. The Committee would also ask that the Department further coordinate and communicate a “satisfaction survey” with local authorities in advance of the point of transfer to allow the Committee and local authorities to gauge if all relevant information has been satisfactorily transferred.**

Non-Cooperation

48. As previously indicated, the Minister for Regional Development requested, in correspondence dated 30th September 2014, that the Committee complete its scrutiny of the Bill in accordance with the statutory period defined in Standing Order 33(2), namely 30 days. Mindful of their obligations to properly and appropriately scrutinise primary legislation, Members agreed to reluctantly accede to the Minister’s request, subject to their right to seek an extension under Standing Order 33(4), should there be a need to do so. A prerequisite to this was that the Department would cooperate with regards to the turnaround of papers and information requested by Committee to ensure that the normal 10 day period could be circumvented.
49. The Committee notes that, despite initial assurances from the Minister that officials would work with the Committee, the Department failed to cooperate in this respect. Two letters to the Departmental Assembly Liaison Office (DALO), dated 8th and 21st October 2014, specifically asked for information within a period of 5 working days. The actual turnaround time was 10 and 13 days respectively.
50. The Committee notes that the Department intends bringing further legislation in the form of a Water Bill in the New Year and that the Department has specified the Committee Stage to be between June and October 2015, again so as to enable it gain Royal Assent before 31st March 2016.
51. **The Committee would strongly recommend that the Department honours the commitments the Minister makes in respect of officials working with the Committee. The Committee would also emphasise that it is for the Committee to decide and define the Committee Stage of Bills and that the Department should not attempt to coerce the Committee into a timeframe that does not allow it to properly and appropriately undertake its statutory responsibilities with regards to the scrutiny of primary legislation.**
52. **The Committee would respectively advise the Minister and his officials that they may wish to progress the Executive elements of future Bills accordingly.**

Clause by Clause Scrutiny of the Bill

Clause 1 – Transfer to district councils of functions in relation to off-street parking places

53. Agreed: the Committee is content with clause 1 as drafted

Long Title

54. Agreed: the Committee is content with Long Title as drafted



Northern Ireland
Assembly

Appendix 1

Minutes of Proceedings of the Committee Relating to the Report

Wednesday 4 June 2014

Room 21, Parliament Buildings

Present: Mr Jimmy Spratt MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Joe Byrne MLA
Mr John Dallat MLA
Mr Alex Easton MLA
Mrs Brenda Hale MLA
Mr Declan McAleer MLA
Mr Kieran McCarthy MLA
Mr Cathal Ó hOisín MLA
Mr David McNarry MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Mrs Tara McClafferty (Clerical Supervisor)
Mr Michael Donaghy (Clerical Officer)

Apologies: Mr Ross Hussey MLA

10:03am The meeting commenced in open session

6. **Department for Regional Development Briefing: Off-Street Parking (Functions of District Councils) Bill**

11:10am The following officials joined the meeting

Terry Deehan – Acting Director of Corporate Services, DRD

David Millar – Head of Land and Legislation Branch, DRD

Sean McConnell – Acting Head of Parking Enforcement Unit, DRD

Gerry Anketell MBE – Bill Team Leader, DRD

The officials presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

11:14am Mr Easton re-joined the meeting

11:20am Mr Dallat re-joined the meeting

11:27am Mrs Hale left the meeting

11:32am Mr Lynch left the meeting

11:34am Mr McAleer left the meeting

11:41am Mrs Hale re-joined the meeting

11:51am Mr Byrne left the meeting

11:59am Mr Lynch re-joined the meeting

12:01pm The officials left the meeting

Agreed: The Committee agreed to write to the Department to request information regarding the value of each car park by Council area.

- Agreed:* The Committee agreed to write to the Committee to request a copy of the report published by Deloitte in relation to the transfer of functions and due diligence.
- Agreed:* The Committee agreed to write to the Department to request a copy of the draft service level agreement between the Department and District Councils.
- Agreed:* The Committee agreed to write to the Department to request notes of meetings held with Chief Executives designates.
- Agreed:* The Committee agreed to write to the Department to request figures in relation to the hours deployed by parking wardens in off-street car parks.

Mr Jimmy Spratt MLA

Chairperson, Committee for Regional Development

11/06/14

[EXTRACT]

Wednesday 8 October 2014

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Joe Byrne MLA
Mr John Dallat MLA
Mr Alex Easton MLA
Mr Ross Hussey MLA
Mr Chris Lyttle MLA
Mr Declan McAleer MLA
Mr David McNarry MLA
Mr Stephen Moutray MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Miss Allison Ferguson (Clerical Officer)
Mr Barry McLernon (Clerical Officer)

10:06am The meeting commenced in open session

5. Department for Regional Development Briefing: Off-Street Parking (Functions of District Councils) Bill

10:13am The following officials joined the meeting

Terry Deehan – Director of Corporate Services, DRD

Sean McConnell – DPE Parking Manager, DRD

Garry McKenna – Head of Transport Legislation Branch, DRD

Davy Millar – Transport Legislation Branch, DRD

The officials presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

10:21am Mr Moutray joined the meeting

10:30am Mr Lyttle joined the meeting

10:31am Mr Moutray left the meeting

10:42am Mr McNarry joined the meeting

10:56am Mr Lynch left the meeting

10:58am Mr Hussey left the meeting

11:00am The officials left the meeting

11:00am The Committee moved into closed session

11:01am Mr Dallat left the meeting

11:06am Mr Hussey re-joined the meeting

11:10am Mr Lynch re-joined the meeting

11:14am Mr Dallat re-joined the meeting

11:17am Mr Easton joined the meeting

11:20am The Committee moved into open session

Agreed: The Committee agreed to write to the Department to request a copy of responses that have issued to local councils in relation to issues raised through the consultation process.

Agreed: The Committee agreed, by majority decision, to process the Committee Stage of the Bill within the period of 30 working days from the date of referral, whilst reserving the right to seek an extension, if required, under Standing Order 33 (4).

Agreed: The Committee agreed to begin the Committee consultation process of the Bill immediately.

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development

15/10/14

[EXTRACT]

Wednesday 15 October 2014

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Joe Byrne MLA
Mr Ross Hussey MLA
Mr Chris Lyttle MLA
Mr Declan McAleer MLA
Mr David McNarry MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Miss Allison Ferguson (Clerical Officer)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr John Dallat MLA
Mr Stephen Moutray MLA

10:12am The meeting commenced in open session

7. Off-Street Parking (Functions of District Councils) Bill

Agreed: The Committee agreed the Forward Work Programme in relation to the Committee Stage of the Bill.

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development
22/10/14

[EXTRACT]

Wednesday 22 October 2014

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Alex Easton MLA
Mr Chris Lyttle MLA
Mr Declan McAleer MLA
Mr David McNarry MLA
Mr Stephen Moutray MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Miss Allison Ferguson (Clerical Officer)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr Joe Byrne MLA
Mr John Dallat MLA
Mr Ross Hussey MLA

10:19am The meeting commenced in open session

11. Any Other Business

11:06am The Committee moved into closed session

The Committee discussed the Off-Street Parking (Functions of District Councils) Bill.

11:15am Mr Lyttle joined the meeting

11:26am Mr Ó hOisín left the meeting

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development

05/11/14

[EXTRACT]

Wednesday 5 November 2014

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Joe Byrne MLA
Mr John Dallat MLA
Mr Alex Easton MLA
Mr Ross Hussey MLA
Mr Chris Lyttle MLA
Mr Declan McAleer MLA
Mr Stephen Moutray MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Ms Christine Dodson (Clerical Supervisor)
Mr Barry McLernon (Clerical Officer)

10:04am The meeting commenced in open session

5. Off-Street Parking (Functions of District Councils) Bill

The Chairperson highlighted the written submissions received in relation to the Bill. The Committee also discussed the Forward Work Programme in relation to the Bill.

Agreed: The Committee agreed a list of organisations to invite to provide oral evidence.

10:36am Mr McAleer left the meeting

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development
12/11/14

[EXTRACT]

Wednesday 12 November 2014

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Joe Byrne MLA
Mr John Dallat MLA
Mr Alex Easton MLA
Mr Ross Hussey MLA
Mr Chris Lyttle MLA
Mr David McNarry MLA
Mr Stephen Moutray MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Ms Christine Dodson (Clerical Supervisor)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr Declan McAleer MLA

09:04am The meeting commenced in open session

4. Northern Ireland Independent Retail Trade Association Briefing: Off-Street Parking (Functions of District Councils) Bill

12:02pm The following representatives joined the meeting

Glyn Roberts – Chief Executive, NIIRTA

Adrian Farrell – President of Portadown Chamber of Commerce

The representatives presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

12:21pm Mr Lyttle left the meeting

12:24pm Mr Dallat left the meeting

12:28pm Mr Dallat re-joined the meeting

12:31pm Mr McNarry left the meeting

11:08am The representatives left the meeting

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development
19/11/14

[EXTRACT]

Wednesday 19 November 2014

Park Avenue Hotel, Belfast

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr John Dallat MLA
Mr Chris Lyttle MLA
Mr Declan McAleer MLA
Mr David McNarry MLA
Mr Stephen Moutray MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Miss Allison Ferguson (Clerical Officer)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr Ross Hussey MLA

09:45am The meeting commenced in open session

8. Belfast City Council Briefing: Off-Street Parking (Functions of District Councils) Bill

09:57am The following representatives joined the meeting

Siobhan Toland – Head of Environmental Health/Lead Operations Officer for HES Department, Belfast City Council

Damian Connolly – Environmental Health Manager, Belfast City Council

Mark McBride – Head of Finance and Performance, Belfast City Council

Cathy Reynolds – Estates Manager, Belfast City Council

The representatives presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

10:01am Mr Lyttle joined the meeting

10:24am Mr McNarry left the meeting

10:28am Mr McAleer left the meeting

10:30am Mr McAleer re-joined the meeting

10:39am Mr McAleer left the meeting

10:40am Mr Dallat left the meeting

10:40am The Committee was inquorate

10:44am Mr Dallat re-joined the meeting

10:44am The Committee was once again quorate

10:47am The representatives left the meeting

9. Antrim and Newtownabbey District Council Briefing: Off-Street Parking (Functions of District Councils) Bill

10:48am The following representatives joined the meeting

Hugh Kelly – Deputy Chief Executive/Director of Environment Services

Paul Casey – Information Governance Officer

The representatives presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

The Chairperson declared an interest as his wife is a member of Antrim and Newtownabbey District Council.

10:59am The representatives left the meeting

10:59am The Committee adjourned

11:11am The meeting recommenced in open session

The following Members were present: Mr Trevor Clarke MLA (Chairperson), Mr Sean Lynch MLA (Deputy Chairperson), Mr John Dallat MLA, Mr Chris Lyttle MLA, Mr Declan McAleer MLA, Mr Stephen Moutray MLA, Mr Cathal Ó hOisín MLA.

10. Mid and East Antrim District Council Briefing: Off-Street Parking (Functions of District Councils) Bill

11:11am The following representatives joined the meeting

Anne Donaghy – Chief Executive, Mid and East Antrim District Council

Cllr Timothy Gaston – Deputy Presiding Councillor, Mid and East Antrim District Council

Cllr Gordon Lyons – Chairman of Planning Committee, Mid and East Antrim District Council

Cllr Tommy Nicholl MBE – Chairman of Community Planning Committee, Mid and East Antrim District Council

The representatives presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

The Chairperson declared an interest as a constituent of Mid and East Antrim District Council

11:16am Mr Ó hOisín left the meeting

11:23am Mr Ó hOisín re-joined the meeting

11:44am Mr Moutray left the meeting

11:51am Mr Moutray re-joined the meeting

11:55am The representatives left the meeting

Agreed: The Committee agreed to table a motion in the Business Office to extend the Committee Stage of the Bill.

11. Northern Ireland Local Government Association Briefing: Off-Street Parking (Functions of District Councils) Bill

11:56am The following representatives joined the meeting

Derek McCallan – Chief Executive, NILGA

Alderman Arnold Hatch – Vice-President, NILGA

Stephen Reid – Chief Executive, North Down & Ards District Council

Cllr John O’Kane – Fermanagh District Council

The representatives presented to the Committee in respect of the work of the above.
Following the presentation, Members put questions.

12:11pm Mr Lyttle left the meeting

12:13pm Mr McAleer left the meeting

12:16pm Mr McAleer re-joined the meeting

12:20pm The representatives left the meeting

12:21pm The Committee adjourned

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development
26/11/14

[EXTRACT]

Wednesday 26 November 2014

Lough Erne Hotel, Enniskillen

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr John Dallat MLA
Mr Ross Hussey MLA
Mr Declan McAleer MLA
Mr Stephen Moutray MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Ms Christine Dodson (Clerical Supervisor)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr Joe Byrne MLA
Mr Alex Easton MLA
Mr Chris Lyttle MLA
Mr David McNarry MLA
Mr Cathal Ó hOisín MLA

09:01am The meeting commenced in open session

5. **Fermanagh and Omagh District Council Briefing: Off-Street Parking (Functions of District Councils) Bill**

09:10am The following representatives joined the meeting

Kevin O’Gara – Director of Environment and Place, Fermanagh and Omagh District Council

Jonathan Glendinning – Assistant Director of Technical Services, Fermanagh District Council

The representatives presented to the Committee in respect of the work of the above.
Following the presentation, Members put questions.

09:45am Mr McAleer left the meeting

09:55am Mr McAleer re-joined the meeting

09:57am The representatives left the meeting

09:58am Departmental officials joined the meeting and clarified a number of issues that had been raised during the previous briefing.

10:12am The Departmental officials left the meeting.

6. **Mid Ulster District Council Briefing: Off-Street Parking (Functions of District Councils) Bill**

10:13am The following representatives joined the meeting

Anthony Tohill – Chief Executive, Mid Ulster District Council

Cllr Cáthal Mallaghan – Presiding Councillor, Mid Ulster District Council

Adrian McCreesh – Acting Chief Executive, Cookstown District Council

Cllr Kenny Reid – Deputy Chair, Mid Ulster District Council

The representatives presented to the Committee in respect of the work of the above.
Following the presentation, Members put questions.

- 10:17am** Mr Hussey left the meeting
- 10:27am** Mr Hussey re-joined the meeting
- 10:40am** The representatives left the meeting
- 10:41am** The Committee adjourned
- 10:52am** The meeting recommenced in open session

The following Members were present: Mr Trevor Clarke MLA (Chairperson), Mr Sean Lynch MLA (Deputy Chairperson), Mr John Dallat MLA, Mr Ross Hussey MLA, Mr Stephen Moutray.

7. Department for Regional Development Briefing: Off-Street Parking (Functions of District Councils) Bill

- 10:52am** The following officials joined the meeting

Terry Deehan – Acting Director of Corporate Services, DRD

Gerry Anketell MBE – Transport Legislation Branch, DRD

David Millar – Head of Lands, DRD

The officials presented to the Committee in respect of the work of the above. Following the presentation, Members put questions.

Mr Hussey declared an interest as an MLA for the West Tyrone constituency.

- 10:55am** Mr McAleer re-joined the meeting

- 11:25am** Mr Lynch left the meeting

- 11:35am** The officials left the meeting

Agreed: The Committee agreed that it would not move the motion to extend the statutory period of 30 days in respect of the Off Street Car Parking (Functions of District Councils) Bill.

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development

03/12/14

[EXTRACT]

Wednesday 3 December 2014

Room 21, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr John Dallat MLA
Mr Ross Hussey MLA
Mr Chris Lyttle MLA
Mr David McNarry MLA
Mr Stephen Moutray MLA
Mr Cathal Ó hOisín MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Ms Christine Dodson (Clerical Supervisor)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr Joe Byrne MLA
Mr Declan McAleer MLA

10:11am The meeting commenced in open session

10:17am The Committee recommenced in closed session

The following Members were present: Mr Sean Lynch MLA (Deputy Chairperson), Mr John Dallat MLA, Mr Ross Hussey MLA, Mr David McNarry MLA, Mr Cathal Ó hOisín MLA.

6. **Off-Street Parking (Functions of District Councils) Bill: Legal Advice on Proposed Committee Amendment**

10:17am The following officials joined the meeting

Eilis Haughey – Bill Office, NI Assembly

Stephanie Mallon – Bill Office, NI Assembly

The officials presented to the Committee in respect of the work of the above.

10:18am Mr Clarke joined the meeting and assumed the role of Chairperson

10:28am Mr Lyttle joined the meeting

10:46am Mr Lynch left the meeting

10:48am Mr Lynch re-joined the meeting

10:55am The officials left the meeting

Agreed: The Committee agreed that it would not seek to amend the Off Street Parking (Transfer of Functions to District Councils) Bill at this stage.

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development

10/12/14

[EXTRACT]

Monday 8 December 2014

Senate Chamber, Parliament Buildings

Present: Mr Trevor Clarke MLA (Chairperson)
Mr Sean Lynch MLA (Deputy Chairperson)
Mr Joe Byrne MLA
Mr Alex Easton MLA
Mr Ross Hussey MLA
Mr Declan McAleer MLA
Mr David McNarry MLA
Mr Stephen Moutray MLA

In attendance: Mr Paul Carlisle (Clerk to the Committee)
Mr Gavin Ervine (Assistant Assembly Clerk)
Ms Christine Dodson (Clerical Supervisor)
Mr Barry McLernon (Clerical Officer)

Apologies: Mr John Dallat MLA
Mr Chris Lyttle MLA
Mr Cathal Ó hOisín MLA

12:51pm The meeting commenced in open session

3. Off-Street Parking (Functions of District Councils) Bill: Clause by Clause Consideration

Agreed: That the Committee is content with clause 1 put and agreed to.

Agreed: That the Committee is content with schedule 1 put and agreed to.

Agreed: That the Committee is content with the Long Title as drafted.

4. Off-Street Parking (Functions of District Councils) Bill: Draft Committee Report

12.53pm The Committee went into closed session to discuss a draft version of the Bill report.

1.23pm The meeting recommenced in open session

Agreed: That Members are content with the section entitled "Powers and Membership".

Agreed: That the Committee is content with paragraphs 1-3 inclusive.

Agreed: That the Committee is content with paragraph 4 as amended.

Agreed: That the Committee is content with paragraphs 5-9 inclusive.

Agreed: That the Committee is content with paragraph 10 as amended.

Agreed: That the Committee is content with paragraphs 11-28 inclusive.

Agreed: That the Committee is content with paragraphs 29 as amended.

Agreed: That the Committee is content with paragraphs 30-37 inclusive.

Agreed: That the Committee is content with paragraphs 38 as amended.

Agreed: That the Committee is content with paragraphs 39-41 inclusive.

Agreed: That the Committee is content with paragraphs 42 as amended.

- Agreed:* That the Committee is content with paragraphs 43-47 inclusive.
- Agreed:* That the Committee is content with paragraphs 48 as amended.
- Agreed:* That the Committee is content with paragraphs 49-50 inclusive.
- Agreed:* That the Committee is content with paragraphs 51 as amended.
- Agreed:* That the Committee is content with paragraphs 52-54 inclusive.
- Agreed:* That the Committee is content to include an extract of today's Minutes in the Bill Report.
- Agreed:* That the Committee is content that the Report, along with the associated Minutes of Proceedings and Appendices, are ordered to print.

5. Any Other Business

6. Date of the next meeting

The next meeting of the Committee will be Wednesday 10th December 2014 at 10:00am in Room 21, Parliament Buildings

1:26pm The meeting was adjourned

Mr Trevor Clarke MLA

Chairperson, Committee for Regional Development
10/12/14

[EXTRACT]



Northern Ireland
Assembly

Appendix 2

Minutes of Evidence

4 June 2014

Members present for all or part of the proceedings:

Mr Jimmy Spratt (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr Joe Byrne
 Mr John Dallat
 Mr Alex Easton
 Mrs Brenda Hale
 Mr Declan McAleer
 Mr Kieran McCarthy
 Mr David McNarry
 Mr Cathal Ó hOisín

Witnesses:

Mr Gerry Anketell	<i>Department</i>
Mr Terry Deehan	<i>for Regional</i>
Mr Seán McConnell	<i>Development</i>
Mr David Millar	

1. **The Chairperson:** I welcome Terry Deehan, acting director of corporate services at DRD; David Millar, head of lands and legislation branch; Seán McConnell, acting head of parking enforcement unit; and Gerry Anketell, the Bill team leader. You are all very welcome, and most of you are no stranger to the Committee. Go ahead and make a presentation, and then leave yourselves open to questions.
2. **Mr Terry Deehan (Department for Regional Development):** I will not rehash all the introductions. I thank the Committee for the opportunity to brief members on the Bill, and for allowing us to avail ourselves of this opportunity, given the very short notice at which the Bill is being brought to you. I thank the Committee Clerk for arranging it.
3. I will briefly cover the background on the RPA process and the context of the proposal, which is to issue for consultation a Bill to transfer and share powers in relation to off-street car parking with the 11 new district councils. Gerry Anketell is the acting Bill team leader in the Department; he will explain the legislative background

and the process of introducing the primary legislation required. Davy Millar, head of lands and legislation for Transport NI, will describe the assets being transferred and how that will be achieved through the Local Government Act (Northern Ireland) 2014. Finally, Seán McConnell is head of the parking enforcement unit of Transport NI, and he will outline the operational arrangements which we are putting in place, by agreement with the councils, to provide the service post-April 2015. We hope that that will provide an overview of the Bill, and there will be an opportunity for us to answer your questions at the end.

4. I will not rehearse the history of the RPA from pre-devolution 2005 to April 2013.
5. **The Chairperson:** Please do not.
6. **Mr Deehan:** I am sure that you will be glad of that. It might be painful enough. I will, however, point out some salient points. The most important of those is that, as part of the previous RPA process, a briefing on a previous Roads (Functions of District Councils) Bill was provided to this Committee in January 2010, and subsequently consulted on. That is the reason why our consultation proposes a relatively short, six-week consultation period. That Bill was subsequently withdrawn, maybe due to the lack of progress on the RPA system itself and the fact that it was impractical to devolve the power to 26 local councils.
7. The second thing, by way of context, is that the scope of the functions transferring has been reduced. The current proposals, as announced in April 2013, are singularly to transfer off-street parking, excluding park-and-ride and park-and-share facilities, to councils. Finally, as part of the Executive's proposals, the package of proposals to transfer will be reviewed in April 2016, with a view to extending the functions transferring.

8. So, to summarise the context of the Bill, this is primary legislation required to enact an Executive policy. Gerry will cover the legislative requirements. The content of that policy has been subject to engagement with the RPA delivery structures, which have a political input at their various levels, and with district council officials, normally at chief executive level, in the RPA working groups. Davy will outline some of the proposals for transferring assets. Finally, the operational arrangements will be subject to in-depth arrangements with the shadow councils. Seán will cover that aspect. That will be subject to a service level agreement, probably, with councils, which will cover the detail. As you can imagine, there is a lot of detail in the operational arrangements of car parking.
9. That is basically the context. I will pass you on to Gerry, who will talk about the legislative aspects.
10. **Mr Gerry Anketell MBE (Department for Regional Development):** Thanks, Terry. As Terry has already mentioned, the proposals that are contained in the Bill were the subject of discussions with the transfer of functions working group and the technical subgroup dealing with roads under the general RPA structure. There have certainly been meaningful discussions along the way. Simply put, the Bill seeks to introduce the wishes of the Executive to transfer off-street parking responsibility to the new councils. It has a single clause. It proposes that councils will, in the future, have powers to provide off-street parking places. Councils will become the owners and operators of the off-street parking places, other than park-and-ride and park-and-share places. Councils will operate and maintain those parking places, and they will be responsible for enforcement of parking contraventions within them.
11. Councils will have powers to employ traffic attendants. They will have powers to deliver parking enforcement services in those off-street parking places. They will have the power to process penalty charge notices; maintain and operate the off-street car parks; and provide new off-street car parks or dispose of existing ones. They will have responsibility for setting tariffs. They will have responsibility for the penalty charge notice income and the car parking income.
12. From a legislative perspective, what the Bill will do is transfer to the new councils certain powers under the Road Traffic Regulation (Northern Ireland) Order 1997, which presently enables the Department to provide for off-street parking places. It will essentially share with councils certain powers under the Traffic Management (Northern Ireland) Order 2005, which will allow councils to apply the decriminalised parking enforcement system that is already in place through the Department.
13. Terry mentioned the shorter consultation period. That takes into account the earlier consultation on the draft Roads (Functions of District Councils) Bill in which these proposals were contained. Essentially, we will consult the usual parties, including the existing councils, the shadow councils, the chairpersons of the regional transition committees, section 75 groups and, obviously, the Departments. We hope that we will be in a position to introduce the Bill to the Assembly in September of this year. Members may have noted that the date of operation, to coincide with RPA, is 1 April 2015.
14. I will pass on to Davy.
15. **Mr David Millar (Department for Regional Development):** As regards the mechanism for transferring assets, the Local Government Act (Northern Ireland) 2014 provides for the transfer schemes to be put in place by any Department, transferring assets and liabilities to the 11 new councils. The transfer schemes are the formal documentation that we will use to transfer off-street car parks to each of the new councils, together with the associated easements and way leaves and any relevant equipment, such as pay-and-display machines, street lighting, et cetera. The transfer scheme is basically a legal document that is signed under seal between the

- Department and each of the councils. It will list all the car parks that will transfer, together with the types of title and any contracts that are associated with the car parks. DOE will also make similar transfer schemes to transfer assets and liabilities from the outgoing 26 councils to the new 11 councils. The transfer of car parks and associated equipment will be cost-neutral at the point of transfer to the new councils, with DFP responsible for the necessary financial arrangements and implications. Work is almost complete, and it has been a big exercise to gather all the necessary information on some 338 car parks transferring, in order to inform the transfer schemes. Some of the new councils have already received preliminary information on the car parks transferring to them, to allow them to carry out their own internal works and preparations. The information that has been gathered has been reviewed by Deloitte, which was appointed by the transfer of functions working group to carry out a due diligence exercise. The aim is that all the car parks transferring will transfer with effect from 1 April 2015.
16. **Mr Seán McConnell (Department for Regional Development):** Just on the factual operation itself, the current situation is that we are working very closely with the transfer of functions working group to help it decide how enforcement and processing will take place, come 1 April 2015. As we see it, there are two options. The councils may decide to carry out enforcement and processing themselves, or they may ask Transport NI to provide that service for them. The second option, we believe, would be best delivered through a service level agreement and at this stage we have drafted a generic service level agreement that will be presented to the transfer of functions working group next Monday as part of a discussion paper. Depending on how that is received, we will move forward, but no decisions have yet been taken by the shadow councils as to whether they will do the enforcement themselves or — *[Inaudible.]*
17. **The Chairperson:** Why should they not do it? They already carry out enforcement.
18. **Mr McConnell:** The difficulty is that there is quite a complex IT system behind the legislation, for which they would probably have to go through procurement at present. We have all that in place, and we could possibly offer them something a lot cheaper than the cost of them going into 11 procurement exercises.
19. **The Chairperson:** Is there a bit of job protection going on?
20. **Mr McConnell:** Absolutely not.
21. **The Chairperson:** How can you assure me of that?
22. **Mr McConnell:** We have discussed it with the transfer of functions working group and given it the full detail of the processing of enforcement and penalty charge notices. Before the shadow chief executives designate came on board, the transfer of functions working group was of the opinion that DRD doing it represented the best value for money.
23. **The Chairperson:** The best value for money for the ratepayer?
24. **Mr McConnell:** Yes, for the ratepayer.
25. **The Chairperson:** It will be interesting to see. I have just asked that question — *[Inaudible.]* Is that the end of the presentation? Thank you very much. I have one or two issues. First, will the Committee have the opportunity to assess the consultation responses before the introduction of the Bill in September, given that we have the summer recess coming up?
26. **Mr Anketell:** We will be more than happy to provide the Clerk with the responses that we receive. We took a similar approach with the Road Races (Amendment) Bill, and it seemed to work very well.
27. **The Chairperson:** It worked very well. So, could we have those responses as they come in, so that the Clerk's office can have a look at them and, if there

- are any issues, they can be highlighted? You are right; the process for the Road Races (Amendment) Bill worked excellently in relation to that.
28. **Mr Anketell:** I suspect that we may not have just quite as many responses on this. *[Laughter.]*
29. **The Chairperson:** We have been given assurances that land transferred from central government will remain in public ownership. What safeguards are there for that, so that a local authority or district council cannot auction off a prime piece of land? Sometimes, in town and city centres, these car parks are prime pieces of land which it would be very advantageous to sell off. Where are the safeguards built in to make sure that the public purse is protected?
30. **Mr Millar:** The car parks are being transferred to the councils. They will be in the ownership of the councils; it is their sole responsibility to manage them and deal with them as best they can.
31. **The Chairperson:** So, they could sell them off?
32. **Mr Millar:** They could, but, in saying that, DSD has identified a number of off-street car parks situated in town centres as being key to the regeneration of town centres. A number of councils are already looking at the car parks in relation to regeneration proposals for their town centres. As part of that regeneration, if you are putting in a new facility, you have to provide alternative car-parking facilities. Providing an alternative or the same level of car parking will be taken into account as the planning application comes forward for the regeneration proposals. They are deemed key by DSD and local councils to the regeneration proposals of the various towns.
33. **The Chairperson:** So, all the public liabilities, all the maintenance liabilities and everything else around car parks will transfer automatically, and the central government public purse will not have any strain on it because of any of those issues?
34. **Mr Millar:** Yes.
35. **Mr Anketell:** The Department will remain responsible for any liability claims until 31 March 2015. Anything arising from 1 April onwards will fall to the councils.
36. **The Chairperson:** Just let me go back to the enforcement issue. I know that there is a contract running to sometime in 2016 for the red coats. I suspect that there will be a reduced requirement for red coats in the future if the councils employ their own staff. Will that mean that there is a reduced burden on the public purse for on-street parking?
37. **Mr McConnell:** We see it as a TUPE issue. The reduced number of red coats will eventually go across to the councils that to enforcement.
38. **The Chairperson:** Why should it, if the Department has a commercial contract with a private company? Why would TUPE come into it?
39. **Mr McConnell:** The function still remains of car-park enforcement. Provided that the council still requires enforcement and still wants to employ attendants, our advice from DSO is that there is a TUPE requirement —
40. **The Chairperson:** So, the private company scores in terms of holding onto its contract? Is that what you are telling me?
41. **Mr McConnell:** The contract remains in place until 2016. There will be a reduced number of traffic attendants if the councils decide that they want to go with enforcement on their own. The function of car-park enforcement is continuing, albeit done by someone else. The council would take across the attendants and would be responsible for all terms of employment.
42. **The Chairperson:** But after 2016, I assume that district councils' hands are not going to be tied in retaining staff when they could perhaps get a cheaper contract with a local company, maybe in a particular district council area or whatever. We are not tying the hands of the district councils.

43. **Mr McConnell:** Not after 2016. After 2016, our contract with NSL is due for review. At that stage, if the councils were going it alone, I would expect that they would come back to NSL as part of the renegotiation, because it is a 10-year contract.
44. **The Chairperson:** I assume that the Department is not going to meddle in the affairs of district councils come April 2015.
45. **Mr Deehan:** No. The councils will have the option of opting out of enforcement.
46. **The Chairperson:** So you are not meddling in who is employed or anything else? Is that what you are telling me?
47. **Mr Deehan:** We are not. However, in discussion with councils, we have given them the opportunity and the option. The working groups have recommended that councils take up that option to piggyback on our contract until 2016 to allow councils to put alternative arrangements, should they wish to, in place or continue with that arrangement beyond 2016. It is completely up to councils.
48. **The Chairperson:** The contract that is in place is not a cheap one. Red coats are not the flavour of the month in quite a few parts of the Province, including my own Lisburn Road area.
49. **Mr Ó hOisín:** Particularly in that area.
50. **The Chairperson:** You are assuring us that councils' hands will not be tied by having to employ who the Department might have in the future as the enforcers for on-street parking.
51. **Mr McConnell:** How councils carry out enforcement is very much their decision.
52. **The Chairperson:** Will that be clear in the Bill, Gerry?
53. **Mr Anketell:** The Bill does not mention that. There is absolutely nothing in the Bill that deals with that. The Bill focuses entirely on the transfer of the powers.
54. **The Chairperson:** That could be a bit dangerous, could it not?
55. **Mr Anketell:** I do not think so.
56. **The Chairperson:** We will see.
57. **Mr Lynch:** Will each council be able to set its own tariffs? How consistent will that be across the board?
58. **Mr McConnell:** Again, that is a decision for the council. The legislation allows the councils to set the tariffs, and there is no requirement on the Department to decide the level of the tariffs, or even to manage or monitor them.
59. **Mr Lynch:** So, you could have different levels of tariffs in different council areas.
60. **Mr McConnell:** Absolutely.
61. **Mr McNarry:** This is great fun. No disrespect to you gentlemen — I have the utmost respect for you — but this looks like some idiot has said, "Let's give these super-councils something to justify their blooming existence". You have picked on this, and it is clear what they have ditched out. The beneficiaries of the revenue from the car parking are the councils. So, the ratepayers will benefit immensely from the amount of money that they are spending in their own car parks. They are the overall beneficiaries. Who sets the pricing policy for the car parks — in other words, what they inherit. Who will set that policy?
62. **Mr McConnell:** The councils themselves.
63. **Mr McNarry:** They can do it individually; they are not being asked to do it collectively. So is it just a case of, "Go ahead, councils, do whatever you like."
64. **Mr Deehan:** They are accountable to their ratepayers.
65. **Mr McNarry:** They are accountable to who?
66. **Mr Deehan:** Their ratepayers.
67. **Mr McNarry:** Aye, every four years, if they are lucky.
68. This idea that the Chairman mentioned about the transfer of land assets — I heard your answers, but you actually

- said that the Bill says the proposals will be cost-neutral. How do you figure that out? What is the cost or the value of all the car parks that you are handing over?
69. **Mr Deehan:** DFP is taking forward the financial arrangements, but our understanding is that DFP will adjust for those councils. It is not only the revenue that will transfer to the councils; the costs of car park maintenance, etc, will as well.
70. **Mr McNarry:** We have dealt with the revenue; now let us stick with the asset. This is cost-neutral. I would like you to explain that, because I cannot understand. There is nowhere that I can see the value of all these car parks — the land. In my own constituency, if the Chairman will indulge me — Kieran’s constituency also; I forgot about that — *[Interruption.]* In the beautiful Strangford constituency, what is the value of the assets being handed over in car parks to the new super-council?
71. **Mr Deehan:** I do not have a value for each constituency.
72. **Mr McNarry:** Does anybody have those figures? Can you get them for us?
73. **Mr Deehan:** We can provide them, yes.
74. **Mr McNarry:** So they are being handed over for free.
75. **Mr Deehan:** It is cost-neutral at the point of transfer, yes.
76. **Mr McNarry:** So, it is “cost-neutral” in the language of this Bill. I must look for “cost-neutral” to be exactly the same in future Bills.
77. **Mr Deehan:** The Bill does not mention that. We explain it in the explanatory foreword to the Bill. The Bill is really just concerned with the transfer of powers. DFP will make arrangements on the transfer of finances.
78. **Mr McNarry:** Forgive me, but it does have to be concerned with the value. The briefing paper that we have says that it is cost-neutral. With all due respect, whoever wrote that should go and rewrite it or give an explanation of “cost-neutral”. I would think that we are talking about a considerable amount of money.
79. Again, I will take up the Chairman’s point of view and say that there is nothing in the Bill to stop the council saying, “Hang on here, we are going to sell this bit of land” or whatever. Do you think that it might be appropriate for you to put in a clause that prohibits the council from doing that for the next five or 10 years? Would it be worthwhile saying to ratepayers, “Here is your gift for car parking, which we would like you to hold on to. You will get some money out of it for revenue, which is worth so much money, but there is a provision that says that, for the next five years, you can’t flog it”. Do you think that it might be worthwhile including that in the Bill?
80. **Mr Millar:** I suppose that all that the departmental officials are doing is enacting the Executive’s will, which is that councils will be responsible for off-street car parks and whatever they want to do with them.
81. **Mr McNarry:** In other words, you are really saying that you are carrying out the Executive’s instructions, no matter, in my opinion, how stupid those are. You are carrying them out, no matter what they say, and you are just going to proceed with it. Perhaps Committee members might have an opportunity to look at and correct that bit.
82. I will just ask about these Darth Vader enforcers who are circulating the place. Will any of them be made redundant as a result of the transfer, or will the situation just be the same? In other words, will the numbers reduce or increase, or will they just be the same because there is a contract?
83. **Mr McConnell:** The current situation is that we are in initial discussions with what are now the shadow councils and the chief executive designates. It will depend on what they decide about how enforcement is carried out. If the councils decide that they want to do it themselves, you may have a situation where there is a transfer across to

- them. If they decide that there is to be zero enforcement in one or more district council areas, you may have a situation where traffic attendant numbers will be reduced. However, until we get into the finer detail with them on exactly what each shadow council wants to do, I really cannot answer that question.
84. **Mr McNarry:** It is not likely to be a franchise operation. The people who enforce it obviously get the money for enforcing it. Are they going to pay a percentage to the councils? Is this contract some kind of franchise? Can the councils not operate their own enforcers? That is mainly why I asked about redundancies as a result of these changes.
85. **Mr McConnell:** If the councils decide to operate their own enforcement teams, NSL's contract will have to be changed, and there will be reductions and transfers. Our understanding is that, if the councils want to carry out their own enforcement, they will be required to begin a TUPE process.
86. **Mr McNarry:** Would you be able to supply information to our very able staff about the revenue collection that these enforcers have brought in from each of the car parks that we are talking about? The reason that I am asking for that is — again, this comes back to cost neutrality — that that is a very valuable business that somebody is running, and good luck to them if they have a contract for it. However, that is now going to ratepayers, so I think that they would like to know how much the fines were in total over the past three years. It is obviously not costing them anything if they are hiring it out.
87. **The Chairperson:** Can that information be supplied?
88. **Mr McConnell:** We can supply information.
89. **The Chairperson:** For each of the 338 car parks?
90. **Mr McConnell:** We can supply information on a lot of them, yes.
91. **The Chairperson:** We will require that. The Clerk will you write to about that.
92. **Mr McNarry:** That is very helpful. Thank you.
93. **Mr Byrne:** I welcome the presentation. This is the first issue that has cropped up on the transfer of functions, and it is leading to an interesting discussion. Has any breakdown been done of the revenue income that goes into each of the 338 car parks and what that is likely to be for each new super-council?
94. **The Chairperson:** We will get that information.
95. **Mr McConnell:** It should be pointed out that not all those car parks are charge car parks; some of them are free. So, the reply will be zero for a lot of them.
96. **The Chairperson:** You can tell us which ones are the free car parks and which ones are not. When all the members have had a say, I want to clarify some issues.
97. **Mr Byrne:** Has much work been done on the service level agreement that has been hinted at? Has a costing been done on the service level agreement? It may be possible, but with DRD *[Inaudible.]*
98. **Mr McConnell:** It is an initial draft at present, and we are going with it as a discussion document. However, you have to remember that, before we even get down that road, there has to be an acknowledgement by the councils that they want us to engage in this operation. We are probably preparing steps ahead in case they decide to ask us to carry out enforcement for the period up to October 2016.
99. **Mr Byrne:** You said earlier that Deloitte does some sort of computation and that some of the accountancy firms had been asked to do something with the costing.
100. **Mr Deehan:** Yes, Deloitte prepared a report for the RPA transfer of functions working group. That was a due diligence report that looked at validating the costs and the revenues for the transferring car parks. It was able to stand over the

- figures that DRD was providing on the car parks and their costs and revenues.
101. **The Chairperson:** So, did Deloitte get those figures from the Department?
102. **Mr Deehan:** Yes.
103. **The Chairperson:** Can we have those figures as well?
104. **Mr Deehan:** Yes.
105. **Mr Dallat:** I apologise for being out. As you know, we go out occasionally to speak to people from different parts of the world to tell us how wonderful we are here. That is what I was doing.
106. Some of the councils that are taking over will probably get very nice modern car parks that are automated and all the rest of it. In others, there will be nothing. Where do they begin to create some kind of level car-parking provision across Northern Ireland?
107. **Mr Millar:** At the minute, all the car parks are fit for purpose. They have to be fit for purpose to defend properly public liability claims. However, they are all of different standards, given the lining and so on.
108. **Mr Dallat:** I am thinking about multi — whatever you call it — and others.
109. **Mr Millar:** The council has asked for condition surveys, and our engineers are preparing a report to hand over to the councils to show the condition surveys. They are of different standards but are all fit for purpose. The maintenance in the car parks has not stopped just because we are transferring them over. So, any maintenance plans, works plans, refurbishment plans or relining will take place as normal to keep them up to fit-for-purpose standards, and they will then transfer over.
110. **Mr Dallat:** I see that in England the county councils have overall responsibility for the administration of the collection of parking fines. You pay them on the web and all that, and then the local councils presumably make their own choices about whether they should be free or whether there should be charges. Might that happen here?
111. **Mr Millar:** Yes.
112. **Mr Dallat:** Is it envisaged that we will say, “You are the county council, and you have the computer system”?
113. **Mr Millar:** Yes.
114. **Mr McConnell:** We have suggested to the councils that we have the service in place whereby people can look at their penalty charge notice online and decide to pay it. Very shortly, we are introducing an opportunity to appeal and challenge online and do all those things. That is all in place. We are suggesting to the shadow councils that, if they want that facility, we can work with them in partnership to deliver it.
115. **Mr Dallat:** Is there provision for variations in that? Causeway might have a penalty charge of £25, and in the west they might charge £50. Is that all feasible and possible?
116. **Mr McConnell:** Once the councils get the assets transferred, they can charge as they wish. We have the capacity to adapt our systems to allow those charges as you suggest, whether it is £45 or £20 or whatever.
117. **Mr Dallat:** The enforcement section, or at least part of it, is at County Hall in Coleraine. How many people are employed there?
118. **Mr McConnell:** Eleven people are currently employed in processing.
119. **Mr Dallat:** That is one good reason for supporting that, Chairperson.
120. **The Chairperson:** I was thinking along the lines of a service level agreement. Would there be an opportunity for the Minister for Regional Development to transfer another 50 posts up to Coleraine to save some of the jobs up there?
121. **Mr Dallat:** Other Departments do that.
122. **Mr McConnell:** We currently have 25 posts in Omagh that deal with the second side of the process. Those staff

- deal with challenges and all the appeals, and they manage all the debt collection. The Coleraine offices deal with all our telephone enquiries and with clamping, removal and all the vehicle licensing issues that we have in tracing vehicles. The work is spread across those two areas, plus we have an office in Belfast.
123. **The Chairperson:** How many are there? I notice that you are a bit reluctant to tell me how many are there. Are you?
124. **Mr McConnell:** There are eight staff in Belfast.
125. **The Chairperson:** Eight staff?
126. **Mr McConnell:** They manage the enforcement —
127. **The Chairperson:** Why would centralisation of that facility not be a possibility?
128. **Mr McConnell:** It is historical. Parking enforcement was in place long before the decriminalisation of parking. The two centres that originally managed parking enforcement and the old off-street parking were based in County Hall in Coleraine and County Hall in Omagh. I was based in Omagh at that stage. The historical arrangement for the collection of all the cash and the reconciliation was always in Craigavon, and it remains there. There are three posts in Craigavon. The introduction of the decriminalisation of parking was a headquarters function; they introduced the policy and did all the procurement work in 2005 and 2006 to introduce decriminalised parking (DP). Historically, that was done in Belfast, and it remained there. The people who were involved in the introduction of DP were responsible for the management of the enforcement contract. So, the locations are down to history.
129. **The Chairperson:** There is nothing to stop the staff concerned being TUPE'd over to district councils.
130. **Mr McConnell:** There is. According to the Departmental Solicitor's Office (DSO), about 55% to 60% of our work is involved with on-street parking.
- So, because the majority of the work concerns on-street parking, there is no requirement to TUPE across that part of the function. I think that it should also be noted that a lot of the staff in Coleraine and Omagh are at lower Civil Service grades and, as such, it would be difficult to transfer them out of those areas. It is exactly the same situation that you have with DVLA staff in Coleraine.
131. **Mr Dallat:** It might be useful to know just how many of those staff are agency staff. I know, for example, that there was no enforcement of taxation over here.
132. **Mr McConnell:** We have two staff who are currently employed as agency staff. They are there to cover periods of maternity leave, one of which is due to come to an end in July, while the other ends in, I think, October.
133. **Mr Dallat:** Anyway, to support the Chairperson's remarks, I will say that there may be opportunities to create some jobs in Coleraine.
134. **Mr Byrne:** I will resist making any comments, John.
135. **The Chairperson:** OK. We will not get into that debate, because I can see two people from the same party disagreeing.
136. **Mr Ó hOisín:** Thank you. Chair, can I just say that I welcome all jobs coming to Coleraine or elsewhere in the north-west or in the East Derry constituency.
137. **The Chairperson:** Do you want to keep them in Omagh?
138. **Mr Ó hOisín:** I think that, the last time that I looked, the current differential between revenues expended on enforcement and those lifted was some £13 million. That is a circle being squared. It seems a huge amount, and surely it would require an undue increase in charges to justify it and make that up at a local council level.
139. **Mr Deehan:** The DFP arrangements will ensure that it is cost neutral when it transfers to councils, so there will not be a requirement for them to increase charges. However, councils will be in a

- position to increase, decrease or abolish charges from April 2015.
140. **Mr Ó hOisín:** The differential is currently £13 million, I think, so there is obviously a shortfall. Councils will have to address that.
141. **Mr Deehan:** I do not know where you get that £13 million figure from, but, currently —
142. **Mr Ó hOisín:** I think that the revenue that was raised was £22 million, and the cost was £35 million. Am I right with those figures?
143. **Mr Deehan:** I think that, in the last published accounts, the revenue was something along the lines of £17 million, and the total costs were in excess of that. However, those included the capital costs for the asset. Broadly speaking, car parking breaks even.
144. **Mr Ó hOisín:** OK. I will check where those figures come from. The other question that I have is technical. I note that, of the 26 councils, one is missing. Is that a typo, or is it a rare oversight on behalf of Limavady Borough Council?
145. **Mr Anketell:** Chair, I might have to put my hand up to that. I would be quite happy to have a look at that and, if it has been omitted, ensure that it is included.
146. **Mr Deehan:** Apologies to Limavady.
147. **Mr Ó hOisín:** The centre of the universe.
148. **The Chairperson:** There are just a couple of things. Can we have a copy of the service level agreement that you mentioned, Seán?
149. **Mr McConnell:** Yes.
150. **The Chairperson:** We can look at exactly what it is, because I think that it is in the interests of the public and the ratepayers of the district councils to know exactly what that service level agreement is.
151. **Mr Deehan:** To clarify, Chair, work on that is still in progress. We have to go through all 11 councils to get that agreed, so we are really at the very early stages of that.
152. **The Chairperson:** Perhaps we could also have information and papers on the discussions that have taken place with the chief executives of the 11 new district councils. I think that it is important that we see those.
153. **Mr Deehan:** I think that all the minutes of the working groups are on the DOE website.
154. **The Chairperson:** I am asking you to supply the information for that particular area. That is not up to the Committee staff, so I am asking the Department to supply it.
155. I wonder what consideration you have given to another issue. You know what has happened with speed cameras across the water. They have basically become tax-revenue machines that district councils have put in all around the place to raise money at a local level, as opposed to the way that it is done here. There are tremendous dangers in the potential for district councils to hike up charges in town centres or city centres in Northern Ireland. Councils and business organisations right around the Province in smaller towns and bigger towns, right through to cities, have been actually trying to get parking charges reduced as much as possible, and the Department has facilitated that to a degree. There is the potential to drive people out of town centres if prices are hiked up. Has that been pointed out to the councils? I assume that it is something that they will have high on their radar, but I think that the Department should point out facilitation for reduced charges not only over the Christmas period but more recently, when, I think, it was five hours for a pound in most of the car parks. That has been facilitated to try to bring much-needed business back into town centres. It is just that I see dangers there. I know that the Department would not be of the making of them, but it is worth pointing out. I assume that that has been done.

156. **Mr Deehan:** Councils have probably been in the lead in representations to DRD on reductions in car-parking charges. Councils very much see this through their RPA working groups as an opportunity for them to have that power and to be more accountable for charges. They see that opportunity to work positively for town-centre managements.
157. **Mr McConnell:** Off-street car parks recognise that they do not lend themselves to CCTV. As well as that, the Department still has a responsibility for on-street car parking. It would not be our intention going forward to introduce CCTV for parking enforcement.
158. **The Chairperson:** Of the existing commercial firms that do the parking enforcement, can you give us the numbers that are involved for off-street car parks as well as the other information that we asked you for, Seán? I know that some of their day is spent on street and some off street, but there must be a matrix to indicate how many hours are spent inside the car parks that are being handed over.
159. **Mr McConnell:** That part of the Deloitte work on due diligence means that we have the information to show the number of hours that are spent in each car park, plus the hours that are spent on the street.
160. **The Chairperson:** Was the Department involved in financing the Deloitte report as well?
161. **Mr Deehan:** Not in financing the report.
162. **Mr McNarry:** Just before we conclude on this, let me say that there is a system that all Bills go through that deems them competent. I will just raise an awareness and a caution. I do not think that this Bill meets the criteria, because there seem to be too many loose ends. Is it possible that we could get some kind of expert in? I know that we have a great many experts around this table, but could we get some kind of second opinion, if you like?
163. If we read Hansard to find out what transpired at this meeting, we will find that there are loads of questions about things that the Bill should be able to deal with. It seems to me that the Assembly could be adopting a Bill to say to councils, “Spend or sell as you like”. Once we hand it over from here, it is down to the councils and out of our hands. However, it would be bad practice if we were sending down a bad Bill. I am concerned that we can stand over whatever we send down. I would just like to see whether there was some opinion that we could get.
164. **The Chairperson:** The method, I am advised, is that it is a matter for the Speaker and the Attorney General.
165. **Mr McNarry:** In realising the competency of the Bill, I accept that. That is how you get to this stage. I have presented Bills myself. In which case, fair play. I will fight it in the House.
166. **The Chairperson:** I suggest that, once we have the consultation views and complete our work on the Bill, it will be a matter for us to do what we want to do to the Bill.
167. **Mr McNarry:** There is little chance to amend it the way that it is written, that is the difference — unless you keep adding and adding to it.
168. **Mr Anketell:** It is maybe a slightly different point, but the departmental solicitors confirmed that the Bill was within the legislative competence of the Assembly, and the Office of the Legislative Counsel also confirmed that.
169. **Mr McNarry:** I appreciate the system. As I said, I have been through it myself with Bills. This does not seem to me to be the premise for a good Bill, and I would prefer that the Assembly sent back good legislation. It is a dog’s dinner for the councils, with all due respect. It is the things that are not in the Bill that cause me concern, not the things that are in it.
170. **The Chairperson:** You make valid points. There are two things to consider. We will be able to do some work and call whomever at the Committee Stage. We are also going to commission our own

research on the RPA transfer functions overall, which we will bring back in the not too distant future, David.

171. **Mr McNarry:** All right. Thank you, Chairman.

172. **The Chairperson:** I thank you, gentlemen. No doubt, this is a matter that we will be coming back to time and again. Thank you in the meantime, and thank you for your presentation.

8 October 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr Joe Byrne
 Mr John Dallat
 Mr Ross Hussey
 Mr Chris Lyttle
 Mr Declan McAleer
 Mr David McNarry
 Mr Stephen Moutray
 Mr Cathal Ó hOisín

Witnesses:

Mr Terry Deehan	<i>Department</i>
Mr Seán McConnell	<i>for Regional</i>
Mr Garry McKenna	<i>Development</i>
Mr David Millar	

173. **The Chairperson (Mr Clarke):** I welcome Terry Deehan, Sean McConnell, Garry McKenna and David Millar. You have about 10 minutes to present, after which members will have questions.
174. **Mr Terry Deehan (Department for Regional Development):** Thank you very much, Mr Chairman. We welcome the opportunity to brief the Committee on the responses to the consultation on the Off-street Parking (Functions of District Councils) Bill. You will recall that, on 4 June, prior to the consultation, we briefed the Committee on the Bill's aims. As agreed, a copy of each response, a spreadsheet summarising the comments and the Department's responses to them and a copy of the draft service-level agreement (SLA) with councils were forwarded to the Committee.
175. The Bill proposes that certain powers that the Department exercises at present in respect of off-street car parks, under the Road Traffic Regulation (Northern Ireland) Order 1997 and the Traffic Management (Northern Ireland) Order 2005, be exercised by the new councils with effect from 1 April 2015.
- The Bill does not propose to change the Department's responsibilities for parking contraventions occurring in park-and-ride or park-and-share car parks. There are no proposals to change the existing enforcement regime of parking contraventions occurring on public roads. Enforcement responsibility for those would remain with the Department. Under the Bill's proposals, each council would have the power to appoint traffic attendants for off-street car parks lying within its area. Although no common approach has yet emerged, it is expected that councils may ask the Department to continue to enforce off-street parking contraventions until the expiry of the Department's existing contracts with the private sector in 2016. Existing local government legislation will enable that to take place. A transfer scheme is being prepared in liaison with Department of the Environment (DOE) officials, and, in accordance with the provisions of the Local Government Act (Northern Ireland) 2014, it will arrange for the transfer to councils of assets including land, pay-and-display machines, barriers and systems of street lighting erected in off-street car parks.
176. In summary, the aims of the Bill were to provide the legislative framework to put in place the Executive's vision of transferring off-street car parks to the new councils and to provide district councils with legislative powers enabling them to provide off-street car park spaces subject to demand, assume ownership of existing off-street car parks, operate and maintain them, and enforce parking contraventions within them. The Bill will give the councils the necessary powers to operate the car parks and to make tariff changes for car parks under their control. That will be done by an administrative order signed by an official of the council in question.

177. Taking into account the earlier consultation on the proposals in the Roads (Miscellaneous Provisions) Bill 2010, we issued this Bill for consultation over a six-week period commencing on 23 June, with a closing date of Friday 8 August. In total, 17 responses were received, mostly from existing or shadow councils. The other respondents were one member of the public, the ministerial advisory group on architecture and the built environment, Belfast City Centre Management Company and NILGA.
178. The Committee has been provided with a spreadsheet that summarises the comments received and the Department's responses to them. The Department's responses were communicated to the individual shadow councils during a series of recent meetings. It may be helpful if I quickly summarise the main issues raised during the consultation and the Department's responses to them.
179. In general, all who responded were content or welcomed the Bill. On enforcement, Larne Borough Council, Mid and East Antrim District Council and North Down and Ards District Council welcomed the possibility of the Department continuing with off-street enforcement on their behalf until the expiry of its existing contracts with the private sector. North Down and Ards District Council considered that the potential dual enforcement responsibilities of the Department and councils may cause confusion and that the Department should work with councils to publicise the delineation between the two.
180. Belfast City Centre Management Company considered that one organisation should be responsible for enforcement, including park-and-ride and park-and-share car parks. That, it felt, would ensure that a standardised and consistent approach to management enforcement and administration was applied across the board. The Department's response is that the Executive's vision was that the Department should retain responsibility for park-and-share and park-and-ride car parks. It acknowledges that, over time, district councils may decide to adopt a different approach to enforcement activity. That flexibility is generally in keeping with the aim to create stronger and more responsible local government through the reform of public administration (RPA). If councils elect to continue to utilise the Department's traffic attendants to carry out enforcement activities through service level agreements, there should be no confusion of roles.
181. On staffing, Banbridge District Council and Armagh, Banbridge and Craigavon District Council suggested that copies of contracts between the Department and private sector companies providing current enforcement activity be made available to the new councils. We advised that the Department cannot disclose information from contracts that may contain personal information or be commercial in confidence. Councils will not, in any event, be party to the Department's current contracts with its contractors. The Department will provide each council requesting it with a draft service level agreement for the provision of enforcement services. The agreement will provide all necessary information on costs for enforcement and processing services.
182. The enforcement contract may be extended beyond 2016, but the penalty charge notice IT processing contract must be renewed in 2016, and the Department will liaise with councils on that renewal.
183. On assets, a number of councils and shadow councils consider that copies of title documents, maps, rates assessment condition reports, maintenance reports, public liability claims history and details of insurance claims not settled etc, easements, rights of way and confirmation that the transferring assets are fit for purpose etc should be provided. Assurance was also sought that transferring assets will not be subject to any conditions or restrictions. Belfast City Council considers that the Department should

- not retain any fee-paying off-street car parks for the council to operate under licence or lease. That comment relates to car parks earmarked for future road schemes. The council felt that this could reduce the number of car-parking spaces available to the council by some 25% and that the council should be recompensed accordingly.
184. Antrim and Newtownabbey District Council requested clarification on what was meant by the statement that the transferring of car parks would be cost-neutral at the point of transfer for the Department and councils. In response, I advise the Committee that full detailed financial information by council was provided on 31 July, to the agreed RPA timetable. That financial information is subject to independent scrutiny by consultants engaged by local government. Final agreed figures are scheduled for the end of October.
185. The remaining title and asset information requested, including data on claims history and asset condition, is being collated and shared with councils. Asset information will be set out in the transfer scheme to be made by the Department under section 122 of the Local Government Act (Northern Ireland) 2014. All transferring assets will be inspected prior to transfer to ensure that they are fit for purpose.
186. The Bill contains no conditions or restrictions on the disposal of transferring assets as that would be at odds with one of the principal aims of the reform of public administration, which is to create stronger and more responsible local government. Including such a restrictive provision would remove a council's ability freely to progress any town centre regeneration proposal for the benefit of its citizens.
187. The reference to the Department retaining off-street car parks relates to the proposal of the Department to retain some off-street car parks that will be required for future road schemes. It would be an inappropriate use of public funds to transfer those car parks free of charge to the new councils only to have
- to repurchase them at public expense. The Department, however, proposes that the relevant council will benefit from the revenue from the car park until the scheme begins.
188. On regulation, the ministerial advisory group on architecture and the built environment considered that district councils should undertake the responsibility for writing regulations suitable for the particular place, rather than being required to use regulations written in central government. Belfast City Council and NILGA requested that district councils be consulted when any new regulations are being drafted or revoked by the Department. In response to those comments, we explained that, from a constitutional perspective, the councils will not be rule-making authorities under the Interpretation Act (Northern Ireland) 1954. Consequently —
189. **The Chairperson (Mr Clarke):** Terry, sorry to interrupt you. I know that we have a challenging 30-day turnaround, but this makes me slightly nervous. I do not think that the Department's rebuttals contain enough information or detail for us. I am sorry to cut you off when you are probably nearly at the end of your presentation, but I am concerned. On assets, the document states:
- "The information requested will be contained in schedules to be included in a transfer scheme to be made by the Department under Section 122 of the Local Government Act (NI) 2014".*
190. It would be useful to have the detail now. You will challenge us to turn this round in 30 days. A lot of us come from local government and support the transfer of functions, but some councils have concerns and are raising issues. It would be good to get more detail on the responses to the issues so that we can get our heads round them in case we run into problems further down the track. Rather than finishing reading those out, Terry, maybe you could get us a full response to each of the points raised and let the members digest

- them. We can take that as part of our normal workload as opposed to going through these now, if that is appropriate.
191. **Mr Deehan:** We could certainly do that as a follow-up. We provided the consultation responses to the Committee as they came in. A summary of our —
192. **The Chairperson (Mr Clarke):** Terry, one response is:
- “Work is in hand to produce this information”.*
193. That does not give us an assurance that the council or indeed the Committee will be content with the response. Councils are raising issues, and the response in this document is:
- “Work is in hand to produce this information”.*
194. Yet and all, we are given the challenging timeline of 30 days to turn this round. It is not maybe —
195. **Mr Deehan:** I take your point. Asset transfer comes under the Local Government Act 2014. This Bill does not deal with asset transfer, so —
196. **The Chairperson (Mr Clarke):** The point that I am making is that quite a few of the points raised by councils are not addressed. We need to be assured that they are being addressed. After you leave, we will discuss whether we can progress this in 30 days. Members, maybe we will go into closed session for that discussion. For us to have that and to assist you, you need to assist us by making sure that we have all the information up front. We need the assurance from you now, Terry, that anything we ask for will not have the arbitrary 10-day turnaround; we need the stuff turned round virtually immediately to enable us to continue.
197. I think that there was a commitment from members previously, but reading some of these responses makes me slightly nervous. I think that we should park that part of it now, unless there is anything else that you want to say. I think that we will leave the consultation, unless there are any other issues that you want to raise. I would like to get a report sent fairly quickly to members with full answers to all the points raised in the consultation process, if that is OK.
198. **Mr Deehan:** Chairman, we are happy to do that. We provided a spreadsheet summary thinking that it was probably easier for members to navigate. We are happy to provide detail beyond those comments.
199. I will move to a conclusion to wrap up the introductory comments. The Department believes that none of the issues raised during the consultation required the Bill to be amended. The Executive agreed, at their meeting on 25 September, and approved its introduction to the Assembly, which is scheduled for 13 October. Second Stage debate is on 21 October, with Committee Stage beginning on 22 October. The Bill is intended to come into operation on 1 April 2015. As you said, Chairman, there is a very tight timescale to complete its Assembly passage. There is no need for me to reiterate the point that you made about the tight timescale and the fact that we have asked the Committee to turn it round within the statutory 30 days.
200. I am happy to take any questions.
201. **The Chairperson (Mr Clarke):** Do any of the rest of you folk want to say anything before we start?
202. **Mr David Millar (Department for Regional Development):** We are just here to answer any questions.
203. **The Chairperson (Mr Clarke):** OK.
204. Section 122 of the Local Government (Northern Ireland) Act 2014 states that the transfer can be completed by 1 April 2015:
- “where it appears to any Northern Ireland department necessary or expedient”.*
205. Tell me why the Department felt that it was necessary or expedient to transfer by 2015.
206. **Mr Deehan:** It is on or before 1 April 2015. As I understand it, there is also a

- commencement clause in the Bill and in the 2014 legislation that requires us to bring this into effect on 1 April 2015.
207. **The Chairperson (Mr Clarke):** Why is it expedient to have it done by 1 April 2015? Why is there a predetermined end date?
208. **Mr Millar:** We are carrying out the Executive's wish. The Executive wish, under RPA, to have car parks transferred by 1 April 2015.
209. **The Chairperson (Mr Clarke):** OK. The other issue is one that came up, I think, in conversation two weeks ago, on my first day here. A PricewaterhouseCoopers (PwC) report stated that off-street parking assets were valued at £233 million, but the transfer of functions working group paper, in March 2014, valued them at £64 million. Can someone explain the significant variance?
210. **Mr Deehan:** Car parks are independently valued as part of the annual accounts process. As you will be aware, over the last number of years, property prices have fallen, and that is reflected in the valuations in annual accounts. This property has dropped in value in line with property generally.
211. **The Chairperson (Mr Clarke):** Yes, I appreciate that it is an independent evaluation, but when was the £233 million valuation? The PwC report refers to assets of £233 million. A fortnight ago, one member raised concerns about giving away the family silver. On the other hand, we were all advocates of the transfer. Given the financial constraints that we are under, some of us may now be concerned that the value in the PwC report was £233 million, but a report earlier this year valued the asset at £64 million.
212. **Mr Deehan:** Is that the Deloitte due diligence report we are talking about rather than PwC's?
213. **The Chairperson (Mr Clarke):** Yes.
214. **Mr Deehan:** As I said, those were the figures in the audited annual accounts.
- The assets are independently valued. We have no control over their value. The £233 million valuation is from a previous year's accounts; the £64 million valuation is from the most recent accounts, for which due diligence was done. The reduction is purely as a result of falling property values. The asset has been independently valued, not by the Department but by Land and Property Services (LPS).
215. **The Chairperson (Mr Clarke):** It seems quite a large drop in one year, given that, by 2014, we are supposed to be coming out of recession and seeing a bounce in property values.
216. **Mr Deehan:** The £64 million figure that you quoted probably relates to the 2011-12 accounts, and it may well have dropped further from there. Certainly, the figure in our 2012-13 accounts would not be the same as the 2014 figure.
217. **The Chairperson (Mr Clarke):** OK, we will come back to that.
218. **Mr Lynch:** The PwC economic appraisal states:
- "In transferring these assets, there must be a clear understanding that the car parks must be retained for car parking purposes unless otherwise agreed with DRD".*
219. What objections does the Department have to including such a statement in the Bill?
220. **Mr Deehan:** There are currently no restrictions in the Bill. The Department took the view that one of the principal aims of the reform of public administration is to allow councils to regenerate towns and cities across Northern Ireland. Giving the Department the power to veto or delay development would run contrary to the spirit of the reform of public administration. It would retain that decision as a veto in the Department.
221. **Mr Lynch:** So, could councils use the facility for other activities or events?
222. **Mr Deehan:** Yes, it would be up to them to do that.

223. **Mr Lynch:** The total budget to be transferred is based on 2012-13 financial details, two years before the proposed transfer of the assets. Given the critical nature of the budget to the transfer being weighted cost-neutral, has a revision of these figures been carried out?
224. **Mr Deehan:** Yes. They were revised as of 31 July this year and issued to councils. We are liaising with councils to go over the figures. Deloitte is doing a second due diligence report on them, and the figures will be finalised by the end of October.
225. **Mr Millar:** As part of putting together the transfer scheme process, we are pulling together a spreadsheet for each council that details all the transferring car parks as well as all the title and financial information relating to them. We are also pulling together boundary maps so that each council knows the exact boundary of each car park for which it is taking responsibility.
226. It is a big exercise, and we are still processing that information. At this stage, we have spreadsheets that we can share with the Committee. The additional information is bulky, but we are having meetings with individual councils, and they are satisfied that the information that we are gathering is what they will need to allow them to take on that responsibility.
227. **The Chairperson (Mr Clarke):** What effect would an even lower valuation have on the 30-day turnaround?
228. **Mr Millar:** The valuation will be what the valuation will be. The most recent estimated valuations and incomes are, I think, for 2015-16, so we have all that information and are working our way through that.
229. **Mr Deehan:** It is an independent valuation. The Bill will transfer powers to councils. The assets transfer will happen under the 2014 Act. The assets will be at their most recent, independent, arm's-length valuation. They have come down considerably since 2012-13, as you rightly say.
- However, assets, as they say in the advertisements, may go up or down, subject to the financial climate.
230. **Mr Ó hOisín:** If not everybody, many of us around this table have a background in local government. We were very supportive of the functions going back to local government, but that does not come without its responsibilities. There are obviously assets that are not subject to any restrictions. The responsibilities for claims will remain with councils after 1 April. I am wondering how you see that being accepted in local government. It will be a worry, particularly when we are trying to put this forward as a rates-neutral move.
231. **Mr Millar:** One of the pieces of information that the shadow councils have asked us to provide is on the potential for claims. They are trying to do some estimates of potential liability. At present, there are six ongoing claims across our 330-odd car parks prior to transfer. We do not have quantum for those six claims. Two claims have been rejected. Potentially, they can be pursued by the applicants. When we spoke to Belfast City Council, it was surprised, because there is only one ongoing claim on all the car parks that will be transferred to it. It was quite surprised because it is inundated with claims on all their car parks and leisure centres. I think that that is reflective, I suppose, of the maintenance regime that we have in place that public liability claims on car parks are so low.
232. **Mr Ó hOisín:** It is a surprise that there are only six live claims. How many have there been throughout the period?
233. **Mr Millar:** We checked our public liability claims. Over the past three years, I think that there have been 30-odd claims. The vast majority of those were rejected. At this minute, there are six live cases across the whole of the Province.
234. **Mr Deehan:** We have also agreed with councils that liability will remain with the Department up until the point of transfer; that is, up until 31 March 2015. From then on, it will be councils'

- responsibility. Any claims up until, or concerning prior to, that date are the Department's responsibility.
235. **Mr Ó hOisín:** I get that. Thanks.
236. **The Chairperson (Mr Clarke):** The point that you have just made, Terry, is that that is up until 2015. David is talking about claims that are ongoing. Do you lift the tab for those claims?
237. **Mr Deehan:** We will continue those, yes.
238. **Mr Dallat:** The winter maintenance of those car parks will transfer to local councils, is that correct?
239. **Mr Millar:** It will be up to councils to decide what winter maintenance regime they want to put in place for the car parks.
240. **Mr Dallat:** I am looking at this from the point of view of the people who use the car parks. You do know about the continuous conflict between councils and the Department over footpaths. Will this be an extension of that bizarre situation in which people do not take responsibility? You have spent millions of pounds on salters and all the rest of it. Is that adding even more cost to the new councils, which will then have to equip themselves to salt car parks?
241. **Mr Millar:** I suppose that that is a decision for the council. First, it has to decide whether that is what it wants to do. I am not a winter maintenance expert. My understanding is that we do not grit our car parks at present. The council will have to decide.
242. **Mr Dallat:** I know enough older people who use them out of necessity, get a broken leg and then lie for weeks trying to get repaired.
243. **Mr Deehan:** On the agreements with councils, I know that the vast majority of the old 26 councils — something like 22 or 23 of them — had signed up to an agreement with DRD to salt footpaths. We would be very hopeful that all 11 new councils will now sign up to that agreement.
244. **Mr Dallat:** Before we even start, we do not want to start another long period of trying to get some kind of understanding between local councils and you as to who does what.
245. Some people in the public domain think that, at the minute, enforcement costs are a cash cow. They are not, because the cost of paying the redcoats is twice as much as is actually collected, is that not right? I can tell you that it does.
246. **Mr Deehan:** At the moment, car parking is a contributor to councils, so there is a surplus from off-street car parking based on revenue versus costs.
247. **Mr Dallat:** Let us say that a progressive local council decides that all its car parks will be free. Who then picks up the disproportionate cost of the redcoats, who are here until 2016 anyway?
248. **Mr Millar:** That is a matter for that council. The whole point is that the council will have responsibility for car park provision and enforcement. The council will have the power to decide what sort of tariffs it wants to put in place in the particular towns that it covers, but it will also have to be mindful of the running costs of those car parks.
249. **Mr Dallat:** If a council opts out of car parking charges, is it still liable for the redcoats?
250. **Mr Deehan:** No. We have quantified with councils exactly how much car parking in their area will contribute — how much of the surplus there is for each individual council. The way in which the transfer of moneys to councils is organised by DFP will mean that it should be cost-neutral at the starting point. There should be no cost to councils for car parks going forward.
251. **The Chairperson:** Are you finished, John?
252. **Mr Dallat:** Keep me right if I am straying a bit.
253. **The Chairperson (Mr Clarke):** One more, then.
254. **Mr Dallat:** Will the Bill provide for local councils in future to take a greater

- interest in many car parks that are not under your control — Asda, and Tesco car parks, and so on — where provision for people with disabilities is sadly abused and not enforced? Indeed, in some cases, tickets are produced by some English-based company that is planting outrageous fines. Is that all provided for in the Bill?
255. **Mr Millar:** No. The Bill is a simple, one-clause Bill to transfer responsibility for off-street car parks from the Department to councils.
256. **Mr Hussey:** I have a couple of questions. What are the legal fees going to be for the transfer of off-street parking and the properties themselves? Do you have any idea of what the cost is going to be?
257. **Mr Millar:** For transferring the actual title to the councils?
258. **Mr Hussey:** Yes.
259. **Mr Millar:** There is no cost. The transfer scheme itself transfers the title to the councils. We inherited most of the titles for the car parks from the old county councils. If we were disposing of a car park now, and if we had the registered title, our solicitor would recite the registered title and the history of that. If it were an unregistered title, whether or not it is a title that historically comes from the council, that is recited. That is exactly the same as what a council would do. There is no legal transfer, as it were, but the transfer scheme transfers the title.
260. **Mr Hussey:** The legal ownership goes to the council.
261. **Mr Millar:** Yes. There is no cost to the council involved.
262. **Mr Hussey:** This relates solely to off-street parking. Therefore, DRD is retaining on-street parking.
263. **Mr Millar:** Yes.
264. **Mr Hussey:** In Belfast the Department will continue to operate the meters in the city centre. Will the same apply in any provincial towns? On-street parking will still be DRD's responsibility where there are no meters. Therefore, will you still be employing redcoats to enforce that?
265. **Mr Millar:** That is correct, yes.
266. **The Chairperson (Mr Clarke):** I apologise, Declan. I should have called you before that.
267. **Mr McAleer:** That is all right, Chairperson.
268. **Mr Hussey:** He called the better-looking one first.
269. **Mr McAleer:** People think that we are brothers sometimes.
270. **Mr Hussey:** My younger brother will speak to you now. *[Laughter.]*
271. **Mr McAleer:** I note that your correspondence states that the transfer will be cost-neutral. Where a council will inherit a car park that is in urgent need of an upgrade, maintenance, drainage or whatever, has that situation been factored into any budgetary considerations for councils?
272. **Mr Millar:** I can tell you that there are no car parks in urgent need. That is part of our maintenance regime. We have to maintain car parks properly, carry out surveys and attend to any defects. All the car park machines will be collecting revenue, and traffic attendants, lights and signs will be in place to support that right up until the date of transfer, so nothing changes there. However, there is funding that will go forward for future maintenance.
273. **Mr Deehan:** Yes, of pay-and-display machines and street lighting equipment but not of the car parks themselves. They are fit for purpose at the point of transfer. As David said, they are in good order, the lines and signs are done, and we will not be providing any fund to enhance their condition.
274. **Mr Millar:** The revenue from the car parks will fund future maintenance, however. The council gets that revenue.

275. **Mr McAleer:** I note that the regulations relating to car parks will stay with DRD. Presumably, that will have an impact on each council's management and running of the car parks. I note from the responses from NILGA and Belfast City Council that they are keen for councils to have an influence on those regulations. Would you be minded to —
276. **Mr Millar:** The Off-Street Parking Order, which details all the car parks and all the tariffs, is in place for the time of transfer. If a council wants to change a tariff in any particular car park, to make it free or whatever, it will do that by administrative order. The council will take its own action through an administrative order. It cannot amend a statutory rule. The outcome is the same, but that allows each individual council the power to do its own thing and whatever it thinks is best for its citizens.
277. **Mr Deehan:** We will retain the rule-making authority. If we were to make any regulations or changes, there is no question that we would consult with councils beforehand.
278. **Mr McAleer:** That is the point. There are about six or seven areas in the regulations that appear to be staying with DRD. You would consult with councils, therefore.
279. **Mr Deehan:** We would, indeed.
280. **Mr Millar:** As part of the normal process, we would do that.
281. **The Chairperson (Mr Clarke):** The genesis of this was councils wanting the power. I do not know whether this question has ever been asked, but I am curious now that we are interrogating this slightly. How much does Roads Service make from the car parks at present? Is this going to be an income generator for councils? That was not the purpose of councils getting the power — they were going to use it to try to get people into town centres — but, profit-wise, how much is DRD making at the moment?
282. **Mr Deehan:** In the figures that we have provided from 31 July, there is a surplus of some £7 million.
283. **The Chairperson (Mr Clarke):** Is that just for off-street car parks?
284. **Mr Deehan:** Yes. That is the amount of revenue-generating power that is being transferred to councils. However, the way in which the budget transfer works at the centre, operated by DFP, means that that will be taken into account and will be offset against the budget for the transfer of all other functions. Effectively, the function will come to councils at nil cost. Therefore, the revenue is not a windfall to councils. That revenue will already have been counted against the budget for other functions transferring, so it will be required.
285. **The Chairperson (Mr Clarke):** It is not really a windfall for them, then. Is there going to be a cost to councils? The issue of some councils wanting to reduce the cost of parking to try to encourage people to use the car parks was mentioned in a previous question to David and in his answer.
286. **Mr Deehan:** There will be a cost associated with that, as there would be if DRD wanted to reduce car parking charges at the moment. There will be a cost, and we have quantified exactly what the benefit for each council will be so that they are aware of exactly what the cost will be should they wish to reduce car parking charges, or even increase them.
287. **The Chairperson (Mr Clarke):** Does the £7 million that you are talking about factor in the scheme that it out there at the moment? Is it £1 for three hours?
288. **Mr Deehan:** It is £1 for five hours.
289. **The Chairperson (Mr Clarke):** That was introduced only late last year.
290. **Mr Deehan:** It was introduced at Christmas last year and has been running as a pilot for six months of this year.

291. **The Chairperson (Mr Clarke):** Prior to that, how much were the car parks making a year?
292. **Mr Deehan:** It was a lesser figure. At one stage, a number of years ago, car parks were not making money, and there was no surplus.
293. **The Chairperson (Mr Clarke):** You are saying, Terry, that, by reducing the costs, you have made more money.
294. **Mr Deehan:** As you do. We have reduced the cost of enforcement and the cost of operating car parks significantly over the past three or four years.
295. **The Chairperson (Mr Clarke):** I know that I am going off on one, but why was that not thought of before? The purpose of the reduction was to try to get people to use town centres, but if it was costing you money when there were higher charges, why was there never an idea to reduce the cost before?
296. **Mr Deehan:** Previously, we would have been looking to increase costs to break even.
297. **The Chairperson (Mr Clarke):** Yes, whereas now you are reducing the cost to make a profit.
298. **Mr Deehan:** There are a number of reasons that there is a surplus rather than a deficit. We renegotiated the contract for enforcement and were able to reduce costs by some £3 million a year. Furthermore, as part of the way in which central government has to state its revenues and incomes, it has to incorporate the capital costs. Therefore, when you bring in the capital costs of car parks, that negates an amount of the revenue, turning it into a loss situation. You do not have to do that for the transfer to councils. No capital costs will be associated with the car parks going to councils. It is a simple direct cost.
299. **The Chairperson (Mr Clarke):** A layperson could be forgiven for thinking that, in reducing the cost, you stumbled across the profit by accident. On that, I will call in David McNarry.
300. **Mr McNarry:** Thank you. I apologise for being late, but I am very pleased to be here.
301. We are talking about a done deal. From reading what you have had to say and listening to what you have said in the past, I know that we are talking about a done deal. However, the councils still seem to be seeking clarification on a large number of issues. At what point do you believe that you will be able to report to the Committee that the transfer is complete, with unanimous consent from each and every council?
302. **Mr Deehan:** You make a couple of points there. As to it being a done deal, the Executive have already made a decision. We are simply implementing the Executive's decision. One indicator of when the transfer will be complete is how many councils wish to piggyback on the current DRD arrangements. The majority of councils are now in that position and have indicated that they wish to continue with our enforcement arrangements.
303. **Mr McNarry:** Is that without any clarification?
304. **Mr Deehan:** We have provided considerable clarification on the financial impact by council, disaggregated into exactly what it would cost councils from April 2015 onwards. We have also provided extensive information to councils on the assets themselves and the details of the number of car parks. We have also gone around all the councils and met the shadow councils or their chief executives — in some cases both — to discuss it with them.
305. **Mr McNarry:** I understand that. I am trying to get you to tell me — if you can, but if you cannot say it or are not ready to say it, that is fine — that all the councils have bought into this; that there is agreement from every transitional council in Northern Ireland to buy into this.
306. **Mr Deehan:** All the respondents to the Bill welcomed it.

307. **Mr McNarry:** That is not what I asked you.
308. **Mr Deehan:** There certainly were some issues in the consultation. We have either clarified those with councils —
309. **Mr McNarry:** Are we in a position, right now, that you can tell the Committee that every transitional council in Northern Ireland has bought into this? All that I need to hear is yes or no.
310. **Mr Deehan:** When you say “bought into”, you mean bought into what, exactly?
311. **Mr McNarry:** Bought into accepting the transfer.
312. **Mr Deehan:** The legislation, which is what we are here to discuss, is a one-clause Bill. We issued it for consultation, and all that we can gauge from are the couple of things that I indicated, which are the responses to the consultation and what councils have suggested to us about whether they want to participate in our current arrangements. The majority have said yes. We are talking to the remaining councils and expect them to do the same.
313. **Mr Millar:** The end point of this is that the transfer scheme itself is a legal document. We will draft that and share it with each individual council. Until the point that that council signs the transfer scheme —
314. **Mr McNarry:** I do not want to name particular councils, because I have a long list. However, take, for instance, the Craigavon council. It has a long, long way to go, I understand, before it signs off on this, and I know that there are more than that. You cannot say to the Committee that you have the agreement of councils. I am trying to find out when you think you might have that agreement. What are the obstacles? Are they unsurmountable or surmountable?
315. **Mr Millar:** As far as our consultations are concerned, all the councils have come back very positively. There are practical things, because we have to produce a legal document for them to sign. However, we are gathering all the information, and we have provided the councils with lots of information to allow them to make their plans. They are all making plans to take over the car parks, based on the preliminary information that we have given them. However, that has to be pulled together into —
316. **Mr McNarry:** It is a work in progress, Chairman, and maybe one day we will find out. I am not too sure whether this bright idea will seem just so bright once it starts to unravel.
317. Can you tell me whether there are any conditions, once ownership transfers, that would prohibit a council from disposing of the asset that it had been handed and not retaining it as a car park, because I cannot see them.
318. **Mr Deehan:** There are no conditions or barriers in the Bill —
319. **Mr McNarry:** Do you not think that that is an absolute scandal, from the point of view of a ratepayer? You are handing over assets without any conditions attached. There is nothing to protect the valuable car parking that retailers, shop owners and consumers use daily. The council will have that asset, and one day, when it is in a bit of trouble and wants to flog something, it will be sitting there. What did not cost it anything? Car parks did not cost the council anything. Therefore, the council may decide to flog them and use the money for something else. There is not one condition in the Bill to prohibit that, not even a term to say that councils cannot do it for five years.
320. **Mr Deehan:** As we see it, one of the main pillars of RPA is to encourage a council’s ability to produce regeneration proposals in towns and cities. We take the view that restricting a council’s ability to use car parks in the best interests —
321. **Mr McNarry:** You would not mind if councils flogged them. You do not want to restrict them. You would not mind if they got them tomorrow and flogged them on Friday.

322. **Mr Deehan:** I also do not have any views about being suspicious of a council's motives in any way —
323. **The Chairperson (Mr Clarke):** Terry, how would the Department feel if the Committee were to recommend an amendment on that issue and propose a clause so that councils could not dispose of them?
324. **Mr Deehan:** We would be happy to consider any amendment —
325. **The Chairperson (Mr Clarke):** I think that that might be a way to take the matter forward, David, rather than pursuing it now. The Committee can discuss tabling an amendment to suggest that.
326. Have you any other questions, David?
327. **Mr McNarry:** No, I am very grateful to you. Thank you, Chairman.
328. **Mr Byrne:** What has been the total quantum of the capital cost of car parks over the past 10 years? *[Interruption.]*
329. **Mr Millar:** In terms of what?
330. **Mr Byrne:** The capital expenditure.
331. **Mr Deehan:** The capital spend would have been something around £100,000 a year.
332. **The Chairperson (Mr Clarke):** I remind members to double-check whether their mobile phones are still on.
333. **Mr Byrne:** Is that £100,000 in total for all the car parks?
334. **Mr Deehan:** For capital resurfacing.
335. **Mr Lyttle:** This may have been covered, and, if it has, you can move me on quickly. Some of the concerns that have been raised relate to the enforcement regime that is coming in and the existence of contracts running until October 2016. Has that been covered, or can you speak about how the enforcement will operate, given that there are private contracts in place until October 2016?
336. **Mr Seán McConnell (Department for Regional Development):** The option that has been presented to councils is that for them to have a service-level agreement with the Department to facilitate enforcement through the current contract with NSL. In that draft service-level agreement, we have provided details of costs for deployed hours and all the activities that are involved therein. We have drawn that draft SLA up with Belfast City Council. It has a number of stages still to go through — obviously, through legal stages — and we hope to have that finalised in draft form by the end of October.
337. **The Chairperson (Mr Clarke):** Thank you for the presentation.

12 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr John Dallat
 Mr Alex Easton
 Mr Chris Lyttle
 Mr David McNarry
 Mr Stephen Moutray
 Mr Cathal Ó hOisín

Witnesses:

Mr Glyn Roberts	<i>Northern Ireland Independent Retail Trade Association</i>
Mr Adrian Farrell	<i>Portadown Chamber of Commerce</i>

338. **The Chairperson (Mr Clarke):** I welcome Glyn Roberts and Adrian Farrell. I apologise for our timings today, Glyn. You will understand that the subject of the previous session has received a bit of media attention, so we had to hear it out this morning. I apologise for taking so long. You are here now, so I will not waste any more time. Do you want to go straight into your presentation?

339. **Mr Glyn Roberts (Northern Ireland Independent Retail Trade Association):** Thank you, Chair, and congratulations on your elevation. We welcomed the opportunity to send to members our brief and copies of our programme for local government, which touches on some of the wider car parking issues in town centres.

340. You are familiar with who we are and what we do. We represent independent retailers, wholesalers and suppliers in the sector. A number of Chambers of Commerce are affiliated to us. My colleague Adrian is from Portadown Chamber of Commerce, which is one of them. He will talk about a local case study in Portadown on off-street car parking. On car parking, we are committed to a vision of 21st-century town centres that are centres not just

of retail but of hospitality excellence. Therefore, affordable and accessible car parking for shoppers and consumers is an essential element of modern and vibrant town centres.

341. As I mentioned, we have produced a very detailed programme for local government, 'Local First', which sets out a number of policy priorities for the 11 new councils in car parking and many other issues. We have been very active on the whole question of car parking, working with our colleagues in Chambers of Commerce. We led the successful campaign to prevent the introduction of on-street car parking charges. We successfully lobbied the Minister for Regional Development to introduce the five-hours-for-one-pound discount scheme for off-street car-parking and the freezing of car park charges. We have also been working with the private-sector car park owners, principally in Belfast city centre. We were successful in getting National Car Parks (NCP) to reduce the cost in its Montgomery Street car park in Belfast city centre, which was one of the most expensive car parks in Northern Ireland, so that it is now probably one of the cheapest, over the Christmas and new year period. We hope to have that same scheme in place this year as well.

342. We believe that the new system of 11 super-councils with enhanced powers offers a real opportunity to make a difference for local communities, the economy and town centres. It is about refreshing local government and giving councils greater freedom to ensure that they fulfil the ambitions of their local communities. We have been conscious that the whole debate on the reform of local government has been a very process-orientated one. We want to move it from process to policy. That is what we hope to do with our programme for local government.

343. I move now to the specific issues in the Bill. We are more than content for the current Bill to pass without amendment. I think it essential that the 11 councils are able to take the lead in regenerating their town centres and that they have powers over their off-street car parking. We are disappointed that, despite the best efforts of the Minister for Social Development, it was not possible to get regeneration powers over the line by 1 April 2015. I am disappointed that that will not take place until 2016. However, it is vital that off-street car parking passes to the councils by 1 April 2015.
344. We are aware of concerns raised about the possibility of local councils selling off their car parks. We are clear that, unless there is a sound economic reason that is beneficial to the local town centre in question, we will be very much opposed to such a sale. We are also keen to support the blue badge initiative in which disabled drivers will be given free car parking in the off-street car parks. The very least we expect the new super-councils to do is to continue the five-hours-for-a-pound discount scheme for off-street car parking, which has been working for a number of months. We understand that it may well continue until the end of March. It has worked very well: it levelled the playing field between the large out-of-town retailers, which have free car parking, and town centres. Five hours for a pound is the minimum that we would like the 11 super-councils to provide for off-street car parking. It may well be that they will have free car parking at different times of the year, whether it is Small Business Saturday, which is 6 December, or Christmas. My colleague from Portadown will talk more about that. It gives that extra flexibility to super-councils.
345. I spent most of the summer talking to nearly all council chief executives about a lot of these issues. They raised with us the issue that the revenue from car parks will fund their future maintenance, but the revenue surplus is being top-sliced by DFP before transfer, leaving the councils to foot the bill for future maintenance. They also said that the money that DRD receives from monitoring rounds to resurface off-street car parks needs to be available to councils as well.
346. I will touch briefly on some wider points. By 2020, we would like on-street parking transferred to local councils as well. I know that that is slightly trickier to do, but, surely, if you are giving them one half of car parking, you should give them the other half. This will probably be touched on in relation to the ongoing rates revaluation by the Finance Minister, but we also need large out-of-town supermarkets to start to pay their way on rates. They have a competitive advantage with free car parking, and they pay lower rates per square foot than many of our members in town centres. We understand that the Finance Minister is looking at that. We also want councils, working in conjunction with DRD, to introduce a time-disc system for delivery and service vehicles. Ultimately, we would like responsibility for local roads transferred to the councils by 2020. We recognise that the transfer of on-street parking and local roads may well be a second-term priority for the new super-councils, but, if they are to make an economic difference and be the local leader in regenerating town centres, they need the tools to do the job.
347. I will hand over to Adrian, who will give a local case study.
348. **Mr Adrian Farrell (Portadown Chamber of Commerce):** This past year, we have been very encouraged by, for example, the five-hours-for-a-pound scheme and the fact that our members decided to put cash behind a marketing campaign for it. I have some examples. In May, the Portadown Chamber of Commerce ran a campaign supporting the DRD initiative of five hours for a pound. That worked very well, to the extent that, in August, Craigavon Borough Council came on board with us, and we had a second campaign to support the strategy. The feedback from retailer surveys has been very positive. They would not have put money behind the second campaign if the first had not worked. We are hopeful

that this will continue in the months to come. It is a very strong tool for us. It has worked for the traders, as can be seen in their figures, and we wish it to continue. As an extension to it, and where we see the working relationship with super-councils in the months and years to come, is the fact that Craigavon Borough Council supported us on the initiative. Last December, we were delighted that Craigavon Borough Council helped in securing a free car parking day on the last Saturday before Christmas. We are enthusiastic about the fact that Craigavon Borough Council is, again, supporting a free car parking day on the first Saturday in December, which coincides with small business Saturday. Our members are already gearing up for activities in conjunction with the free car parking day. Those are examples of where council and traders can work together for the betterment of the town, and the figures back that up.

349. **The Chairperson (Mr Clarke):** Thank you. Glyn, when you were going through your list, I thought you were looking at the Clerk beside me, and, since he has a beard, had decided to come with your Santa list. You and I have had differing opinions over the years. Adrian, I came from local government. I am supportive of the direction you are taking, and I am supportive of what NIIRTA has done. The five-hours-for-a-pound car parking was a great idea, but, to my mind — and I am speaking as an individual, albeit I am in the Chair — some of the things may be unrealistic. Glyn, I will take your first two points. On the one hand, you say that you want the Bill to go forward without amendment, but, on the other, you have concerns about councils selling off car parks. The reason why members of the Committee are minded towards that amendment is so that there is protection there. So, it would be difficult for us to deliver your first and your second wishes. If you look back at the Minister's statement to the House, while we have not had clarity around it, you will see that he said that some key sites had already been identified for regeneration. I am paraphrasing there. Like yourself, I am

supportive of our town centres, and I fear that some council officers would have very ambitious plans, but forget about providing adequate car parking to bring people into the town centres. For that reason, and that reason only, I know some members will be minded towards an amendment. We are not saying, "Don't sell these off; don't regenerate"; I have not heard any member say that. Town centres need regeneration, and they need a degree of life pumped back into them. We are mindful that we are gifting something. In return, we want protection for our town centres. We do not want over-zealous council officials deciding, "This is very good; we're going to sell this off. We'll bring in additional coffers to our council but not actually do anything about the problem for parking." So, I think that we are singing from the same hymn sheet on this.

350. **Mr Roberts:** I think that we are very clear. There needs to be a very good reason for them to be selling off. If they are just selling off to make a couple of quid to boost their finances, it would be absolutely unacceptable to sell. We have to see what type of amendment the Committee is putting forward, but it is not something that we are going to die in the ditch over or fall out over in any serious way. Ultimately, on balance, it is about giving the new super-councils a large amount of flexibility. Obviously, they will be accountable, and they will have substantial new powers. If any of them were to do that, members of our very strong chamber network would be on their tail straight away. If, for instance, a new development in a town centre meant that they had to move a car park, or anything like that, we would be very clear. If it was a case of selling off to make a couple of quid for the council, that would be absolutely unacceptable. If you can have an amendment that gives the council flexibility, but which sets out some conditions, we would have no objection.
351. **The Chairperson (Mr Clarke):** The members will speak for themselves when they get the opportunity, but I cannot see any reason why we would

want to have the amendment, other than that. It is to protect our town centres and to ensure that we do not have officials in officialdom deciding that it would be good as a revenue boost for their council. In my time on Antrim Borough Council, we lobbied DRD to try to reduce the Castle centre car park costs, but, unfortunately, to no avail. It is interesting that the campaign you have cited has resulted in an increase in car park numbers and in revenue by reducing the costs. It took them a long time to listen, but it is useful. The councils will have the power to drive their town centres, and that is important.

352. **Mr Ó hOisín:** Thanks for your presentation. I echo the prioritisation thing that was mentioned in the Minister's last statement on the issue. In many town centres now across the board, much of the parking is on sites that are derelict more than anything else. We hope that that situation will be addressed at some point in the future, and those will come back into use. That is the issue that we have to safeguard. We have to make sure that there is adequate parking. Development is all well and good, and we see, particularly in the city here, some of the areas where development is proposed to go ahead, but there has been no consideration of parking. I am thinking particularly of the north of the city and around the proposed university development. I think that that has to be a guarantee.
353. I am interested in the fact that you are also advocating devolving on-street parking to the local councils. Do you see any issues with that, as, particularly in the past, you have been very supportive of the Living over the Shop (LOTS) scheme in order to regenerate town centres? People are actually back living in town centres again. Do you see any problems there?
354. **Mr Roberts:** First, we fought that campaign because it was crucial. In towns like Limavady, to use your example, people would drive in, do a quick shop and go away again. They do

not have to footer with any change, and the first hour or two being free means that you have the churn of traffic, so it is not being hogged all day. Likewise, the five-hours-for-a-pound parking means that you have ample time to do a shop, have a decent meal and go away again. Workers and commuters cannot abuse that, and it means that you have the churn there.

355. One of the things that we would like to see straight away is for the new super-councils to do an effective audit of their vacant shops, and it is disappointing that there will be a delay in the regeneration powers. We have not just the highest shop vacancy rate in the UK, but we have twice the UK national average when it comes to shop vacancies. The councils need to audit their vacant shops and to sit down and think about what they are going to do and whether it is going to be more retail, whether it could be retail incubator units, whether it could be for community use or whether it could be used for another type of business. However, the proviso in all of that is to ensure that whatever business, group or service is located in those empty shops or buildings, it produces and builds footfall for the town centre in question. It is about trying to get as many different types of business into the town centre as possible.
356. You referred to LOTS, and it is crucial that we have that. If you look at large parts of Belfast city centre, you will see that there is a huge opportunity for that. Obviously, a lot of that may be driven by the University of Ulster campus moving into the Cathedral Quarter. Our town centres have to be living communities as well as a vibrant mix of retail and hospitality. It is important that we remember that town centres are also community hubs, and the people whom we represent see themselves as providing a community service alongside the doctor, the chemist and the dentist.
357. **Mr Ó hOisín:** How do you see the funding for resurfacing and maintenance working out between the Department and the new councils?

358. **Mr Roberts:** I have met nine of the 11 chief executives over the last few months, and that subject has been raised. I am pleased to see that the DOE managed to get the partnership panel established, which will hopefully be the link between the 11 councils and the Executive. I think that those issues could be resolved within that. There needs to be a new sense of partnership between the 11 councils and the Executive but also with a host of other bodies as well. We have put forward the idea that the new 11 councils should establish growth partnerships that take in representatives from the private sector, chambers of commerce and the FE colleges, so that they are very focused on economic growth, but, at the same time, if they have issues in and around maintenance and such things, they can raise that. Obviously, the Regional Development Minister will still be there and the Department will have a policy role. I am under no illusion; it is a big job to get the 11 councils ready by 1 April. In one sense, while it is disappointing, it is understandable that the regeneration side could not be done in time. We are moving from 26 councils to 11 and, at the same time, giving them extra powers, and I have not even touched on planning.
359. **The Chairperson (Mr Clarke):** We are on the wrong Committee for both of those subjects.
360. **Mr Dallat:** Glyn mentioned Limavady. Does he agree with me that the influence of car parks varies widely from town to town? What might be right for one town is not right for another. In Pompeii, there was a graduated form of parking there 2,000 years ago. It may well be that if this legislation is too tightly tied up, local councils may not have the flexibility to address an issue in Ballycastle, for example, which would need particular flexibility. Over time, car parking changes in towns and moves from one area to another, so legislation that is too tight about the ability to sell car parks may not be a good thing if the business centre has moved through time. How do we provide for that in the Bill to make sure that we do not tie every council's hands up their back?
361. **Mr Roberts:** That is why we said that we were not really pushing any specific amendment. The amendment that the Chairman has referred to is on the proviso that it gives the flexibility. Let us not forget that the centrepiece of all this is putting locally elected councillors in the driving seat in their communities to effect the change that they represent. That is why we said that, in the future, they should look at the cabinet system. That may be a longer term objective for the council, but you put councillors in that decision-making role rather than council officials. I think that it is important that we do that. That is a big culture change. Let us not forget that, in nearly all the main towns, there are very active chambers. We also want to see them given an enhanced role in all this because they will really come into their own. People that Adrian works with in Portadown are the ones who will be driving a lot of the change. We are there to support, enhance and empower communities and chambers of commerce and councils. That is why we are ambitious and want to see them, through time, being given extra powers, but let us get them over the line by 1 April, and let us see how we can build on that.
362. **The Chairperson (Mr Clarke):** There is also a danger in that. I am thinking from a local government background. You work with traders. Councils have not always been that generous to traders in towns, and they have been disadvantaged. I am speaking from my experience of where traders were to dispose of their own waste. So, let us not think that this is the golden bullet and that councils will help all these traders, because the experience to date has been somewhat different. I have to say that hard campaigns were fought in our area to support traders in the disposal of waste, but the council officials always stopped it. So, from that point of view, I do not think that we have people who are brave enough to take on the task that you suggested of putting

councillors in that role as opposed to council officials. That is why I keep harping back. We need to protect our businesses and our towns. My personal opinion is that we cannot give councils a free run at what they want to do. That is where the protection model has to be built in. I take John's point that we cannot tie their hands, but we need to be sure that they are going to provide equivalent spaces somewhere in that particular town or location.

363. **Mr McNarry:** You are very welcome. I wish all your members a profitable Christmas. They deserve it this year.
364. As the Chairman said, there is going to be a battle on flogging off car parks. To my horror, the Minister is going full steam ahead in identifying sites. Whether that is more money to finance Translink remains to be seen, but I have suggested a five-year timescale before anyone flogs off a car park under this legislation to give it time to bed in. What do you think would be the best use of revenue for car parks being put into towns now that councils have the responsibility? I support what you are saying about regeneration — I think that we all do — but are you concerned that, as the Chairman was saying, where there are two Departments, there is more likelihood of cooperation in regeneration, whereas the councils may not be so cooperative? Are you clear that the councils see a defining role for themselves in regeneration? I can illustrate that using the town of Comber, which you know, where there is a public realm programme going on, but even the Department will not resurface the road. So, we will have lovely new footpaths, lighting, trees and the whole lot and — is this being recorded for Hansard? — a dreadful looking road surface and car park. What is your view on that?
365. **Mr Roberts:** It has always been a big frustration that, essentially, four Departments have responsibility for town centres here. We have DRD, which has responsibility for transport car parking, DOE, which does the planning, DSD, which does the core town centre regeneration and public realm stuff,

and the Department of Finance and Personnel, which has a role through rates. You can add another one to that, because DARD has responsibility for village development. I think that it has always been a by-product of having too many Departments here that has made it very difficult to get a joined-up approach to town centres. That is why giving the councils a lot of those powers from those Departments potentially means that they could be the change makers. So, instead of having to manoeuvre around four or five different private offices and Ministers, we would, in theory, speak to a relevant councillor or chairman of a committee or a council official with responsibility for getting those things done. We were very conscious that, over the years, it has been a very process-orientated debate, and that is why we produced our programme for local government, setting out our ideas and bringing solutions forward rather than just bringing problems. That is why we have been proactively trying to get round a lot of the shadow councils to say, "These are our ideas that you might want to look at".

366. On your earlier point, if a council were just selling them off to make a bit of money, that would be unacceptable. I think that there are issues around maintenance, and that is an issue that the councils need to have with DRD and DFP. Also, I think that five hours for a pound is the minimum that we would expect them to do. That has worked out very well and has brought increased revenue into the majority of those car parks. As long as that money is able to be put forward to maintain those car parks and make sure that they are up to scratch, I think that we will be very happy. It is never something that councils will make a huge amount of money out of, but it works as long as it is viable and well maintained and there is proper enforcement.
367. You also have the situation where you could have two different sets of parking attendants. I do not know what colours they would wear. Maybe one set would

- be blue and the others would be red. I do not know.
368. **Mr McNarry:** For God's sake not red. We are frightened of red. Anything red will give us a penalty.
369. **Mr Roberts:** That issue will be resolved, but, obviously, giving the councils responsibility for on-street parking at some point in the future makes a certain amount of sense.
370. **Mr Moutray:** Adrian has outlined the potential of what can be done, and it has been done by the chamber in Portadown with Craigavon Borough Council, which is a very proactive local council. Chair, it is a council where councillors take decisions, not council officials like in Antrim, as you alluded to a minute ago.
371. **The Chairperson (Mr Clarke):** Are you not still building Craigavon?
372. **Mr Moutray:** No, we are long since arrived. Come and visit us some time.
373. **The Chairperson (Mr Clarke):** It is an unfinished town.
374. **Mr Moutray:** It is just a pity that Dolores Kelly is not on the Committee.
375. There is a lot more detail in this than ever was thought at the start. The Minister wanted to push it through. There is a lot more detail, and we do need safeguarding measures because not all councils might react the same way as some like Craigavon. We need to put in some safeguards to protect so that councils cannot sell off sites within a period of time.
376. **Mr McNarry:** Can we see that poster? If you were to put a wee bit more yellow in that, it would be absolutely brilliant for me. *[Laughter.]*
377. **Mr Farrell:** A lot of it was to do with the relationship that we had with council officials and our local councillors on the ground. That is what pushed this through. I have to say that the development committee in Craigavon is very much pro supporting the town centres. This is proof of the pudding.
378. **The Chairperson (Mr Clarke):** The whole thing about supporting town centres is a no-brainer. It is just that not everybody has bought into it. That has been the difficulty for years. The more vibrant our town centres are, the more revenue our councils generate. We are all on the same page on that.
379. **Mr Roberts:** The Belfast situation is completely different; the five-hours-for-a-pound scheme does not apply to its off-street car parks. In the same sense, we have to have a balance. We recognise that there is a park-and-ride and a well-funded Metro system in Belfast. People also walk and cycle. Those are serious options that need to be considered as well. We have covered that in our programme for local government. We very much support the work that Sustrans does as well. Obviously, that is alongside making sure that consumers and shoppers have the choice of whether to take their car, use the bus, walk, cycle or whatever. We very much want to see that choice. Obviously, there are issues of traffic congestion in many town centres, so we have to get more people using public transport.
380. **The Chairperson (Mr Clarke):** I am sorry to rush you; we are close to being no longer quorate. I think that you will detect that we are generally supportive in terms of the part of the Bill that we can talk about today. There are other parts that you talk about in your paper that are outside our control or are outside the Bill and are not part of DRD. We are generally supportive of the principle of what you are saying. We are maybe slightly different in the detail of how we get there, but the consensus is that we want to drive towards getting the Bill through, with, possibly, some minor amendments. Thanks for coming today. I am sure that we will work together in future, as we have done in the past.
381. **Mr Roberts:** Thank you, Chair.

19 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Chris Lyttle
 Mr Cathal Ó hOisín

Witnesses:

Mr Paul Casey	<i>Antrim and</i>
Mr Hugh Kelly	<i>Newtonabbey</i>
	<i>District Council</i>

382. **The Chairperson (Mr Clarke):** I welcome Hugh Kelly, deputy chief executive and director of environment services; and Paul Casey, information/governance officer. It is appropriate that I declare an interest: my wife is a member of Antrim and Newtownabbey Borough Council.
383. **Mr Hugh Kelly (Antrim and Newtonabbey District Council):** I thank the Committee for inviting us; we appreciate your time on a busy morning. In the main, the council is quite content with the Bill, which deals with the transfer of functions and assets. We will be asking about something that follows on from your conversation earlier about the detail of it. I am sure that a lot of that will be dealt with in the due diligence report. We will have a look at that as well because we have our own issues.
384. Approximately a dozen car parks are coming over to the new council. We have carried out some survey work of our own but, like Belfast, we have not completed it. Generally, surfacing is in reasonable condition, but some surfaces are poor, and we would like to work our way through those with the Department. One is Farmley car park in Glengormley, the condition of which would give us some issues. We will wait to see what comes out of the due diligence report. We think that some work will be required to that area.
385. Other issues that we would like to see dealt with in the due diligence report are insurance and the history of claims. The Department self-insures, but we do not carry an insurance premium for that. We would like to see some issues around that and see some form of claims history to allow us to create the insurance around that.
386. We are generally content with the finances, and we will deal with due diligence as we go along. Our main issue this morning is the restriction on what we do with the car parks in future. I will ask Paul to speak on that issue.
387. **Mr Paul Casey (Antrim and Newtonabbey District Council):** The council is aware that the Assembly is considering putting a restriction on the resale of the parking space that is coming to the council. The council would say that it had an expectation that the land would transfer to it without any restrictions. The council submits that any restriction placed on the land could affect the council's ability to redevelop or reuse it. Whilst the council is mindful that it is important to have off-street parking in the region, it would say that, if it is going to reuse the land being transferred to it as an asset in any way, it would endeavour to make sure that, in its development plans, there would be alternative parking available in the area. Therefore, the council would say that, if the land is transferring to the council, it should be unrestricted and there should be no restrictive covenants in place in relation to the asset.
388. **The Chairperson (Mr Clarke):** Paul and Hugh, you have sat in the public gallery in Belfast, so we are not going to rehearse the same questions. I am certainly not going to rehearse a lot of the questions, but, Paul, I am going to ask you directly about the restrictive clause. It frustrates me that councillors are jumping to that when we have a

very restrictive clause set in stone. Even in your own submission you just said that consideration will be given to other spaces. Why, then, would councils resist? First, they do not know the text that the Committee may agree. It has not agreed anything yet, but it may agree a text with the words that you heard me say earlier about a condition insisting that you would provide an equivalent number of spaces to those that you have removed. What would the resistance be, if councils are already minded to provide those? Why would they have a problem with us putting a protective clause in that?

389. **Mr Casey:** We were not aware of some of the wording that you may consider using; that would be a different slant on it. We said that there should not be any blanket restriction on the reuse of the land, because the council's own development plan would have to have regard to providing off-street parking in another area if it was going to reuse the off-street parking that was coming to the council. We were not aware that there was consideration of wording around the restriction.
390. **The Chairperson (Mr Clarke):** This is where I have interest in it again, so I will give Belfast a touch and give you a touch as well. Officers may be informed. Sometimes they should perhaps be better informed, because they are creating resistance among their members, who approach us and come up with things that this Committee has never said. I am not saying that in terms of Newtownabbey. My wife has never said anything to me, Hugh. I just want to put it on record that I am married to a councillor. I would just dismiss her like I would dismiss anybody else on that, I have to say.
391. The fact is that the Committee has to be concerned when you are transferring a valuable asset to a council and there is a risk that a council could sweat an asset. I am not saying that anyone is minded to do that, but we have a duty to protect assets. If it was only a case of that, I think that the Regional Development Minister would be within his rights to try to identify those sites himself and sell them off. That would resolve the whole issue. All that we are trying to do is protect our local areas, where we all come from, and make sure that councils do not see it as an opportunity to sweat an asset and generate an income for themselves, then hand it over to the developer to do what they wish with it. Council officers should keep themselves better informed before they draw conclusions and make submissions about conditions that we have not attached. We are talking about restrictive clauses, but if we had been approached about what those may look like, we probably would not be in the position that we are in today. That is only an observation.
392. **Mr Lynch:** You mentioned insurance, Hugh. Can you elaborate on that? You said that some car parks were in a poor state; do you think it essential that they be upgraded before transfer?
393. **Mr H Kelly:** First, on the insurance, if we are taking it over, we have a slightly different approach from DRD on self-insurance. We pay an insurance premium. If we have to do that, we would need to know the history so that we can identify and assess a reasonable premium. It is as straight-forward as that.
394. Most car parks that we looked at are generally fine and fit for purpose. However, the one at Farnley in Glengormley is very busy, and we would like to see a bit of work done on it. There are some planters in it, for example, that are very badly overgrown; it is basic stuff. There is some vegetation around it. The drains that we looked at on the day were blocked; that is another issue that we would like to see resolved. However, I am sure that that will come out in the due diligence report.
395. **Mr Lynch:** That is fine.
396. **Mr H Kelly:** As to our comments on the restrictive clause, it was really to ensure us some flexibility if we were trying to regenerate Glengormley town. For

- example, we would not want to be tied down because the car park had to be in a specific place and we would not have the flexibility to say that, in the whole scheme of things, it might be better to move it. Those were comments that came to us when we were looking at the regeneration plan for Glengormley. Perhaps it might be better and may add more value if it was relocated and we could do something else with it.
397. **The Chairperson (Mr Clarke):** This Committee would want to see that.
398. **Mr H Kelly:** Yes, great.
399. **The Chairperson (Mr Clarke):** What the Deputy Chair said about insurance is a fair comment: the Department should furnish each council with a claims history. That is reasonable, and the Committee would support each council in that because you cannot go into this entirely blindfolded.
400. You referred in your presentation, Hugh — sorry, I am talking across you, Deputy Chair.
401. **Mr Lynch:** I have finished, Chair.
402. **The Chairperson (Mr Clarke):** You are getting £3 million worth of assets. The car park that you are talking about with a few overgrown bushes is worth £280,000. I cannot imagine that to be a deal-breaker in the transfer of functions.
403. **Mr H Kelly:** As I said earlier, we are quite content with the finance and everything; I was just making a point about the conditions and the due diligence reports.
404. **The Chairperson (Mr Clarke):** There may be more of an issue about how it failed to maintain it when it owned it.
405. **Mr Ó hOisín:** We are in danger of repetition here, but my only question specific to Newtownabbey is about the 12 car parks that Hugh mentioned. Do any of them come under what the Minister referred to as prioritisation of retention?
406. **Mr H Kelly:** I do not believe so. I am not certain, but I do not believe so.
407. **The Chairperson (Mr Clarke):** Are members content?
- Members indicated assent.*
408. **The Chairperson (Mr Clarke):** As you appreciate, Hugh, much of this is the same as has been said before. Are there any specific issues that you would like to put to us?
409. **Mr H Kelly:** No.
410. **The Chairperson (Mr Clarke):** We are content with what you have said. Thank you.
411. **Mr H Kelly:** Thank you for your time.

19 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Chris Lyttle
 Mr David McNarry
 Mr Stephen Moutray
 Mr Cathal Ó hOisín

Witnesses:

Mr Damian Connolly *Belfast City Council*
 Mr Mark McBride
 Ms Cathy Reynolds
 Ms Siobhan Toland

412. **The Chairperson (Mr Clarke):** I welcome you all to the meeting. Siobhan, you are leading off. Maybe you could introduce the rest of your team and describe their involvement with Belfast City Council, which may be useful for us to know.
413. **Ms Siobhan Toland (Belfast City Council):** Thank you. We thank the Committee for the opportunity presented to Belfast City Council to make a representation. I am the council's head of environmental health, and I am the strategic lead officer for the transfer of off-street car parking functions. That is why I am here today. Mark McBride is our head of finance and performance; Cathy Reynolds is the estates manager for the council; and Damian Connolly is one of my environmental health managers and is leading on this project for me.
414. **The Chairperson (Mr Clarke):** If you would make your presentation within 10 minutes, we will then open the floor to questions from members.
415. **Ms Toland:** Thank you for that. There are probably six key points that I want to make, and obviously, under each, I will want to make a few others. Committee members will have seen our response of 30 October to the consultation on the Bill.
416. Our first key point is that for us, and I am sure for the other councils, car parks are not looked at in isolation but as part of the overall transfer package within councils to use assets and powers that will help to support regeneration and growth in towns and cities. We see them as central to traffic flow, and they have positive benefits for consumers coming into the city. They help us to make best use of city assets. I will come back to that point later, in terms of the strategic importance of car parking in the overall investment proposals of Belfast City Council.
417. The second key point that we want to make is that it should be a transfer without restriction. The transfer of car parks without restriction is key to the realisation of our council's vision for the city in terms of place shaping. The contribution that those assets will make is linked to wider regeneration and economic proposals that will be developed as part of our overall local government reform package. The council strongly supports the position taken by the Regional Development Minister Danny Kennedy MLA at the Bill's Second Stage on 21 October, when he indicated that:
- "there should be no restrictive conditions as the powers are transferred to the councils."*
418. He went on to say that the inclusion of restrictive provisions:
- "could remove a council's ability, potentially, to progress any town centre regeneration proposal for the benefit of local citizens."*
419. The inclusion in the Bill of conditions or restrictions on the use or disposal of transferring assets would be at odds with one of the principal aims of the reform of public administration, which is to create stronger and more responsive local government. Currently, in exercising its own function of car parking, DRD is not fettered by any

- additional restrictions in the use of the car park assets beyond any contained in the title, so councils should therefore be permitted to discharge this function in a similar manner as DRD. It is worth noting that, at the time of the previous local government reform in 1972, the legal interests in each transferring asset passed unaltered to Roads Service without any additional restrictions as to their future use or disposal.
420. The third key point that we want to make is about Belfast City Council's commitment to regeneration. The council fully recognises that the amount of car parking, its costs and how it is managed have a significant impact on the local economy and the accessibility of our city, not just for cars but for pedestrians, cyclists and public transport. The council is committed to providing adequate parking provision and wishes to act in the best interests of the city, its residents, consumers, workforce, commuters and visitors. We are looking at developing a city centre regeneration investment strategy for Belfast. The council aims to support the economic viability of the city centre by providing accessible short-stay car parks for shoppers, visitors and business users, and the council wishes to have the same level of flexibility that was afforded to DRD to make unrestricted decisions on future regeneration plans for the city linked to the assets in its ownership. Obviously, that is done in the best interests of the city.
421. The fourth key point that we want to make is in relation to the transfer of assets and budget allocation. The council is still awaiting written confirmation of the final list of car parks that will transfer, although we have been working closely with our colleagues in DRD, and we are nearly at that point. The council's position remains that all car parks should transfer. The council strongly supports the intention of the legislation as laid out in the explanatory memorandum and, in particular, the statement that:
- "all assets relating to the ownership, management and operation of off-street car parks would need to transfer to councils."*
422. If DRD decides to retain Corporation Street car park for the development of the York Street interchange, the council will contend that it should be recompensed at open-market value for the loss of that car park. This would allow the council to re-provide the 124 lost spaces elsewhere if required, in order to ensure accessibility to the city centre in support of the local economy. This would also reflect the normal practice of compensating landowners for any loss incurred as a result of acquiring land for roads schemes.
423. The council would seek assurances that the income from any non-secured and leased car parks, of which we understand that there are a number, is excluded from the rates-neutral calculation. I know that that is not necessarily a matter for the Committee, but it is possibly a matter for DFP in the package of the transfer of function. For some of these car parks, there is no security of tenure, and hence there is no guarantee that the car parks will be available to us as a council in the longer term. The council is also aware that a number of the car parks leased by DRD are currently being considered for other uses. For example, part of the Corporation Square car park is owned by Belfast Harbour Commissioners, which has indicated that it would require possession of a section of it in order to carry out a programme in the future, possibly including the building of a multi-storey car park on adjacent lands. Station Street car park in the east of the city centre is earmarked for future development as part of the Queen's Quay master plan.
424. Based on the most recent financial figures from DRD and the estimates that the council has prepared at this point, it would appear that not all costs are included in the DRD figures. A difference between the figures provided has been identified, and we feel that that may present a detriment to the council. The council seeks to stress the importance

- of the consideration of accurate running costs for the determination of the rates-neutral calculation. It would also seek to ensure that all necessary remedial works are completed prior to the transfer of the assets so that they are fit for purpose.
425. The fifth key comment that I want to make is specifically on the Bill. The council does not have any major issues with the text and the single-clause Bill. We have made the point strongly that we want to be able to influence and be consulted on any new regulations or adjustments to the regulations. We welcome assurances that DRD has made in relation to that. We also seek to add the word “authorise” to paragraphs 1 and 2 of article 25 on parking attendants in the Traffic Regulation (Northern Ireland) Order 1997 to the word that exists now, “appoint”, to allow for councils to authorise parking attendants to carry out the off-street car-parking function on their behalf through a service-level agreement with DRD. This is obviously a moot point, but it is on our legal advice on the difference between “authorise” and “appoint” that we submit to have both words included.
426. The final key point that I want to make is the council’s support for parking and transport policies. This relates to the strategic context and emphasis that Belfast City Council gives to both car parking and the impact on the economy. To coincide with the new powers transferring to the council, we welcome the opportunity to continue to work with the Department and the Committee in the development of strategic parking and transport policies and proposals for the city. As the planning authority, the council, from April, will take forward new development plans and policies. This will be done in consultation with DRD as a statutory consultee. The council welcomes the opportunity to continue to work collaboratively with DRD on the new transportation plan for Belfast, both on the approach for parking policy and the associated land use. We will obviously work strongly and closely together to support Belfast’s economy and businesses.
427. The council strongly believes that the strategic approach to parking, transport and land use policies and proposals would be much more effective than simply placing restrictions on individual sites that are currently used for car parks as these policies are adopted in the future and will shape the city in its regeneration and capacity to attract tourism, jobs and economic vibrancy. The council therefore needs to have flexibility to allow us to align future car-parking provisions with any future regeneration and development plans in the city as policies emerge.
428. In conclusion, to summarise the key points, I reiterate the council’s overwhelming support for the transfer of the ownership, management and enforcement of the provisions to the council. We strongly support the position that all car parks should transfer without restriction. We request written confirmation of the final list of car parks as soon as possible. It is our view that only the secure income should be included in the overall rates-neutral calculation together with accurate and realistic delivery costs. I would also like to restate the council’s commitment to providing adequate car parking provision whilst progressing any city centre regeneration proposals for the benefit of the city, its residents and visitors. We welcome the opportunity and support working with DRD on future transport policies.
429. Again, I thank the Committee for taking the time to listen to us this morning. We very much welcome the opportunity for questions.
430. **The Chairperson (Mr Clarke):** Thank you. Siobhan, does any of your team want to add anything at this stage before we move to questions?
431. **Ms Toland:** No.
432. **The Chairperson (Mr Clarke):** OK. In your opening comments, you referred to the Minister’s comments at Second Stage about his not being minded to put

restrictions on it. You are aware that the Committee has a different view on that. The Committee has that view because it has concerns that, on some occasions, there could be a detrimental effect. Can you, from Belfast City Council's perspective, allay the Committee's fears that having no restrictions would have a detrimental impact on Belfast?

433. **Ms Toland:** The key thing to emphasise — I think that I have emphasised it in points that I have made — is that, rather than restricting issues to individual car parks, it is about the whole aspect of the benefit to the city, to visitors and everybody who comes into the city daily, such as commuters and shoppers. We want to see an attractive city centre that is vibrant, attracts tourism and provides jobs in the local economy. Our issue is that we want to get people into Belfast. We want to be able to allow them to park. We want to be able to provide facilities for that. It is in that context, as well as currently with DRD, that you have an overall sustainable transport approach. So, we would encourage other users and other modes. At this point, we are not looking to change the asset value of car parks. A finite number of car park spaces will transfer over. Going forward, we hope to develop our development plan for Belfast, which will have a city centre regeneration focus and strategy. As we move forward over the next three to five years, it may emerge that there are opportunities to change or to make adaptations to some of those assets. Those decisions will be taken in light of the overall car parking provision accessibility to the city and will be taken by the elected members, who have the best interests of the city at heart. So elected members will make those decisions and, like this Committee, will have particular views on car parking. We have no intention of doing anything in the immediate future. It is about developing economic strategies for the city, so we would not want to use any of our assets that would impact negatively on that. That would be in the interests of the members.

434. **The Chairperson (Mr Clarke):** Without sounding rude, Siobhan, I accept everything that you say about your vision, but you referred to elected members, and, from my experience in local government, officers quite often guide elected members. I dislike it when officials say that councillors make the decisions, because those decisions are often shaped by the direction in which council officers put them. I just want to put down that caveat. I do not think that you will find that the Committee's opinion differs much about your vision for Belfast. However, you spoke about the finite number of spaces in Belfast.
435. There seems to be a concern from the councils about the Committee suggesting an amendment in the form of a restrictive clause, but we have not been prescriptive about that clause. Will you explain the effects of the Committee amending the Bill to protect the number of spaces? It does not necessarily mean that we are saying that you cannot redevelop or regenerate a particular site, but if you have 400 spaces, one of the clauses may be that you replace like for like. Given what you said about the finite number of spaces in Belfast, what would be the effect of the Committee suggesting that you replace like for like?
436. **Ms Toland:** If the restrictive clause is adopted by the Committee and alters the Bill, and if it says "like for like", we would comply with that. That said, you have to look at it in the round in that, at this time, it will probably be only 13%. I do not have an accurate figure, but around 13% of car parking provision will be in the ownership of the council, so there will be a significant amount of private car parking provision. Therefore, like for like might be that a private car park provision has grown, so you might need to offset.
437. All those things are controlled to a significant degree by transport and planning, because planning will set the context of the land use and the vision for car parking provision for the city. If members are thinking of like for like, it is probably more to do with pricing and availability for consumers coming

- into the city or any town centre. Those aspects of tariffs and so on will be a complex issue for debate.
438. I know from attending the transition committee that the council and members have discussed a restrictive clause, and they are not in support of it. So, in the future, if you are looking to change an asset use, it would be up to us to present information to members showing the impact of that and the wider impacts on the opportunity for accessibility to the city. Decisions will be made based on evidence.
439. **The Chairperson (Mr Clarke):** Thank you for that. I do not want to seem as if I am coming down hard on the officers, but councils as a whole seem to be resisting the proposed amendment. I am phrasing this in such a way that I seem to be blaming officers again. I am sure that some of my colleagues have been approached by councillors looking for an explanation. If we take the time to explain the rationale behind our suggested amendment, they will understand our perspective. Whilst councillors on transition committees are opposed to the amendment, I think that that sometimes happens under the direction of officials. I do not know whether you accept that as a fair comment.
440. **Ms Toland:** I accept that view, and I accept that that can sometimes be perceived in that way. Obviously, we do a lot of direct work with our councillors, groupings and parties, and we prepare councillors and give them all the information to make decisions. I will not make a comment either way. It is your view. I am not sure whether our councillors have a view, but I am sure that some councillors have a view that officers bring information to them, but we always try to bring a balanced perspective. Councillors probably have the same comments as you, and, in the collective room of a committee, they will have concerns about the impact of our doing something with a future asset and how we will compensate for a lack of parking in some part of the city. That is when we have to look at it in
- the context of the overall strategic plan for the city. If you have a finite amount of car parking provision, you also have to decide whether that is the right number for Belfast in the future. Maybe it needs to increase or decrease, but you bring in other active travel policies and approaches. We have Belfast on the Move, and rapid transit is coming to Belfast, led by Transport NI in DRD. Those are all very positive impacts for the city. Therefore, car parking is not the only thing. You have to balance it with our strategic road network proposals.
441. **The Chairperson (Mr Clarke):** I will make one more comment. The Committee is very supportive of Belfast on the Move and the rapid transit system. However, that is not at the expense of DRD transferring something to the council for it to sweat that asset, believing that those other two things will take up the slack.
442. **Mr McNarry:** Thank you for your presentation. The Minister has indicated that he has identified sites. Are you aware that he has identified sites in your council area?
443. **Ms Toland:** Identified sites for —
444. **Mr McNarry:** To sell off.
445. **Ms Toland:** No, I do not think that we are.
446. **Mr McNarry:** Are you worried that he has identified sites and has not told you and that they will be flogged behind your back?
447. **Ms Toland:** We have been working on the issue over the past year. We have a list of car parks that have changed, and there have been negotiations with DRD. Some responses that we put to the Committee in August identified a number of sites that DRD was considering selling off or doing something, but, through negotiation with the officials at our committee, those things have been negotiated out of the system. We are confident that a clearer picture about the car parks is emerging, except for the final list, which we have not got. The

- York Street interchange is the only one that is under —
448. **Mr McNarry:** You may have already done this, but I would be grateful if you could supply the Committee with a list of the car parks that you think you will inherit. What is the asset value that will transfer to your council?
449. **Ms Toland:** Do you have a total, Cathy?
450. **Ms Cathy Reynolds (Belfast City Council):** No, we do not.
451. **Mr McNarry:** Perhaps you could furnish the Committee with that.
452. I will pick up on your written and oral reports, which are very helpful, as one would expect. Will you tell us more about the discrepancies with the budget figures that you mentioned?
453. **Ms Toland:** Mark has prepared some information on that. I will ask him to come in.
454. **Mr Mark McBride (Belfast City Council):** I am a bit loath to go into the detail because the number of car parks has been changing, and two were changed last week. The issues —
455. **Mr McNarry:** May I interrupt you for a minute, Mark. What changes are going on? We are working on a Bill. Are you telling me that the Bill is, in a sense, incomplete because we had to start off with knowledge about the number of car parks? Will you elaborate on the changes that might affect the Bill?
456. **Ms Toland:** Before you come in, Mark, may I say that that is in relation to some of the proposals. We are here about the Bill, and we do not have very much to say about it per se, apart from the few points that I made. The actual number has ranged from 30 to 33; it has gone down and up again. The reason why it has gone down and up again is that we have been in negotiations with DRD on its road proposals in the city centre for the inner ring road and Cromac Street. At one point, it looked as if they might not transfer as part of the overall package, but they are now back on the list. The only one that seems to have a question mark over it is the York Street interchange. There was negotiation with officials about developing the final list. That is where the differences are.
457. Your first question relates to the finance. Mark can say a few words on that.
458. **Mr McBride:** In that context, additional car parks have come in. We are still in discussion with DRD on maintenance issues, the maintenance of the pay-and-display machines, the resurfacing of car parks and some of the rating liability. Those have been positive, and we have been engaging. Sitting alongside that is the due diligence exercise that Deloitte is doing at the regional level. I am sure that the member is aware of that. A report is going to the regional transition oversight board on Friday. At the minute, we have a gap of around £126,000 a year, but we do not believe that that is a final figure because of the issues I mentioned: we are still in the middle of negotiations about individual amounts, the overall level of settlement will be guided by the decision taken on the amount that will go to local government, and we are awaiting the due diligence report from Deloitte.
459. **Mr McNarry:** I am very grateful for the answers. I apologise to the Committee and to our guests because, as you know, I have to leave.
460. It is being said that an intense element of negotiations is going on. As they seem to be ever-evolving, I think that it would be relevant for the Committee to be informed of the level of negotiations. I understand why Belfast and other city councils are involved in negotiations. Are all councils involved in negotiations over pay and display, maintenance and all sorts of things? I suspect that they are. That leads me to wonder whether a car park giveaway will come at a cost, which is what these people and other people are negotiating. They are saying things like, “We will not accept that car park because the surface is no good”. It would be very helpful to the Committee if, through what we are doing, we followed it up in the Bill as to what

- negotiations will have taken place before the Bill is presented to the Assembly.
461. **The Chairperson (Mr Clarke):** As Mark was speaking, it struck me that the situation is fluid, so we need to find out from the Department which councils, apart from Belfast, are fluid.
462. **Mr Lynch:** Go raibh maith agat, a Chathaoirleach. Siobhan, you mentioned that upgrades need to be done before transfer. How essential is that?
463. **Ms Toland:** We have been around the car parks, but we have not yet done a detailed analysis because of the other assets that we are transferring from the Lisburn and Castlereagh area and DSD. We have not surveyed every car park in detail. The Deloitte papers have identified that some resurfacing is needed. There is the issue of whether and how electricity will be supplied to some of the machines, equipment and lighting. Those matters are still under negotiation in relation to the transfer of the whole asset. Is that correct, Cathy?
464. **Ms Reynolds:** That is correct. The condition surveys have not been completed for the car parks. Initial inspections have taken place, but our facilities management people will undertake further condition surveys. The initial view is that some upgrade work might be required.
465. **Mr Lynch:** Have you examples of car parks that may not be fit for purpose?
466. **Ms Reynolds:** Not specifically. Our facilities people are reluctant to provide that until proper condition surveys are completed for all the car parks.
467. **Mr McAleer:** The Committee had the opportunity to look at your original response to the Department and, indeed, to us. We took the opportunity to raise some of the issues with officials at the Committee, particularly about regulations. The officials assured us that any changes or anything to do with the regulations that was to be retained by the Department would be subject to consultation with councils. Do you still feel that that requires an amendment to the Bill?
468. **Ms Toland:** Not if we are going to be consulted. If it is going to cause a delay or any drafting issue, I do not think that it would. We have the spirit of working in partnership. If we are consulted and that is part of the process and guidance, that would be satisfactory.
469. **Mr McAleer:** Chair, the Hansard report will reflect the fact that officials gave assurances that they would consult with councils about regulations.
470. We also mentioned the concerns raised by some councils about the current state of some car parks. Officials gave us assurances that they were all in tip-top condition. Do you agree with that?
471. **Ms Toland:** Again, initial checks are being done. There may be small parts that need repairs or maintenance to get them to the standard that we would expect. The council wants to ensure that we have enough disabled parking and family-friendly parking in the city in our own facilities as well as in the transferring assets. Those are the kinds of things that we need to look at.
472. Cathy, do you have any other comments about the state of any car parks?
473. **Ms Reynolds:** Unfortunately, until the condition surveys are completed, we cannot go into specifics. However, that exercise is being undertaken over the next few weeks.
474. **Mr Dallat:** Thanks for your presentation. It is not for me as an outsider to teach the city council to suck eggs, but I am absolutely amazed by improvements in the city. I wonder whether there is a risk that a Bill will be introduced that might restrict the constant movement of economic development that is switching from one area to another, where urban renewal is very much part of the council remit. The Minister thought that there should be no restrictions on the sale of car parks and so on. What are your views on that? While everybody is bogged down in the safety and lighting of car parks and so on, does anybody up

- in the balcony look down on what the Bill might do in the future to strangle what I believe to be the excellent work that the city council is doing in urban renewal?
475. **Ms Toland:** Thank you. Your comment about strangling urban renewal is the comment that we are trying to emphasise most strongly today: the transfer of an asset without restriction. We definitely have a focus on attracting inward investment, the economy and improving the city's regeneration, and you referred to seeing some of the outworking of that.
476. We are no different from DRD in our strategic approach to transport, transport policies and development plans for the city. Traffic movement, transport and sustainable transport methods are all part of that package and should be looked at as a whole. We have real aspirations for the city, which I tried to emphasise in the presentation. It is not in our interests to restrict parking or not to attract people into the city to spend money and improve the economy. Any decision that we make, therefore, is in the context of strategic planning and transportation policies that we are developing in partnership with DRD.
477. We will have the opportunity to develop our development plan for the city, and we hope to have one for the city centre. Accessibility to the city is a key focus. We see the positive impacts of this asset in the overall package of ownership and influence that we have in the city to regenerate it, and I think that any restrictive clause would probably strangle — to use the member's word — that opportunity. That is why we made the point in our presentation that there should not be any restrictive clause, although I acknowledge the Committee's concerns about it.
478. **Mr Dallat:** Siobhan, let us say that your endeavours to regenerate the city become so successful that every square metre of land is sought after for development. Would there then be a danger that, if there are no restrictions, prosperity may engulf the provision of car parking, which is critical to the hundreds of thousands of people like me who go to the city occasionally to buy the things that we cannot buy in Coleraine or wherever?
479. **Ms Toland:** That is when controls come in such as planning controls and planning policies on the provision of accessible and sustainable parking. I do not think that our council would take decisions that would eliminate car parking from the city, because we need to attract it. It is in our interests, therefore, in developing our development plan, and it is in the interests of the Belfast metropolitan area plan and the transport plan, that car parking is a key feature. To go back to the point about offsetting and balancing the number of car parking spaces that are available in the future, decisions need to be made in a strategic context and be strongly influenced by DRD, as is currently the case. There are transport policies and approaches, and there are transport plans for Belfast, so we would not make those decisions in isolation without other policies. To answer your question directly: we see car parking as an important feature in the city and in the city centre. So we will look for a balanced, sustainable and partnership approach in the city, with members making those decisions.
480. **The Chairperson (Mr Clarke):** Siobhan, there will be a difference, of course, between DRD and the council. If DRD were to propose a sell-off, there are planning restrictions because it is a different Department. How do you feel that the two will work with Belfast City Council being the planning service and the car park provider? The council will be the decision-maker in both instances, so it could make a decision based on sweating an asset — I used that term earlier — over whether you have a requirement for a car park. You will control both those policies.
481. **Ms Toland:** We will control both policies at a local level, but it would have to be set in the context of the regional level. There are transportation approaches for planning regionally and

- for influencing policy. That still sits significantly as a regional approach, so there is an overarching regional approach for sustainable transport in both planning and transport. Those decisions will be vital for us as officers and in supporting the elected members in making decisions in the future. We are interested in the best interests of the city for all of the reasons that we mentioned, including tourism, economic vibrancy and attracting people into the city. We want to create a city centre to which we can attract more people to live in. Parking is part of that. It is part of a problem and a solution, and we would not look to eliminate car parking, because we know that we need it. I said that you have to look at the availability of car parking in the round. Obviously, there are private providers and a number of assets that are maybe earmarked for future car parking provision. We have to look at balanced decisions, which will be made by elected members.
482. **Mr Dallat:** On that very point — this is my last one — I am glad that you referred to the private sector. I am an old miser, and I was in Belfast in the last few days. I paid £5-80 for a few minutes in a private car park. Do you agree that, if the council provides car parking, it controls to some degree what the private sector can expect from people? Is it essential that there is not a wholesale sell-off of council-owned car parks? In those circumstances, the private sector would really go mad.
483. **Ms Toland:** I accept that, and I do not think that our councillors would want to see that happen and would have the same concerns as the members around the table. Tariffs and tariff-setting on the car parks that would transfer to us are decisions for members. We will face challenges over the 2,000-plus spaces that we will get as part of the transfer of assets. I am certain that councillors will have a view that we want to reduce tariffs in the city. Currently, the way in which that operates has an impact on the rates burden, and we will have to try to match that in some way. Councillors do have strong influences on that. Less than half the car parks that are transferring are charge car parks; a significant number of free car parks are transferring in the asset as well. How many out of the 30 are —
484. **Mr Damian Connolly (Belfast City Council):** Seventeen of the 30 are charged, mostly in the city centre; the other 13 are free.
485. **Mr Dallat:** I must get a map of the free ones.
486. **The Chairperson (Mr Clarke):** You could save the Assembly a fortune, because there is probably a receipt in for that one already. *[Laughter.]*
487. **Mr Lyttle:** As an East Belfast MLA, I am delighted to see Belfast City Council at the Committee today. You raised the issue of the Corporation Street car park. The Minister has proposed retention of that car park in relation to the development of the York Street interchange. How much of an issue is that to the council, bearing in mind that you had concerns about how the 120 spaces would be used in future?
488. **Ms Toland:** The York Street interchange is a positive benefit to the city. DRD officials have been in with members and have made presentations. The council is very supportive of the York Street interchange for the flow of traffic and the improvements that it will make to the road network. I suppose, ultimately, that it is the last one that we are negotiating with DRD officials. One car park was earmarked initially as on the list that is not on the list any more. Our mandate from the councillors has been that we want to see that transferred or to be compensated in some way. If it does not come to us, it will remain a car park for a time on a lease to the council, although that will depend on the time of the strategic road changes, which are imminent but which can take some time. We will lose 124 car-parking spaces instantly. At that point, we will be charged with responsibility for off-street parking, so that is an issue for us instantly at the point of transfer. We still want to negotiate that key point

- with DRD officials. We want either recompense around space for those car parks, income generation on the land that would have transferred over or recompense for that so that we can purchase somewhere else to provide additionality. We are negotiating with DRD on those things.
489. **Mr Lyttle:** Those negotiations are ongoing.
490. **Ms Toland:** Yes.
491. **Mr Lyttle:** You also mentioned your commitment to sustainable transport, and I know that the council is embarking on a public bike hire scheme soon. Car-parking spaces, as John said, are at a premium in the city centre. Has there been any exploration of using spaces for bike storage units, or will additional bike storage space be factored into a strategy?
492. **Ms Toland:** The council, in partnership with the Public Health Agency (PHA) and the trust, is launching an active transport action plan today that includes walking and cycling; it links into the council's bike-hire scheme. We want to make provision for more structure for bike parking and secure parking. We are looking at that as a council to see whether it links into all the assets transferring over in the Off-street Parking (Functions of District Councils) Bill, and that may well be a key feature. I suppose that most cyclists park their bike near the building or the area that they are going into; they are less likely to park in a car park where they would take up the asset of a car-parking space. We do those kinds of things in consultation with DRD officials and its active transport unit. We work very closely and positively with them.
493. **The Chairperson (Mr Clarke):** The Committee is keen to work with all councils. Many of us have come from local government, and we can see the benefit of transferring functions. I do not want you leaving this room thinking that we are on opposite sides, because there is a real benefit. There are DRD officials sitting in the public gallery, and I am not trying to cause offence to them either. I think that local people are best placed to drive what is happening in our town centres. At the same time, we have to be careful in what we do as a Committee. We have all had to leave that behind us and come to the Assembly; we have to be justified in the decisions that we make and in how we shape, assist and scrutinise what DRD does.
494. I will ask Mark a question. Belfast City Council, and other councils, is coming with a wish list of resurfacing, and those kinds of things. The public will hear that you are getting a free transferred asset, from which your net income will be approximately £1.3 million a year. How can we convince the public that it would be acceptable for more public money to be spent and for those to be given to local councils for free, only for the council to make a net income of £1.3 million a year?
495. **Mr McBride:** As you know, any net income will be taken off the other transferring functions; it will be netted off from what is coming from planning. There will be an overall settlement on the transfer.
496. **The Chairperson (Mr Clarke):** Maybe I should deal with that separately. This is DRD. Every Department should be treated separately; DRD should not be subsidising DOE. That is maybe how Belfast City Council looks at it as a whole. We could get to a stage where there will be deal-breakers for councils, or otherwise. DRD is coming forward with a proposal to transfer car parks, which is a good idea for councils; councillors definitely want it. In the past, they criticised DRD for car-parking charges that prevented people from using their car parks. Now, we have an opportunity to drive change to bring people back. Taking car parks on their own, you are netting £1.3 million a year; at the same time, you are telling them that you want them to do this and to do that.
497. **Mr McBride:** We are looking at what it costs to operate car parks. All that

- we are trying to do is validate that the amount being taken off the surplus is the right amount. That is the due diligence exercise that we are doing with officers from DRD. It is about validating the amount that is transferring. If there is a gap, it will have to be picked up by the ratepayer. You are right: there is a £1.3 million surplus, but the DOE draft allocation model has the overall funding package and the transfer netted off against the others. Yes, it is £1.3 million.
498. Another important point is that we are making sure that it is rates-neutral; we are making sure that, when the function transfers, there will be no extra burden on the ratepayer. In the original submission, we highlighted that the income that we would get would be net of the expenditure and be based on the charges currently in place. Those charges in Belfast are higher than in other cities and towns in Northern Ireland because of DRD's charge-setting policy. Once it comes across, if we decided that we want to reduce the car-parking charges, the burden would have to be picked up by the ratepayer.
499. **The Chairperson (Mr Clarke):** I accept that. We are all ratepayers and would expect you to do what is best for the ratepayer. At the same time, we are taxpayers, and we expect things to be done right as well. You are getting millions of pounds in transferred assets, and you have an opportunity to make a net gain of about £1.3 million. If you adjust your prices to make car parks fuller, to encourage people into town centres, you are getting a bigger rate of return for the businesses in Belfast. We are sustaining business as well. It is a chicken-and-egg situation. Generally, the Committee is supportive of the idea, because we come from local government and communities, and we can see the point of the transfer.
500. However, councils are approaching this with a big wish list. There are even suggestions, although I do not think that I read them in your submission, that DRD should transfer to councils that part of its budget that it used to maintain car parks. I assume that DRD's money for that came from the money that it received from car parks; so, really, the councils are coming here with a very long list. I can understand that; but, hopefully, you understand my point of view that, sometimes, it does not all makes sense.
501. **Mr McBride:** We will get the net amount, the income less the expenditure, and if there are maintenance costs that we will have to incur, then the settlement comes into play. The Budget bid that DRD has in at the minute is for the income less the expenditure. All we are doing is trying to make sure that the impact of the transfer on the ratepayer is neutral.
502. **The Chairperson (Mr Clarke):** Cathal, I can give you a small supplementary question on that, and then we will wrap this one up.
503. **Mr Ó hOisín:** Thank you for that, Chair. Siobhán, you mentioned, as a minor nuance, the amendment of the powers of appointments to include the authorisation of parking attendants. Can you elaborate on that?
504. **Ms Toland:** Yes. I suppose that we should have had somebody legal in the room to answer that. However, our lawyers have looked at it and said that it would be better to have the word "authorise" as well as "appoint". I suppose that it is a matter of legal terminology, and they perceive that to be correct. So, we would like "appoint and authorise", which would allow the power of delegation. Authorising is different from appointing. From how it has been explained to me, I understand that appointing a body to act on your behalf is one thing, whereas authorising it is a different process. That comes through the council or the committee, and the council appoints a director, or whoever, to discharge a function. So, it is in relation to a delegated power. It is minor, but it is based on a legal point. Your own lawyers will decide whether that is appropriate. It is about the difference between "appoint" and "authorise".

505. **Mr Ó hOisín:** My other question is this. A number of years ago, most councils adopted the option of gritting footpaths, particularly in town centres. Do you see that as now being extended to car-parking areas?
506. **Ms Toland:** We do the road-surface gritting on behalf of DRD in extreme weather.
507. **Mr Connolly:** We have been working on our estimates for managing that function post April, and we have included money for the winter maintenance of the car parks that we are adopting.
508. **The Chairperson (Mr Clarke):** Thank you for your time today, and, obviously, we will take on board your comments.
509. **Ms Toland:** We will get the information that Mr McNarry asked for to the Committee.
510. **The Chairperson (Mr Clarke):** OK. Thank you.

19 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Chris Lyttle
 Mr Declan McAleer
 Mr Stephen Moutray
 Mr Cathal Ó hOisín

Witnesses:

Ms Anne Donaghy	Mid and East
Councillor Timothy Gaston	Antrim District
Councillor Gordon Lyons	Council
Councillor Tommy Nicholl	

511. **The Chairperson (Mr Clarke):** Anne, you are very welcome. Maybe you want to introduce the councillors. Some of the members will know them.
512. **Ms Anne Donaghy (Mid and East Antrim District Council):** Chairman, if you do not mind, Timothy will do that.
513. **Councillor Timothy Gaston (Mid and East Antrim District Council):** Mr Chairman, thank you for the opportunity to give oral evidence to the Committee this morning on the Off-street Parking Bill. I am sure that you can see in front of you this morning the importance that we have placed on it by the fact that three elected members have come personally to the Committee to give first-hand evidence on why we feel a necessity to come here and address our concerns.
514. I will start off with a few introductions. I am the deputy presiding officer of Mid and East Antrim District Council, and I will begin by outlining our overall position on the Bill. I will then hand over to Councillor Gordon Lyons to my right here, who is the chairman of the planning committee. He will outline the council's vision to grow our local economy and our desire to ensure that car parks are transferred to councils with no constraints. You will then hear

from my colleague on my left, Councillor Tommy Nicholl, who is chairman of the community planning committee. He will outline our concerns about the transfer and the need to uphold the principle of rates-neutral at the point of transfer. We are also joined by our chief executive, Anne Donaghy, who will help and support us in answering any questions that the Committee might have.

515. The council very much welcomes the transfer of off-street parking to local government. Growing our economy and, in particular, town centres is, for us, a very high priority. We see the transfer of the 27 car parks to Mid and East Antrim District Council as a great opportunity to take a proactive approach to regenerating our town centres. Our consultation response to the Bill indicated that we are broadly content with the proposal to transfer car parks to the councils. We followed the Second Reading of the Bill in the Assembly with interest, and we have a number of concerns. We wish to use this opportunity to present two particular points to the Committee.
516. First, we urge the Committee to ensure that car parks are transferred to councils with no restrictive covenants or constraints in order that councils can maximise the regeneration potential for town centres. Councillor Gordon Lyons, chairman of the planning committee, will shortly present our position on this.
517. Secondly, we urge the Committee and the Department to maintain the principle that car parks are rates-neutral at the point of transfer. In particular, we seek assurances on transparency of costs and wish to ensure that the Department provides adequate information to enable local due diligence to take place in the package to transfer. Councillor Tommy Nicholl, chairman of the community planning committee, will present our position on this.

518. Before I pass over to Councillor Gordon Lyons, Mr Chairman, I once again take this opportunity to thank you for allowing us this time this morning, and I assure you that we are happy to take any questions at the end.
519. **Councillor Gordon Lyons (Mid and East Antrim District Council):** Thank you very much, Mr Chairman. I am very happy to be here this morning, although it is not often that I am described as being to the right of Councillor Gaston. I am happy to be here and to tell you a little something about our view on the Off-street Parking Bill and how we believe it is central to creating stronger local government. As chairman of the planning committee in Mid and East Antrim, I can say that one of our key priorities is looking at the ways in which we can integrate planning powers into the council's suite of functions to ensure that we maximise economic growth and regenerate our local areas.
520. We believe that car parks have the potential to be an important element of this regeneration programme that we hope to enact. Therefore, we have been following the passage of this Bill through the Assembly and the Committee so far. We have to say that we are concerned that there has been discussion on potential amendments that, if introduced, could attach restrictive conditions to the transferring of car parks. We want to use this opportunity to urge the Committee to ensure that car parks are transferred to councils with no restrictive covenants, conditions or constraints in order that councils can maximise the regeneration potential for our town centres. We urge the Committee not to include any amendments to the Bill.
521. During the Second Reading, the Minister said that one of the principal aims of the reform of local government is to create stronger and more responsible local government. We believe that the inclusion of any restrictive clauses or creation of a departmental veto over the future arrangements for off-street car parking would be contrary to the spirit of the reform programme, which is to give local councils and local elected members the responsibility for the decisions that they make on these issues.
522. Mid and East Antrim District Council recently undertook a best practice study visit to Peterborough City Council, and, when we were there, we were very impressed by its innovative approach to planning, regeneration and growth. It very much took a holistic view of how it as a council should go about regenerating the city, and car parks was an important part of that. We believe that it will be the same for us in Mid and East Antrim, and we want to see the same opportunities for regeneration and growth.
523. We also believe that local councils are best placed to identify local need and to drive forward programmes to regenerate local areas, and we take seriously the role that we have and the enhanced role that we will now have in growing the economy locally and striving to contribute to the Programme for Government's vision to promote economic growth. To do this, we need to make sure that all of the spaces that we have are used to their greatest potential. Obviously, car parks are part of that.
524. I think that it is important that we say to you that we want to alleviate any concerns that the Committee may have that we want to be able to take car parking control from the Department just so that we can sell off the car parks and make a quick pound or two. That is simply not the case. If the council were to make an informed and strategic decision to develop an existing off-street car park, we believe that we would be obliged and that it would be in our best interests to make sure that we provide alternative car parking elsewhere. We would not consider reducing any car parking spaces lightly; only on a needs basis or on an evidence-based approach. This would be factored in to our regeneration plan, and, again, it is local people and local elected representatives who would have the local knowledge that would be needed

- so that we could do what is necessary and what is specific to our own areas.
525. I want to take the opportunity to urge the Committee to ensure that car parks are transferred to councils under the proposals in the Bill as it stands. Of course, it is very important that we continue to work with citizens and with local government and central government to ensure that we have fit-for-purpose, accessible and maintained car parking provision that meets need, and it is critically important that we understand how we, councils and DRD take forward planning for future car parking provision. We are keen to ensure communication and strategic decision-making in that, and that it is open and transparent. I have some concerns about a disconnect between on-street and off-street parking in the future. For example, consideration of any reduction in the number of on-street parking places should not be done in isolation without an overall needs analysis of the number and nature of parking provision. In particular, if, as part of the consideration of ways to alleviate town centre congestion, there is the potential for DRD to reduce on-street car parking in the future, there could be an expectation that any reduction would be absorbed by additional off-street parking. We need to ensure that there is a coordinated approach to that, because the powers will no longer lie with one body.
526. In conclusion, we strongly urge the Committee to avoid introducing any amendments that would incorporate restrictive covenants or conditions to transfer. If we are to realise the vision for improved town centre economies, it is vital that the councils have the flexibility to maximise the regeneration impact for our local residents.
527. **The Chairperson (Mr Clarke):** Tommy, do you want to add something?
528. **Councillor Tommy Nicholl (Mid and East Antrim District Council):** Yes. I find it difficult to say “Mr Chairman”; it is usually Trevor.
529. **The Chairperson (Mr Clarke):** Anything will do me, do not worry. I have been called a lot worse.
530. **Councillor Nicholl:** Mr Chairman, I join my colleagues in thanking you and the Committee for the opportunity to be here and for listening to us. I have had the privilege of being a councillor for over 34 years. I believe that the new powers that transfer off-street car parking to local government are right. I believe that we have a real opportunity to make a difference for our citizens and our local business community through the new powers and duties in the Bill. One of the fundamental principles of the transfer of powers to local government is that they must be rates-neutral at the point of transfer. I completely agree with that principle, and will fight to make sure that it remains the position. After all, we are the people who are accountable to the local ratepayer. I use this opportunity to urge the Committee and the Department to ensure that the package of car parks transferred to local government are rates-neutral at the point of transfer. Nothing else will do.
531. The council has instructed its chief executive, Ms Donaghy, to undertake a detailed due diligence assessment of all the transferring functions. The elected members are particularly interested in off-street car parking and making sure that we are treated fairly. That is all we ask: fairness. As part of her comprehensive analysis, she informs me that the council continues to lack detailed information on many elements of the transfer of car parks. Ms Donaghy has sought urgent clarification from the Department on a number of points. It concerns me that that information remains outstanding. We are close to approaching the eleventh hour, and we need answers to those questions. As an example, among the information we are still waiting for is detailed information on the income history for the car parks, and specific information on Springwell Street car park, for those who know Ballymena, and the provision of up-to-date boundary maps of all car parks.

532. We are currently completing condition surveys of all the off-street car parks in mid and east Antrim. I understand that many other councils are doing the same. Early indications from condition surveys suggest that extensive refurbishment works will be required to bring the facilities up to an acceptable standard. With your permission, Mr Chairman, I would like to send the outcome of our condition surveys to you in due course. Why? Because we believe that that should be factored into the funding allocation associated with car parks as part of being cost-neutral on the point of transfer. It is very important, in the interests of fairness to our ratepayers, that there is complete transparency on the costs and financial information around the car parks. It is vital to ensure that car parks are rates-neutral at the point of transfer.
533. The chairman of the planning committee, Gordon Lyons, has already spoken, and he is going to sum up on our behalf and summarise Mid and East Antrim's position.
534. **Councillor Lyons:** As has already been stated, we hope that the Bill will progress as it was in its original form, without any further amendments. We also want to impress upon you the importance of needing to have information that we currently do not have. There is outstanding budget information that we need to know, and we have not got that information yet. To repeat again what Councillor Nicholl said, we believe that the transfer should take place and that it should be rates-neutral. To repeat what I said previously, we believe that we are best placed and that we, as councils, should be able to strategically plan where car parking provision should be for our area. We ask that no restrictive covenants be placed on that, and we urge that any Executive budget reductions should not directly impact on car parking.
535. I am happy to take your questions, Mr Chairman. Thank you once more for the opportunity to come here.
536. **The Chairperson (Mr Clarke):** Thank you for your presentation. At the outset, after Tommy's comments, I feel that I should declare an interest as being a constituent of Mid and East Antrim. I would expect you, Tommy, to do some of the things that you said about getting best value for ratepayers, because I am a ratepayer in your constituency. You will probably not get just as hard a time today as some others may get.
537. The points have been well made. Some of the points, the Committee will generally agree with. Cost-neutrality is important, whether it is Mid and East Antrim or anywhere else in the Province. None of us would agree that a burden should be transferred. It is disappointing that a theme is emerging on the lack of detail, and we are concerned about that. As you will appreciate, we have a very tight timescale for the Bill. The Department asked us to do it in the shortest possible time. We have said that we will comply with that, but, of course, there was a caveat. If all the information is not there and things do not go in the correct manner, then we will have no other option but to ask for an extension of that period of time. The Minister said that he was minded to go for accelerated passage, but the Committee will resist that if the councils are not in receipt of the information required to make a decision. Most of the Committee members around the table have come from local government, so we have a genuine interest in our communities. We have to get this right; we cannot afford to get it wrong.
538. I do not know who wants to lead off on the questions. I do not mean to be disrespectful to Anne, but I am glad that councillors are here today. It is important that councillors lead as opposed to officers. Officers, to an extent, have a role to play in directing it, but it is good to get into the heads of councillors, because they represent the public. If it is wrong, they will bear the blame for whatever happens in the future.
539. Timothy, you talked about regeneration, and we all agree that you are best

- placed to deal with that. There is also the issue of transparency. You were against making any amendments to the Bill. What is your understanding of the Committee's mind on that clause?
540. **Councillor Gaston:** In the sense of the general feeling in the room?
541. **The Chairperson (Mr Clarke):** I am picking up different vibes from different people about what that clause may look like. What have you been informed about what that clause has been suggested to look like?
542. **Councillor Gaston:** Chief, do you want to answer that?
543. **Ms Donaghy:** We have not had a lot in writing, but our understanding of it is that the clause may restrict us from developing car parks in any other way than as car parks. What we are saying is that that may be inaccurate and, if it is, that is good, because we want to regenerate our towns, and part of that regeneration will be to look at the car parks as a strategic asset in the borough. Is it an opportunity for development or regeneration?
544. Let me go back to what Councillor Lyons said. We will carry out a strategic needs assessment of car parks in our area. If there is a need for the car parks, and we want to develop the central asset of a car park into something more for business growth, we would replace them. It is all about the citizens. We are not going to replace that car park half a mile outside the town, but in a place where people can use it. Access to the car parks is important. That is a key part. Again, Councillor Lyons mentioned that this is about the strategic analysis of car parks. We cannot do that in isolation. In the Bill, there should be something to encourage DRD, working with on-street car parking, to work with councils with off-street car parking. It is always about the whole package.
545. **The Chairperson (Mr Clarke):** We need to kill off the subject of on-street car parking very soon in this debate, because on-street parking is nothing to do with this Bill. It is something that councils may want to make representations about in the future.
546. My question was really more about your perception of the clause. This Committee has never been minded in terms of what you think that clause may be. The Committee generally, or many of us — I cannot say all of us, because we never actually came to a decision on this — have wanted to build in a degree of protection. I feel as though I am like a long-playing record because I have repeated this so many times. Many of us have come from local government. Anne, you know from your time in Antrim Council that the councils always wanted control of the car parks because that could help to regenerate our towns and help to bring people into them. That is a given.
547. All we are really suggesting here is this. Look at the Minister's comments, on the last day that he spoke in the House on this issue. He said that some car parks have already been identified for redevelopment, and that may even be from the Department's point of view. I am not saying that it will happen in Mid and East Antrim, but we need a degree of protection. There is no one in this room who is against redevelopment or regeneration, but we are all for protection of our towns and villages. Where we have a car park, regardless of its size, if the council is minded to regenerate or redevelop it, I think that it should be allowed to do so. All we are saying is that, where you have been transferred an asset that is cost-neutral, you should be made to replace it with a similar asset in a similar locality. We should not be standing in the way of you redeveloping your town centres.
548. Listening to what has been said, I think that Gordon referred to alleviating our concerns and, where possible, councils would do that. We are not saying "where possible"; we are saying that this is where we want the clause to be. Do not let us prevent redevelopment or regeneration of town centres, but make sure that we have adequate provision in our towns. That is all we are saying. There is danger in us just leaving this

- completely open-ended. I can say this to officers, though I will not look Anne in the face: when it comes to balancing the council's books, officers can be very imaginative as to how they can raise finances. I am a little bit concerned about that. I have come from local government, and I have seen how it works. Some of those proposals could be for selling off assets to bring in income to balance the books. All we are trying to do is to build in protection for the communities that we all come from and we all represent. Just because we sit in the Assembly, we have not turned our backs on the communities that we come from. We are trying to assist you in protecting our communities.
549. **Councillor Lyons:** I completely agree with the points that you are making. We want to make sure that there is adequate car parking, and you want the same. You want to make sure that the needs of the local communities are met. However, if you look at the whole spirit of the review of public administration, it was about giving power down to councils. I understand why some Committee members here say that they want to have control of that because they want to act in the best interests of the people that they represent. However, we have the same interests, so we want to act in their interests as well.
550. **The Chairperson (Mr Clarke):** You should not be fighting us on that one, then, Gordon. We all have the same interest. All that we are saying is that it should be a case of like for like. We are not is trying to suggest what you should do other than that.
551. I have heard different interpretations of what this Committee is minded to do, and they are far from anything that the Committee has ever set out to do. The Committee has never come to a view on this. The officials are in the Public Gallery today, and we asked them to consider and bring forward a restrictive clause. The Minister was very quick to come out in the House and say that he is not minded to include any form of restrictive clause, and that has gathered legs.
552. I take the point that you are making about the spirit of the Bill when it comes to transferring powers. However, at the end of the day, the assets are worth about £7 million, and I think that it would be unfair of us not to build in some sort of protection when we are transferring valuable assets such as car parks.
553. **Councillor Lyons:** We are not too far apart on those things, Mr Chairman. However, instead of including a clause that applies across the whole of Northern Ireland and that perhaps does not serve the right purpose, we believe that, if you are giving the power to local councils instead, we need to act in the best interests of the people whom we represent, and we are going to try to do the same thing.
554. I completely agree with you. I think that, if we are to take a piece of land that was a car park and redeveloping it, we ought to provide similar car parking elsewhere. Take this as an example: the Department may include a clause that says that such a car park has to be replaced, like for like. That does not take into account local need or the fact that we may have a piece of land that is a car park but is underused. There might be a surplus of car parking spaces. Why therefore would we want to have that restriction placed on us? We would be unable to develop land fully in that restricted space, because we would have to have so many car parking spaces, even though there might be a surplus.
555. **The Chairperson (Mr Clarke):** The flip side is that, were you to redevelop a car park, you would hope that it will bring people back. However, you have no way of measuring that until after it happens. That is why you need the protection of this requirement to provide additional spaces.
556. **Mr Lynch:** I think that it was you, Tommy, who said that extensive upgrading works are needed to some of the car parks. How essential is that in the transfer, and have you identified car parks that are not fit for purpose?

557. **Ms Donaghy:** If I may answer that, we are currently carrying out a condition survey, as was advised, and gathering information on that. I will give you an example of one of the car parks that is being transferred to us. Many years ago, it was determined centrally — not by us — that it would take about £1.5 million to bring it up to standard. Therefore, it is always about understanding —
558. **The Chairperson (Mr Clarke):** Sorry, can I cut in there, Anne? Can you name that car park? It would be useful for the Committee to explore that.
559. **Ms Donaghy:** Yes. It is the multistorey car park in Ballymena.
560. **The Chairperson (Mr Clarke):** OK.
561. **Ms Donaghy:** I have been out at that car park, and its condition means that there are maintenance issues. I cannot determine that myself, but I have officers looking at it at the minute. Our concern is that we want to provide a standard of car park. The citizen has an expectation. We want to have car parks that are fit for purpose. This is about the definition of “fit for purpose”. In many cases, people will say, “It is already a car park, so it is fit for purpose”. That might be a definition, but at the other end of the spectrum, if you are a housing developer, you have to bring a road up to a standard or else it will not be adopted. The definition lies somewhere in between those examples. What we want are car parks of a standard transferred to us that we can maintain to that standard for the next 10, 20 or 30 years with the income that we have. I hope that that answers your question.
562. **Mr Lynch:** What do you think the solution is for the particular car park that you mentioned, Anne?
563. **Ms Donaghy:** I would like to have some conversations with the Department about how the gap will be met. We do not expect everything to happen on day one, obviously. Therefore, a solution might be a phased, strategic programme of maintenance over the next number of years supported by the Department,
- along with council. To refer back to what Councillor Lyons said, I think that there is a spirit of delivering for the citizen among us all. We are all using the same public pound to deliver. It is about being responsible and making sure that we use that to the maximum. One of the solutions that we are thinking about is to develop a maintenance plan together that we would share over the next x number of years. We would move it forward based on income and on what we can bring to the standard of the car park. Hopefully that answers you.
564. **Councillor Lyons:** That is why the income history is so important, and that is information that we have not received yet. If we are taking on an asset and do not know how much money is coming through or whether it generates x thousands of pounds every year, how can we plan? We do not even know the condition of some of the car parks. That is an important factor that we need to take into consideration as well.
565. **Mr Lynch:** It is disappointing that that information has not been forthcoming.
566. **Ms Donaghy:** If it is helpful, I will provide you with what was requested and the latest update on that on a periodic basis. There is no problem.
567. **The Chairperson (Mr Clarke):** Perhaps I should put it on record now that, during the comfort break, I sought information from officials. It would be inappropriate to bring them to the table now, but they are of a mind that the information and figures on the income history has been provided to councils.
568. **Ms Donaghy:** No, I am clear, Chairman. I wrote back with specific questions that were raised by the elected members, and I have not been in receipt of the detail.
569. **The Chairperson (Mr Clarke):** Will you send us a copy of the information that you are providing and when you have asked for it?
570. **Ms Donaghy:** I certainly will.

571. **The Chairperson (Mr Clarke):** Again, we will ask the Department about that officially, but, when we had the comfort break, the officials indicated that the information has been provided. That theme emerged from another presentation this morning, and it is alarming.
572. **Ms Donaghy:** Perhaps I can shed a little bit more light on that. It would be untrue to say that no information is being provided. Generic information was provided to all. However, my members were very clear that we needed more specific detail in order to make determinations, and I wrote back looking for specific information.
573. **The Chairperson (Mr Clarke):** Sorry to cut across you again, Anne, but that may be the problem. There may be confusion in the message about what the level of information is. Will you put on the record now what information on the income history you are after so that we are clear and that there is no ambiguity about what is needed?
574. **Ms Donaghy:** OK. I do not have the specific letter with me. I will forward it to you, but Councillor Nicholl already told you some of the areas that we wanted information on. For example, we wanted more information on the multistorey car park in Ballymena. We are not even certain on some of the boundary maps issues. We still have a query concerning one off-street car park that was used in the Carrickfergus area during the road upgrade. It was temporarily turned into a park-and-ride facility on a temporary basis. We are now not getting that transferred over because it has been defined as a park-and-ride. It never was a park-and-ride facility. My understanding is that that was a temporary solution, and, as such, I believe that it should go back to being an off-street car park. However, we are being told that it is not transferring because it is now a park-and-ride. I do not understand what the word “temporary” therefore meant. Those are the sorts of issues that we have asked for clarification on. There are more, which I cannot say off the top of my head.
575. **The Chairperson (Mr Clarke):** I am certainly not a cheerleader for the Department. However, temporary or otherwise, if the park-and-ride facility has been used and proven to be successful, it probably adds benefit to a particular area, so I can understand why that one would not transfer.
576. Another emerging theme today is that councils do not seem to be in receipt of a definitive list.
577. **Ms Donaghy:** Yes.
578. **The Chairperson (Mr Clarke):** There seems to be some fluid movement with the list. That is something that the Committee needs to tie down with the Department. We cannot be asked to do this piece of work within 30 days if the number of car parks on the list is going up and down. We need a definitive number of car parks for each of the councils so that they can make an informed judgement.
579. **Ms Donaghy:** Absolutely.
580. **The Chairperson (Mr Clarke):** You and I may disagree on the detail of that, of course, Anne, because I think that park-and-rides have a function. Whether the Department stumbled across it by accident or design, the park-and-ride has proven to be successful. Many of our towns suffer from the lack of a park-and-ride facility.
581. **Councillor Lyons:** For clarity, Mr Chairman, the car park was turned into a park-and-ride because of the developments with the A2. It was meant only to be temporary. It may become more successful, but that is a different issue.
582. **The Chairperson (Mr Clarke):** In Randalstown in the constituency that I represent, we have a park-and-ride facility at the Ballygrooby roundabout. First, we could not get a park-and-ride facility, but, now that we do, you cannot find a space in it. That proves that there is need for them, and, sometimes, they can be come across by accident rather than design.

583. **Ms Donaghy:** If that is the decision, it is the decision. However, we have not got an answer to the question of how the park-and-ride moved from being temporary to being permanent. If it has become permanent, it would be nice to understand that and for the council to know that the facility is being used extensively and that the Department has made a formal decision to make it permanent. We have asked why that has happened and whether the park-and-ride is now a permanent feature. I think that that is fair, and all that we ask for is an answer.
584. I will provide you with the full list of questions that we forwarded and where we are with them.
585. **The Chairperson (Mr Clarke):** We will include those as part of our evidence to the inquiry.
586. **Ms Donaghy:** Excellent. Thank you.
587. **Councillor Gaston:** To reinforce what the chief executive said, I hope that you see that it is imperative that we get the information as quickly as possible. In three months' time, we will be striking a rate, and we have outstanding issues.
588. We talked about the multistorey car park. The condition survey for it is coming up to being 10 years out of date, and there has been minimal maintenance carried out on it since then. The council has to be in a strong position to know what it has and what money we need to put in so that, when we go to the ratepayer, we have enough money and there will be no surprises coming down the line.
589. **The Chairperson (Mr Clarke):** We entirely agree with that. That is why we need a definitive list. We need to be clear about what is transferred and what is not.
590. **Mr McAleer:** Very briefly, Chair, the message has come out very strongly that you need the information about the boundary maps and the income history.
591. I note that you are carrying out a condition survey. If the findings of your survey are at odds with the Department's view, will you be content to accept liability come the handover date?
592. **Ms Donaghy:** I cannot answer that. Once we get the information, we will sit down as a Committee to discuss how to take that forward. We will look at all options. It is all about affordability, a phased approach and where the responsibility lies. I can speak only for Mid and East Antrim District Council councillors, and they are very responsible. They consider themselves to be the custodians of all assets, and those assets have to be of a certain standard for our citizens. If we get an at-odds figure, we will have to discuss that and write back to the Department or make representations to it.
593. I know that some of the other councils that are here will have completed their condition surveys. Those will probably be presented to you as evidence after we finish. Most, if not all, the councils are carrying our condition surveys, and a trend is coming through. In the absence of the figures, I cannot give a response from council.
594. **Mr Dallat:** Thank you for your presentation. Whatever money is spent on car parks in the future will come out of either the regional rate or the local rate. I represent neighbouring areas such as Coleraine and Limavady. Are you seriously suggesting that the ratepayers in those towns should contribute towards your fabulous multistorey car park in Ballymena, which must have generated billions of pounds over the years?
595. **Councillor Gaston:** It is important that, when we get them, the assets are fit for purpose. I am a health and safety officer by trade. It is important that the service that we provide to the public is safe and to a certain standard.
596. **Mr Dallat:** Are you saying that it is not safe?
597. **Councillor Gaston:** Minimal work has been done on the multistorey car park. The condition survey was not carried by the council, but the Department would not have said that there was a need

- to spend £1.5 million on that car park if there was not. As I said earlier, the condition survey is 10 years out of date. It would be interesting to see the up-to-date survey. Chief executive, do you want to add to that?
598. **Ms Donaghy:** As public representatives, the Mid and East Antrim District Council councillors recognise fully that major assets are being transferred to us. That is from where I would start. You draw attention to what is perhaps the second or third highest-earning car park in Northern Ireland. At the other end of the spectrum, we have car parks that cost money to keep open. You cannot look at one car park; rather, you need to take a holistic view. That view cannot be taken within one town but must be seen across the whole of the new borough. We need to look at how much it will cost for all the car parks. To pull out one car park for discussion would skew that.
599. We are glad that our multistorey car park has been such a success, and we hope that that will continue. It will absorb some of the costs of some of the car parks that are costing you to run at the moment and that will cost us to run in the future. Hopefully, that answers your question.
600. **Mr Dallat:** I hold my hands up: I am just envious. Ballymena has a multistorey car park, and most other towns do not. I cannot see in what circumstances you would want other towns to pay for the upgrade of your multistorey car park out of the regional rate. That is mind-boggling.
601. **Councillor Gaston:** It would not be upgraded; rather, it would be brought up to an acceptable standard, and that is something that should have been done over the years.
602. **Mr Dallat:** I would keep that quiet, because people might begin to believe that it is dangerous to go into your car park. I go into it quite regularly, and, to be honest, it is one of the better car parks for turning in.
603. **Ms Donaghy:** It is about maintenance. It is always about maintenance. It
- is probably one of the better car parks, and it was determined by the Department, in and around 10 years ago, that maintenance needed to be done. Minimal maintenance has been done since then. As I said, when we get the results of the survey, we will be in a better position to say what needs to be improved.
604. **The Chairperson (Mr Clarke):** I suppose that I am looking at the figures. I can see John's point. You will have 27 car parks with a net income of £600,000 a year, and that one car park makes £242,000. Therefore, almost half your annual income from the 27 car parks will come from that one car park.
605. I am sitting on the fence on this one. You will have to look at the spectrum of what you are getting.
606. **Ms Donaghy:** Absolutely.
607. **The Chairperson (Mr Clarke):** It is a large proportion of the total income for other car parks that are not making money, but I share the general view. You are getting an asset that is still functioning. You will get £7 million worth of assets, and there will be an expectation in the future that you will be responsible for the upkeep of those.
608. I come back to Timothy. The car park cannot be in such a state that it is not fit for purpose, or else it would have been closed. You have to strike a balance somewhere. It is still generating quite a large income, and I would not think that the Department is irresponsible enough to leave a car park open that is not fit for purpose or that is unsafe. If it were, I would be the first to criticise it for doing so, I can assure you of that.
609. In the round, you will have 27 car parks, and the multistorey car park will make up almost half your income. That makes it a wee bit more difficult. I take the point that Anne has made. It is a more difficult one to balance in your head.
610. Did you want to come in, Cathal?

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611. **Mr Ó hOisín:** I am sorry that I missed part of the presentation. I was away doing an interview about a six-mile-long car park on the A6.
612. I want to go back to what the Minister declared about the 27 car parks that your new council area will have. Are you aware of any prioritisation for retention or disposal of those car parks by the Department?
613. **Ms Donaghy:** I am not clear exactly what you are asking.
614. **Mr Ó hOisín:** The Minister has indicated that he thinks that a number of car parks might be prioritised across different council areas for disposal or retention. Are you aware of any of that?
615. **Ms Donaghy:** I am not aware of that at the minute.
616. **Mr Ó hOisín:** OK. Thanks.
617. **The Chairperson (Mr Clarke):** Had you finished you, John? Sorry, I may have —
618. **Mr Dallat:** No, I did not want what I said to sound terribly negative. It will be very useful in making up our mind, and I could have developed it further. There are a lot of smaller shops — there are probably many in your new council area — that are struggling for survival. They have to fund their own car parks and are finding it difficult to pay their rates. Why would they, through the regional rate, be asked to contribute to renovations on a multistorey car park in Ballymena?
619. **The Chairperson (Mr Clarke):** Maybe they will all come to shop in Ballymena if they did that. That would be OK. I would be happy enough with that.
620. Have all members had an opportunity to ask questions?

Members indicated assent.

621. **The Chairperson (Mr Clarke):** Thank you for your presentation. Your evidence will be considered. Anne, can you get us that other information as quickly as possible?
622. **Ms Donaghy:** Absolutely. That is not a problem, Chair.
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19 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Chris Lyttle
 Mr Declan McAleer
 Mr Stephen Moutray
 Mr Cathal Ó hOisín

Witnesses:

Alderman Arnold Hatch	Northern
Mr Derek McCallan	Ireland Local
Councillor John O' Kane	Government
Mr Stephen Reid	Association

623. **The Chairperson (Mr Clarke):** I welcome Derek, Stephen, Councillor John O'Kane and Alderman Arnold Hatch. I do not know who is leading off.
624. **Mr Derek McCallan (Northern Ireland Local Government Association):** As always, a member will lead off, Chair.
625. **Alderman Arnold Hatch (Northern Ireland Local Government Association):** I will lead off.
626. **The Chairperson (Mr Clarke):** Thank you. I will give you about 10 minutes to make your presentation, and then we will open up the meeting to questions. I am sure that you heard much of what has been said today anyway.
627. **Alderman Hatch:** Absolutely. Thank you very much for listening to feedback from the 11 new councils. We listened with interested to what Mid and East Antrim District Council had to do, and I understand that Belfast City Council and other councils will probably meet you again.
628. In general, the councils are very happy with the transfer of off-street car parking, and we hope that that is a first step. As a local government association, we initially wanted to deal with all the car parking, but that is off the agenda at the present time. However, it would have made a lot of sense when you start looking at the car parking regime, car park attendants and all of that. We know that the legislation is brief, so we will be brief as well to allow time for questions.
629. It has become apparent that councils have several major concerns about car parks, and I will explore those with you in the next few minutes. We know that specific councils have specific problems, although, off the record, I wish that we had a multistorey car park in the ABC council area.
630. **Mr Dallat:** You are on the record.
631. **Alderman Hatch:** Well, there is a small one in Armagh with two levels.
632. The Bill provides for the transfer: end of story — nothing more, nothing less. However, it is clear that the Department, quite rightly, wishes to retain responsibility for issuing regulations regarding off-street parking as and when necessary. No doubt, the Department will wish to consult with councils before issuing any such regulations. It will be a bit late in the day if regulations are put in place and we have not been consulted as a representative body, so we re-emphasise the point that, before the regulations are finalised, the Department should consult with us.
633. We respectfully suggest that the consultation should be mandatory, as far as the regulations are concerned. We are entering a new era of partnership between local and central government, and, as was stated by the Minister of the Environment earlier this month when he launched the partnership panel, the new partnership in this Bill was to symbolise that, and the Department must seek the views of councils before issuing regulations. The Bill as presented does not contain any conditions attaching to the transfer. NILGA strongly agrees with that approach.

634. As you will be aware, the Department wishes to retain one car park in Belfast as it may play a part in a future regeneration scheme. It is, of course, possible that other parks might be in strategically important areas where councils may also see future opportunities for appropriate development. You discussed that in the previous presentation. However, being highly responsible bodies, councils will recognise the importance of adequate parking spaces for our cities, towns, villages and rural or tourist areas. Councils would not in any way seek to dispose of a car park without full consideration of the impact of any loss of spaces, and, indeed, would seek to identify alternative provision prior to the disposal or redevelopment of an existing car park.
635. I will now hand over to Councillor O’Kane, who will deal with another issue.
636. **Councillor John O’ Kane (Northern Ireland Local Government Association):** Thank you, Mr Chairman. I wish to convey the significant concerns that councils have about car parks, although we welcome the transfer. Some of the concerns that we heard this morning are common to all councils.
637. By way of context, the previous Executive agreed a number of fundamental principles regarding the transfer of functions to district councils. Those were reiterated this morning. They were that functions should be fit for purpose, sufficiently resourced and rates-neutral at the point of transfer.
638. First is the fitness for purpose issue. Councillors are rightly exercised about the fitness for purpose of the assets that will transfer from your Department. They are expressing strong concerns that some car parks will need significant amounts of money expended to bring them up to an acceptable standard. A number of the new councils have had detailed work carried out by experts to assess the fitness for purpose of the car parks to transfer. Surveys have been completed, showing that many car parks are not up to a satisfactory standard at present. We contend that such sums should be invested by the Department prior to March 2015 to make them fully fit for purpose at the date of transfer or that the budgetary transfer should incorporate additional sums to cover councils’ shortfalls and expenditure on essential work.
639. For instance, DSD is taking the latter approach by proposing to provide Belfast City Council with an appropriate annual transfer to cover necessary works over a period of years to Lagan Weir, even though the initial maintenance for that asset will be quite small. There should be no distinction between Departments and no deviation from those principles.
640. There are lots of issues, and you heard some of them this morning. I understand that this Committee is going to Fermanagh on 25 and 26 November. You are very welcome to come down. I am sure that MLA Seán Lynch will show you around. Do bring your wellingtons, especially to one of the car parks that you are going to visit, because it is liable to flooding. If you have any recipe for dealing with Japanese knotweed, bring it with you. Thank you very much.
641. **Mr Stephen Reid (Northern Ireland Local Government Association):** Chair, I will just introduce myself. I am happy to be here on behalf of the NILGA delegation, but I am chief executive of North Down and Ards District Council. I want to raise with the Committee the concerns raised by many councils in regard to the condition of the car parks that are due to be transferred to them. Over recent months, and since the specific car parks to be transferred have been identified, concerns have been raised across all councils. It is understood that the Department proposes to transfer the car parks in their current condition, with only a total of £100,000 for maintenance. That would be spread across 360 car parks transferring to 11 councils.
642. As you have heard this morning, councils have been undertaking condition surveys of the car parks in order to

- establish whether the proposed funds will be sufficient. By way of example, I will explain the outcome of the survey completed in North Down and Ards District Council. It is proposed that 42 car parks will transfer to that council. Those car parks have all been inspected by qualified officials and compared to the standards expected for council car parks already in ownership. Just to give you an indication of the level of work, I give the Committee a copy of the survey report of the 42 car parks for North Down and Ards.
643. Many of the issues relate to inadequacies in overhead barriers, boundary walls, a need to resurface, kerb repairs, relining, landscaping, clear indication of disabled parking bays and so forth. The cost estimates for North Down and Ards were based on work that is required over the next four years to bring them up to an acceptable standard. The total costs are estimated at £457,000, whilst the average cost per car park per annum is £2,700. With regard to the point that was raised earlier for North Down and Ards, of the 23 pay-and-display car parks, the cost is £144,000, and the cost for 19 no-charge car parks is £313,000. There is a significant difference there.
644. By way of comparison, Lisburn and Castlereagh District Council estimate that works on the 12 car parks that are transferring to it will cost an average of £2,000 per car park per annum for the next four years. A further comparison is noted in information that was provided from Causeway Coast and Glens District Council this morning, which has identified four of the 36 car parks that are transferring to it as being in particularly poor condition. It estimates that the budget expenditure required simply for the first four over the next three years would be £122,000.
645. So, you see the significant concern. As other colleagues have said this morning, all 11 councils are attempting to complete the survey as quickly as possible. I can advise that NILGA presented the condition report for North Down and Ards to the Minister. He and his officials have received it. We await a response. I will pass on to Derek McCallan.
646. **Mr McCallan:** Chair, I am very conscious of your time and the fact that a lot of things have been said already. With regard to one particular issue, we are keen to explore whether the Roads Service charter — building on a point that was made by one of your Committee members earlier regarding indemnification — will be transferred. If the totality of the assets and liabilities are being transferred, we feel that the totality of the indemnification could as well, because of existing and unforeseen circumstances relating to the car parks.
647. To conclude my own brief comment, I also feel that, regardless of the Department, bearing in mind that this is about DRD legislation and the transfer of off-street car parking, in the financial year 2015-16, unless we collectively with the partnership panel and central and local government develop a new burdens doctrine — in other words, provide a means by which you can accurately, with knowledge, assess the impact of the transfer from a Department to a council or vice versa — we will be assessing both good and bad impact retrospectively. Our office-bearer would like to conclude.
648. **Alderman Hatch:** Thank you, Derek. I will conclude by saying that we thank you for giving us your time this morning to address the Committee and would be happy to address questions, but I would like to reiterate that, when car parks were transferred from the old local councils to DRD in 1978, they were transferred unfettered. All that we are asking for is that they be transferred back unfettered, bearing in mind the principles that Derek outlined earlier, with the commitment to transferring the appropriate budgets for maintenance, insurance claims and support costs and, as was very clearly highlighted this morning, with no restrictions.
649. **The Chairperson (Mr Clarke):** Thank you. Your last comment pokes me slightly. In 1978, they were transferred

- unfettered. Did councils then transfer money with them to bring them up to condition? Did they transfer insurance with them at that time? Was it like for like? I see you nodding, Derek. Do you want to answer that?
650. **Mr McCallan:** That protection was put into the legislation. Unfortunately, despite the grey hairs, I was not around in 1978, but I believe that that was the case. I think that we are in a situation in which, as one of the previous witnesses said, whether it is exactly like for like, it is really about developing a partnership in which everyone is treated fairly.
651. **The Chairperson (Mr Clarke):** I appreciate that. I think that it should be fair. The other thing is — I think that Arnold or Councillor O’Kane mentioned it — that we are drawing a parallel with the Lagan Weir. The difference between the Lagan Weir and car parks is, obviously, that the weir does not actually earn an income; car parks do. You can understand why DSD is basically transferring a liability with the weir and would have to give some sort of cost to look after it, whereas a car park is an opportunity. Stephen, can I ask you a question, because I do not have the figures here? You talked about North Down and Ards, I think.
652. **Mr Reid:** It was North Down and Ards District Council, Chair.
653. **The Chairperson (Mr Clarke):** You said that it was £400,000.
654. **Mr Reid:** It was £457,000.
655. **The Chairperson (Mr Clarke):** What is the net income from car parks in North Down?
656. **Mr Reid:** I think that it is around £700,000, but, as I said, the split is that £144,000 will come to the 23 paid car parks, which require less to be spent on them, and the free, no-charge car parks, which are actually in worse condition, will need £313,000.
657. **The Chairperson (Mr Clarke):** To be honest, I am just playing devil’s advocate, here. If you take the £700,000, by spending the £457,000 you will bring them up to a very high standard. You were here when representatives of Mid and East Antrim District Council were here earlier. They were talking about a condition survey of, I think, 15-year-old car parks. They indicated that £1.5 million needed to be spent on Springwell Street car park, but it brings in an annual income of £242,000 and has done so for the past 15 years, even since the report. So, the ability to bring in a huge income will not be diminished by not spending money. Do you accept that?
658. **Mr Reid:** Chair, our view is that we understood that this would have been a situation for the Department to have dealt with prior to the car parks being transferred. I accept the point that you are making, but, equally, the Department has benefited from that income for many years. This is not a deterioration of these car parks in the past year: this has been neglect, in our opinion, particularly when we look at some of the non-pay-and-display car parks. Certainly, our officials could not give any assurance that claims would not arise from the conditions of these car parks currently. One wonders why the councils should be asked to carry that burden. Of course, it can be facilitated from some of the revenue, but that is being passed over at this point. One would wonder why the Department has not taken its obligation up to this point.
659. **The Chairperson (Mr Clarke):** That is more the question than why the Department would provide the finances now. Because it was mentioned that according to a 15-year-old survey, a car park in Ballymena needed £1.5 million, I have to say that it actually makes me question the validity of the report. If the condition of that car park is so bad, you would actually wonder how it could function for 15 years after the report was initially conducted.
660. Derek, can I ask you a question before I open it up to the floor? You made an interesting point about the transfer of insurance. You are like me: you have grey hair. I am not sure how long you

- have been in NILGA. A couple of years ago, that transfer was explored with local government with regard to the winter gritting programme. I think that it was well thrashed out at that time that the insurance or liability could not transfer to council at that stage. The public would have been well behind local government to have that happen. How do you think there will be any difference between then and now?
661. **Mr McCallan:** I do not have any working knowledge of that, although I was around at the time of the gritting. I was aware of one particular instance when the indemnification issue caused particular concern in Banbridge because of the fact that it did not transfer the same. My point with regard to the Roads Service charter is that what we are trying to suggest is that if there are ways to explore how a fair and adequate compensation insurance liability can be developed, we need to do it. I take your point fully about the gritting, Chair. The issue of its transfer has not been completed successfully. So, it has not gone away. We have been lucky and blessed with perhaps not too difficult sustained periods of inclement weather. Whilst I respect the fact that there was a lot of discussion and interpretation of it, it has not been fully bottomed out.
662. I think that with regard to the two things coming together today, with 30 days to go until your deadline, which you may extend, and 134 days to go before the actual transfer, in whatever time we have left, we need to fully and completely bottom that out. With regard to the work that we have done, Chair, I will undertake to provide a very brief synopsis of where we are on that because I think that we need to contemporize all of these opportunities and problems. That is what the political partnership panel will do symbolically from 2 December. I see no difference here.
663. **The Chairperson (Mr Clarke):** Derek, in your position as chief executive of NILGA, which is a very responsible position in local government, you would not surely expect to win that part of the argument with regard to the indemnification from DRD to councils. Surely you understand and appreciate that there would be another difficulty. I am definitely not here to be a cheerleader for the Department — definitely not. However, surely you do not believe that the Department could do that, given that you are giving responsibility to a council to look after that? There could be a degree of complacency in maintaining and looking after the car parks to keep them to a high standard. How would you expect another Department to come in and insure it for you?
664. **Mr McCallan:** It is positive that there has been a small number of existing claims. However, I make the point that, in the case of car parks, the people who are parking there do not know that they actually are. It is not about winning; it is about exploring fully to enable that the transfer is generally and genuinely fit for purpose. Your point is well made. I am not here to explore victories; I am here to explore the extent to which we can work in direct political and practical partnership with our Road Service colleagues to protect and sustain those services for the public we commonly serve.
665. **Mr Lynch:** I know that you are against the proposed amendment. Is that right?
666. **Alderman Hatch:** Yes.
667. **Mr McCallan:** We feel that the restrictions are not good for the transfer. Having had the evidence provided from the other three contributors, we are saying what they are saying.
668. **Mr Lynch:** That is basically it.
669. **Mr Dallat:** You obviously represent the whole of Northern Ireland. I am sure that, across the North, there are street light not working at the minute and potholes not filled, and there is a crisis on the Belfast to Derry railway. Would you prioritise giving money to local councils to take over car parks against that kind of background?
670. **Alderman Hatch:** From the point of view of an elected member, we will have the

responsibility for car parks, so that is what we are concentrating on. I realise that there are austerity measures in the bigger picture. However, as a representative body, why should we not advocate for our members?

671. **Mr Dallat:** Absolutely. I agree totally with that. I was a councillor too for 33 years during that war of attrition when they could not agree who gritted the footpaths and who gritted the roads. Is this just a continuation of that philosophy? Is it a them-and-us situation?
672. **Alderman Hatch:** We certainly do not want to have a them-and-us situation. NILGA fought for the setting up of the partnership panel where the relevant Departments will be called in to work in partnership with local government. We want to continue in that atmosphere rather than always fighting against that.
673. **Mr Dallat:** I am glad to hear that.
674. **Mr McCallan:** To add to that point, the Programme for Government target outlined that the transfer of any powers, however small or relatively unimportant in the scheme of things, should be fit for purpose and rates-neutral at the point of transfer. All we are saying is that sufficient deployment of resources to make good a positive, constructive approach, rather than a lamenting, negative approach, should be undertaken.
675. **Mr Dallat:** You must be aware that, across the 11 councils, there are probably some areas where there is very little to transfer, because the money was not invested in car parks.
676. **Mr McCallan:** Yes. In concurring with the comments made by Mr Dallat, we also have to accept that councils' financial resilience in terms of their turnover, their expenditure and their ability to deal with the unforeseen is actually less, unlike all Departments. Therefore, it is a collective. It is very important that we make sure that councils, in receiving whatever they are getting, are actually financially sustainable and financially resilient, otherwise it affects Joe and

Jane Public, whom we all represent in our constituency role as elected members.

677. **The Chairperson (Mr Clarke):** I thank Derek and his team. I think that there is no point in us going over some of the other ground that we covered previously. I do not entirely disagree with the neutrality of all of this, but I think that we will disagree on some of the numbers. I think that John's point summed it up. There is austerity, and there is an expectation on you as well. If you look at the sums, you will see that if you were going out to buy a car park today and trying to make it work, it would be much more difficult. The fact is that you are being given it, and, yes, a wee bit of money might have to be spent; however, I think that it will be difficult for the Committee to support some of the numbers that we are hearing.
678. I am looking forward to our trip to Fermanagh, because I have heard rumours of the puddles already. If something is totally unsafe, then that is a different scenario. We listened to Mid and East Antrim here today. To be honest, a survey was done 15 years ago about a functioning car park, which is still bringing in £250,000 a year. Spending millions of pounds fixing car parks while half the country will have no street lights by the end of the winter does not bear thinking about.
679. Thank you, once again. We will try to work together.

26 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Ross Hussey
 Mr Declan McAleer
 Mr Stephen Moutray

Witnesses:

Mr Gerry Anketell MBE	<i>Department</i>
Mr Terry Deehan	<i>for Regional</i>
Mr David Millar	<i>Development</i>

680. **The Chairperson (Mr Clarke):** I do not think that the officials need any introduction; they are familiar to us all. Terry, I do not know whether we want to go to a briefing or maybe just talk about some of the things that we started talking about; that is, unless you want to give a brief briefing.
681. **Mr Terry Deehan (Department for Regional Development):** A very brief briefing.
682. **The Chairperson (Mr Clarke):** Make it very brief, because I think that some of the other stuff is maybe more interesting to some of us. In your briefing, you will maybe want to put some of the meat on the bones. I do not think that that one is going to disappear.
683. **Mr Deehan:** I do not need to make any introductions; we are familiar to you already. I will give a very short briefing on where we are. Following your meeting of 19 November, the Committee Clerk wrote to the Department. A draft response of the queries that you raised in that letter has been provided to the Minister for his consideration, although it may not have issued yet. Your Committee Clerk advised that the Committee has agreed to seek an extension to the Committee Stage of the Bill. That is on the basis that the Department has either not responded to or not resolved queries from councils

and that those queries are not likely to be resolved before the completion of the Committee Stage. I would like it to go on record today that we have responded and that we can show good evidence of that.

684. We agree that some of the councils' queries are unlikely to be resolved before the completion of the Committee Stage, but, crucially, those arrangements stand outside the Bill. The Bill deals only with the empowerment of councils through the sharing and transfer of powers from the Department to councils to create and operate off-street car parks and to enforce parking contraventions within them. It will have little or no impact on operational or financial issues or on asset values. The vast majority of those issues can be resolved only by negotiation between the Department and the councils. Many have been resolved already, including, for example, the number of car parks transferred in Belfast, funding for capital items, the number of public liability claims and their funding, electricity and lighting systems and their funding, and the treatment and funding of bad debts. Those issues relate to the transfer schemes under section 122 of the Local Government Act 2014, which have to be put in place by March 2015. Those detailed transfer schemes and issues relating to them are, therefore, not time critical as yet.
685. The key resolution of this negotiation and essential check and balance on the process will be the councils' and DRD's signatures to the legal transfer document prior to 1 April 2015. I note that the Deputy Chair asked whether councils, despite the reservations that they raised about car parks and their condition and so on, would be interested in not agreeing the transfer at the end of the day. The trigger point is whether they sign that legal document. I think that councils have indicated that they want

- that to happen and that they want the transfer to happen.
686. To be clear, we fully recognise and respect the Committee's role in scrutinising the Bill and the valuable contribution that the Committee can make to it. However, I contend that the Committee could continue discussions with officials beyond the present scheduled conclusion of the Committee Stage on issues of concern on the transfer schemes, such as fitness for purpose, condition surveys and financial information. That may help to ensure that the Committee's scrutiny of the Bill can be completed within the existing timetable. If, however, the Bill is delayed, the result will be that the car parks could not transfer to the councils on 1 April, as the Executive propose. It is also likely that such an outcome would have an effect on councils' ability to strike rates for their districts. Furthermore, it would necessitate the substantial reworking of proposed council budgets by the Department of Finance and Personnel. All that could mean that the transfer is delayed for a full year. Importantly, as the evidence that you received corroborates, all parties have welcomed the Bill and are keen that the Executive's vision for the transfer of this function is realised. It would be unfortunate if the Bill falls and the transfer could not be brought into operation due to issues that are external to the Bill.
687. In talking about how we have responded until now, I think that the majority of councils would agree that the engagement with DRD has been good. In fact, Belfast City Council recognised that in its evidence to the Committee on 19 November, and it was recognised in the most recent letter on behalf of chief executives.
688. I do not want to take up any more of your time, other than to say that we believe that we have entered into negotiations with councils. I think that there is a perception that the information that has been provided to date has been either not accurate or not on time. It has been provided largely to
- the RPA timetables, and it is accurate and as up to date as possible.
689. We are happy to take any questions from the Committee.
690. **The Chairperson (Mr Clarke):** Thank you, Terry. There are a few things there. Let us address the 30 days first. Where that cooperation is concerned, the Committee indicated that, whilst we reserve the right to ask for an extension, there was a caveat that we get stuff in a timely manner. It is worth reading it into the record that we wrote for further information on 8 October indicating that we wanted a response within five working days. We got a response on 16 October, which was 10 working days later. We then wrote to the Department on 21 October, indicating seven working days, and we got it back in 13 working days. So, from the outset, rather than the cooperation that we hoped for — you have cited Belfast City Council — the Committee has not been afforded the papers in a timely manner.
691. Belfast City Council, in its presentation, suggested that it was still not in receipt of a particular piece of information. Are you telling me now, Terry, that it has that? I think it was around the financials.
692. **Mr Deehan:** The most recent financials have now issued.
693. **The Chairperson (Mr Clarke):** When did you get those?
694. **Mr Deehan:** Obviously, we have been working on those for a number of months now.
695. **The Chairperson (Mr Clarke):** But when did you —
696. **Mr Deehan:** They were finalised at the end of last week, so, as I understand it, they went out to councils yesterday or the day before.
697. **The Chairperson (Mr Clarke):** I want to correct you again for the record. You said that they all want it to happen. A chief executive who briefed us previously said that he could not let his council go forward as it currently stands. I

- am paraphrasing what he said. I do not think those were his exact words, but that is the sentiment of what he said. He could not recommend it in its current state to his council. How can you translate that into meaning that they all want it to happen? If you were listening today, you would know that he said that he could not recommend his council to go forward in the current scenario.
698. **Mr Deehan:** That council and all councils have written to us to say that they want to take up DRD's offer to utilise our enforcement contract to operate car parks.
699. **The Chairperson (Mr Clarke):** I want this to be accurate. You said in your presentation that they do want it to happen. Anthony Tohill, today, on record, said that, in its current form, he could not recommend it to his council. So, there is a conflict between something happening and the Mid Ulster District Council making a recommendation to accept it. I think that is worth noting.
700. **Mr Deehan:** I think I made the point that the trigger point for that is 31 March. Anthony did say some very positive things about the fact that they welcomed the Bill and they were interested in the transfer. Councils saw that as a positive thing overall.
701. **The Chairperson (Mr Clarke):** But he raised some very interesting points. Indeed, he was disappointed that we called you forward before they came, because I think they were going to tell us more about top-slicing than I was aware, and some of the members seemed to be caught out in relation to that as well.
702. **Mr Deehan:** Again, for the record, Chair, and I apologise if I have not made it clear, but I have tried to make it clear in each appearance; I think this is our third appearance in front of the Committee. That is how, as we understand it, the top-slicing is going to operate. I think councils are quite clear that that is how it is going to operate. It is not within our ambit to do that. It is DFP's arrangements.
703. **The Chairperson (Mr Clarke):** Terry, do not blame it on someone else; you are the guy at the table. I have tried to be supportive of the Bill, and I will continue to be supportive, provided that we can get it in such a form of words that there is protection for councils, but you have heard me suggesting it to councils, even to some of my own colleagues on council in the last day's presentation, when we talked about their income.
704. Let us put it in layman's terms. They come complaining, looking for additional funding to bring car parks up to standard. I suggested to them that they have an earning potential of x hundreds of thousands of pounds, but they actually have not got that earning potential if it is being top-sliced. You never put me right on that. If you think that you have adequately explained it to the Committee, you must have misunderstood my line of questioning when I was speaking to former colleagues and party colleagues, and criticising their presentations by suggesting that they have an income opportunity. I think back to Mid and East Antrim District Council in particular. I even joined John Dallat in that criticism. Some of them are my own party colleagues, and I criticised it. You never put me right about the top-slicing. I want that clearly on the record.
705. **Mr Lynch:** Terry, you are saying that the outstanding issues are outside the provisions of the Bill and they can be negotiated. Obviously, we are running out of time. What form will the negotiations take? Will they include some of the issues about car parks being in a bad state and needing repaired? What issues will be resolved?
706. **Mr Deehan:** I think that you can see from the most recent set of figures that we have now that, as a result of our engagement with councils, we are now including additional cost estimates for bad debt write-offs, claims, street lighting, energy, resurfacing and the replacement of pay-and-display machines. It is about engagement with councils and taking on board the valid issues that they have raised. As far as

- we are concerned, the car parks are fit for purpose.
707. **Mr Lynch:** You are saying that they are fit for purpose.
708. **The Chairperson (Mr Clarke):** Sorry, did you see the pictures today, Terry?
709. **Mr Deehan:** Yes, I did.
710. **The Chairperson (Mr Clarke):** Right. Let us examine that, and I am sorry to cut in on you, Seán. Are you telling me that the car parks without adequate markings are fit for purpose? Are you telling me that a car park that is lying under water is fit for purpose? Are you telling me, Terry, that when a car park does not have disabled bays that are marked properly, that it is fit for purpose?
711. **Mr David Millar (Department for Regional Development):** Maybe I could come in on that, Chair. We saw the photographs and, certainly, in one of those photographs, I was surprised to see the state of the white lines. We will take that back to our engineers, and hopefully we will get a copy of that information.
712. **The Chairperson (Mr Clarke):** David, there was more than one that had white line problems.
713. **Mr Millar:** When I was looking, I could see white lines on all but one. There was one that I was really concerned about. There was one car park where the markings on the disabled bays were not up to standard or there were different standards. Again, we will go back to our engineers to make sure that the disabled bays are marked up in accordance with the Disability Discrimination Act. They may have been marked differently, but they should be marked properly under the legislation. There was one car park there — I think that it was Castle Park — that had flooding. This is what is going to happen: as we give more information to the councils, they will come back with specific queries about individual car parks, boundary walls or whatever. That is the sort of negotiation that is going to have to take place.
714. **The Chairperson (Mr Clarke):** But, David, this is where trust needs to come in. Because of the timely or not so timely nature of getting the information, how can councils go forward and how can we support the Department to turn this around in 30 days? I take on board what Terry said in his introduction that some of this can be done outside of it, but how? I would not say that the relationship between the Department, this Committee and the councils is particularly good. Terry, regarding this presentation that you have today, you said that you got it last week.
715. **Mr Deehan:** We have been working on it —
716. **The Chairperson (Mr Clarke):** No, I asked you when this was ready and you said last week. We have only got it today and we had to ask for it. Councils have not seen it yet, but you expect them to make decisions based on it. This is not accurate. This reflects on charges for the first six months of this year. It does not include figures reflecting the councils continuing to charge at the current rate. Those figures will all reduce again. The earning potential of Mid Ulster District Council has reduced by approximately £50,000, which is 20% of its total in relation to the figures that were previously provided. How can someone make an informed decision on figures that are out of date, figures that we have had to ask for today that you have had in your possession since last week, figures that we have been told in previous presentations that councils have been asking for?
717. **Mr Deehan:** Chair, I will just make it clear: draft figures were issued at the end of July, as per the RPA timetable. Draft figures from all Departments were requested by the end of July and final figures were expected, if possible, by the end of October. These are the final figures that are now issuing. We pointed out when we issued the draft figures in July that there would probably be a 5% or 6% difference between those and the final figures.

718. **The Chairperson (Mr Clarke):** A difference of 5% or 6%.
719. **Mr Deehan:** Yes. I think that it works out at something like 8% overall.
720. **The Chairperson (Mr Clarke):** I do not mean to be facetious, but are you good at maths? Take £287,000, subtract £237,000 and tell me what the difference is, because that is somewhat more than 5%. It is heading towards 20%.
721. **Mr Deehan:** It varies from one council to another, but the RPA timetable asked for figures by the end of July, which we provided, and final figures by the end of October. During that time, we entered into a —
722. **The Chairperson (Mr Clarke):** Final figures by the end of October.
723. **Mr Deehan:** Yes, and those are the final figures.
724. **The Chairperson (Mr Clarke):** Where are we now?
725. **Mr Deehan:** They are a couple of weeks late because we were engaged with Deloitte to do another set of due diligence at the behest of councils. Those have now been completed, and Deloitte has issued its due diligence report. In that report, Deloitte agreed the validity of the figures and the methodology.
726. **The Chairperson (Mr Clarke):** These figures?
727. **Mr Deehan:** Yes, the up-to-date figures.
728. **The Chairperson (Mr Clarke):** When can we get a copy of that report?
729. **Mr Deehan:** It was issued to the RTOB on Friday last.
730. **The Chairperson (Mr Clarke):** When is this Committee going to receive it?
731. **Mr Deehan:** It is not my report. It is the councils' report. I am happy to forward you my copy.
732. **The Chairperson (Mr Clarke):** But you commissioned it, did you not?
733. **Mr Deehan:** Councils commissioned it. It is independent of the Department. It was commissioned by councils to check the validity and methodology of the figures.
734. **The Chairperson (Mr Clarke):** When was that report completed?
735. **Mr Deehan:** It was completed over the last few weeks.
736. **The Chairperson (Mr Clarke):** And that was in relation to these figures.
737. **Mr Deehan:** It is based on the updated figures.
738. **The Chairperson (Mr Clarke):** These figures.
739. **Mr Deehan:** The figures have been slightly updated since that because they were not available for the Deloitte report that they have been working on over the last couple of months.
740. **The Chairperson (Mr Clarke):** Is it based on the figures that we have been working off?
741. **Mr Deehan:** No, it was updated from July.
742. **The Chairperson (Mr Clarke):** So, there are more figures in between that we have not got either.
743. **Mr Deehan:** As I say, this is —
744. **The Chairperson (Mr Clarke):** Are there more figures in between, Terry?
745. **Mr Deehan:** It is an iterative process in terms of getting to the final figures.
746. **The Chairperson (Mr Clarke):** No, just stick to the question. We have the figures that we have been working off: the £287,000 in terms of Mid Ulster District Council. We have £237,000. You are now telling me that there is another set of figures in between this that we have never had sight of. I think that is what you are saying.
747. **Mr Deehan:** There have been a number of sets of figures. It is an iterative process to get to the final set of figures.

748. **The Chairperson (Mr Clarke):** Is this the final set?
749. **Mr Deehan:** This is the final set of figures, yes.
750. **The Chairperson (Mr Clarke):** Seán, I am sorry that I cut in on you.
751. **Mr Lynch:** It seems to me, Terry, that there are still quite a number of issues, including legal issues. It is a very short period of time up to 31 March, and you know the way of legal issues. Are you saying that some councils could resolve these issues even after the transfer?
752. **Mr Millar:** We fully appreciate and understand some of the councils' frustration that they have not got the full information on legal title, boundary maps, copy title etc, but it has been a big body of work on top of all the other work. I think four councils have received that. Unfortunately, Mid Ulster District Council and Fermanagh and Omagh District Council are two that have not received their information, but that should be issuing to them within the next two weeks.
753. I just want to return to the issue of Castle Park, which I know you were interested in. That is an example of the negotiations that go on. The pictures showed the flooding. My understanding is that that flooding relates to a blocked outfall in an adjoining property. They are trying to address that, but it is not related to the actual car park. There was mention of the road that went through the car park. Yes, a road goes through the car park, but it is not a road that serves the car park itself. It is a public road that goes through the car park to somewhere else, so it stays with the Department. There were concerns about the demarcation of that. That is where local engineers have been involved in the last couple of weeks meeting local council officials to talk through how best to demarcate that public road through the car park.
754. There was an also an issue with a row of cars and on-street parking. That was only a proposal from our local engineers, who had concerns that, along the left hand side of the car park, there was apparently a footpath with a high kerb. They were concerned about public liability of cars parking there. The engineer said that a way round that — we will be holding on to the footpath anyway because it serves not just the car park — would be to for us to turn that row of car parking along the side of the footpath into on-street parking.
755. That was just the offer. It has not been settled; we were not saying that that was what was going to happen. That was a local engineer engaging with local council officials to try to work through specific problems in individual car parks. There will be problems, and that engagement will go on right up to 31 March. It might also go on after that because we have no title for some car parks or to part of them. We have possessory title but no paper title. We will work with the councils up to 31 March and beyond.
756. **Mr Lynch:** Castle Park is a good example to use, because what I can see happening coming up to 31 March is possibly you saying, "Take it or leave it". That would not be a desirable outcome for anybody.
757. **Mr Millar:** No, it would not be, but there will come a stage when we say, "This is all we can do". The councils, quite rightly, are trying to extract the best deal they can from the Department before the specific hour.
758. **Mr Lynch:** Anthony Tohill clarified a lot. He said that the transfer will not be cost-neutral, but you are saying that it will be. That is a major difference of opinion.
759. **Mr Deehan:** We are saying that there is a surplus in every council. However, the arrangement that DFP has put in place is to ensure that overall functions are cost-neutral at the point of transfer. To do that, they intend to net off the surplus front car parking against the costs of other functions transferring.
760. **Mr McAleer:** You said earlier that, if the power does not transfer, there may well be wider implications for councils

- in terms of their ability to strike rates and other functions. Is that not placing councils in a very difficult position, given that they have not got the information that they require in relation to the car parks. It is almost like a gun is being held to the heads of the councils. They are being put in a very, very difficult situation.
761. **Mr Gerry Anketell MBE (Department for Regional Development):** It is certainly not our intention to put a gun to anybody's head. In terms of the Bill process, the scheduled Committee Stage is due to finish on 9 December. The Committee has tabled a motion seeking an extension that would bring the period of scrutiny up to 30 January. That would effectively push the programme back by seven weeks and would be likely to move the Final Stage, which is scheduled for 3 February, to something like 24 March. Once we hit Final Stage, there is a period of between five and eight weeks that needs to be built into the process to achieve Royal Assent. So, if, for example, the Final Stage was reached on 24 March, it would not be possible for the Bill to get Royal Assent and come into operation on 1 April. That is effectively what we are saying.
762. It might also be useful to clarify that there are two strands. There is the strand that processes the Bill and the Bill's scrutiny through the Committee, and there is the other strand that relates to the content of the transfer schemes, where each one of the 300-odd car parks would be specified and any issues of title, lines of demarcation, supporting walls, street lighting standards and so on would be identified within those transfer schemes. That is a separate piece of work that the Department and the councils need to sign.
763. So, effectively, we are drawing attention to the potential impact of the Bill reaching its Final Stage at the end of March. If the Bill is not passed and its provisions do not come into operation on 1 April, the car parks cannot transfer on 1 April. That is really the point.
764. **Mr McAleer:** We have seen from the slide show this morning that, in respect of a small number of car parks in this council area, there is quite a bit of work to do on subsidence, markings, Japanese knotweed and a whole range of issues as well as the legal issues. Do you have any timeline for addressing those issues?
765. I was very taken aback about three or four weeks ago at the Committee, and I mentioned this last week. When I asked one of the officials about the 300-odd car parks that were transferring, the response was that they were all in tip-top shape. We are starting to see that unravel.
766. **Mr Millar:** We never said they were in tip-top shape, with respect. We said they were fit for purpose.
767. At the last meeting, North Down Borough Council officials referred to a fairly extensive condition survey that they had carried out on their car parks. They were pointing towards a cost of something like £465,000. Our engineers are looking at that, but we note from their table that, in the first year, they plan to spend only £400. Our engineers are saying that they are fit for purpose; they are car parks. Yes, some of the lines might not be all shiny; the tarmac is not all —
768. **The Chairperson (Mr Clarke):** To be fair to the Department, even listening to what Anthony said today, the councils may want to remove some spaces to make aesthetic features. Their interpretation of what theirs, versus a commercial car park, will look like may be different. I remember listening to North Down's presentation, and I thought that some of the things that they cited were pretty pathetic, such as a few bushes being cut here and there. However, the picture we see today tells a different tale; that is the only thing that worries me. And, David, we have not seen all the car parks. We were invited down here; we have seen those examples, and they are not the best examples to describe as being fit for purpose. Surely, if a car takes a bump

- or a knock in some of those cases where the white lines are not right, there will be issues about responsibilities and whether a car is in a bay or not. Certainly, the Department would not get a gold star for some of those car parks, if their condition is what is described as “fit for purpose”. Our problem, David, is that we are not seeing them all. We were invited down here. It is good for the Committee to come out, and this is probably one of our furthest away locations. It is good to see some of this stuff, and it makes it easier for the councils to give a presentation.
769. **Mr Millar:** Some of the councils have received their boundary maps. On those maps, we are careful to draw not just the boundary of the car park but the actual walls along the boundaries. We want to ensure that, in two or three years’ time, there is no confusion about who is responsible for what. Months ago, when we provided the councils with the initial lists of car parks — the councils have said this in evidence — council members went out and went round the car parks themselves. So we are now going to bottom this out. Within each council area, there will be certain car parks, I am sure — we saw one today — that causes the council concern, and we will have to take that up with the engineers. We will point out to them that there is clear evidence that the white lines are not properly done in the car park, and we will need to address that. So we can give that commitment to the Committee. In cases where it is clear, we will take action. But, if a white line is just faded, councils must appreciate that we do not have the resources to replace everything.
770. **The Chairperson (Mr Clarke):** That commitment is fine, but let us go back to Gerry’s point about the time frame. Are you suggesting, Gerry, that, assuming that we are happy to proceed within the 30 days and get it through the Assembly, there is still an opportunity for the councils not to sign?
771. **Mr Millar:** There is, Chair. At the end of the day, this transfer scheme is a legal document.
772. **The Chairperson (Mr Clarke):** They still have to sign or accept it.
773. **Mr Millar:** We have to sign and have it sealed under the Department’s name, and each Council has to sign and have it sealed under its name. So —
774. **The Chairperson (Mr Clarke):** But there is nothing to compel the councils to take the car parks.
775. **Mr Millar:** No, we cannot compel them.
776. **The Chairperson (Mr Clarke):** Hypothetically, we could continue with this in the 30-day manner, but a council could decide, whether we legislate for it or not, that it does not have to take it. So the risk is not the same for us to do it in 30 days. Some of those other issues can either be sorted or the councils can refuse to sign. It is good to get that on record.
777. **Mr Anketell:** The issues relating to the car parks — the condition of them, their fitness for purpose and all that — are, to a certain degree, a separate issue because they are not restricted in any way by the Bill. The Bill deals only with the transfer of powers and the creation of the powers that would be necessary for the councils to acquire car parks, operate them and enforce parking restrictions within them. So the issues regarding title, white lining and disabled spaces are all confined to the transfer schemes. Discussions on those could certainly continue until March and beyond, as David has said.
778. **The Chairperson (Mr Clarke):** We have 11 councils. Can you foresee a scenario where nine councils sign but two do not? Could it happen like that? Or is this an all-or-nothing situation?
779. **Mr Anketell:** Theoretically, it could happen, but the likelihood of that happening is very small.
780. **The Chairperson (Mr Clarke):** The only reason I ask that, Gerry, is that some people may be very precious about some of this stuff. I certainly do not want to risk something that some of us wanted to see happen some years ago.

- At the same time, I do not want to get into a situation where we pass liabilities to councils, because ultimately we are all ratepayers in our various areas. If you are saying to me that we can do this within the 30 days and the Committee should not push for the extension and that councils still have the opportunity not to sign, I do not think that the risk is the same for us.
781. **Mr Deehan:** I think that we are saying that that is an essential check and balance on the process. And more than that, if we delay the Bill, the likelihood is that it could not be brought in before 1 April 2015. So, in fact, that would make any further work nugatory, in terms of condition or engagement with councils, because the transfer is not going to happen.
782. **The Chairperson (Mr Clarke):** Sorry, Declan, are you finished?
783. **Mr McAleer:** I have just the one wee thing. An interesting statistic was raised by Mr Tohill earlier. In the regional development strategy, it was projected that £3 million per annum was needed for car park maintenance, whereas only £200,000 has been allocated to councils. That is a huge gap.
784. **Mr Deehan:** I can assure you on that point. I have not seen that figure before and am not sure where it comes from. I think that he was referring to the regional transportation strategy, which was a budget-seeking document, as much as anything. What I can say — Deloitte has validated these figures — is that we have based our transfer-of-maintenance costs on the actual figure over the last five years: that is the actual amount that we have spent, no more or less.
785. **Mr Hussey:** I go back to this famous sheet, and my question follows from it. I declare an interest as Fermanagh and Omagh contains the West Tyrone constituency. In the document, a total surplus of £664,000 is shown, and then there is a capital figure below of £36,000. Is the figure that DFP takes into account £628,000, which is £664,000 minus £36,000?
786. I return to the questions of who, what, why and when. On page 61, there is a response from Omagh:
- “Council seeks an assurance that due consideration be given to ongoing resourcing & budgetary requirements re the true costs for upgrading car parks & their maintenance including costs associated with drainage and winter maintenance.”*
787. They were given the response that:
- “After 1 April 2015 it will be for councils to fund off-street car parks and to upgrade, maintain etc as they see fit, all off-street parking places in their area for which they have become responsible.”*
788. So, after 1 April 2015, it is the council’s. Is the £36,000, or whatever it is, an ongoing figure that the council will be allowed to use for this, or does it have to increase the rates? Or does it come from car park charges?
789. **Mr Deehan:** It comes from car park charges.
790. **Mr Hussey:** And you are assuming that this £36,000 surplus will always be regarded as there.
791. **Mr Deehan:** As you said, the overall surplus is £600,000-odd.
792. **Mr Hussey:** The £600,000 does not really exist, because it is going back to DFP. Are you with me?
793. **Mr Deehan:** Yes.
794. **Mr Hussey:** So, the £36,000 is roughly the annual figure that they are going to be allowed.
795. **Mr Deehan:** We have not seen the detail of DFP’s proposals, so we do not know exactly how they are going to deal with the capital amounts at this stage.
796. **Mr Hussey:** There is a possibility, then, that we disregard the capital figure and the £664,000 goes to DFP. It is suggested in here that the council should fund it, and there is only one place that the council can fund it

- from — unless I am misreading this document.
797. Silence is golden.
798. **Mr Deehan:** What we are saying is that what is transferring is the costs and the revenue for car parks. As we understand it, DFP's system will be cost-neutral at the point of transfer for all functions.
799. **The Chairperson (Mr Clarke):** Members, we need to be careful. It is not for us to drum up the rationale for the council to accept or otherwise. The general thrust is that the councils want it, but they can see the pitfalls. I suppose that we are getting ourselves into a situation where we are effectively acting as a council and are trying to micromanage what councils should be getting. It seems that they are very familiar with this top-slicing. That is a bolt from the blue for some of us today. I suppose that it is more of a control mechanism for councils than anything else; and on the cost-neutral aspect, if they are handing the money back, they seem to be content with that. I have to say, based on the way in which you have presented the figures, Terry, that I would not be as content, but that is up to them.
800. Ross, I think that we are maybe straying into an area that is not ours. We are focusing more on the Bill and actually shaping it and ensuring that it is appropriate. Then, we will let them micromanage that. It is really their responsibility. We are starting to micromanage more than we really should be here.
801. **Mr Hussey:** I think that you are dead on there, Chair. The representative from Mid Ulster had a very clear understanding of where we are going and why.
802. **The Chairperson (Mr Clarke):** Except for the fact that he said that he would not sign and would not recommend it to council.
803. **Mr Hussey:** Yes. He was going to get certain pieces clarified. Fermanagh and Omagh did not seem to know where it was with this. There is no doubt that Mid Ulster did. It was very aware of all the bits and pieces there. You are quite right: we should not be micromanaging. Clearly, with West Tyrone, I see these figures, and I am beginning to wonder for myself. Maybe I am taking it a bit too far.
804. **The Chairperson (Mr Clarke):** I am guilty of that as well. I take a wee bit of comfort from what Gerry is saying. I think that David added to that, too. If we do this within the 30 days without pushing for the extension, and they do not want to sign it, it is their baby. I have to say that the Department is making it easier for them not to sign if they do not get some of these issues sorted out in a more timely manner. Maybe we should not really overemphasise that because that is not really our remit. Whether it works or we decide that we want the amendment to the Bill, which I am still minded to do — that is my personal view on that — then shape that up, whatever way that looks, and let them decide whether they want to go for it or not. It is theirs.
805. Belfast City Council, in its presentation, suggested that article 25 of the Road Traffic Regulation (Northern Ireland) Order 1997 be amended to include the word “authorise” in addition to the word “appoint”.
806. **Mr Anketell:** Yes, Chairman. Following the council's presentation, I contacted its representatives to see whether I could get a little more information on the rationale for proposing the amendment. I have to say that I am still waiting for a phone call back from their legal services people. The folks whom I was dealing with were able only to repeat the information that had been given to the Committee, which was that the council's legal services people had suggested it.
807. Generally speaking, the wording of legislation is drawn largely from dictionary definitions unless a particular definition is required. The dictionary definition of the word “appoint” is to name or assign to a position, an office or the like, or to designate or to determine by authority or agreement. The dictionary definition of the word

“authorise” is to give authority or official power to, to empower and to give authority for or formally sanction. Chairman, I see little difference between the two terms. As I say, I have not had any explanation from the council as to why they feel that this is necessary. I can really say nothing more on that at the moment.

808. **The Chairperson (Mr Clarke):** I suppose that the only thing that I can suggest is that, as opposed to a phone call, you firm that up with some hard copy. Again, I think that it is really down to the council. It goes back to that other aspect.
809. Members, I think that we have covered this in as much detail as we can. We have to make some other decisions. If members are content, we will bring this to an end.
810. **Mr Moutray:** Can I just ask a general question? What consideration has been given to the legal cost of all this? We have heard that, for some councils, some of this could run for years. Is there any estimate of the legal costs?
811. **Mr Millar:** Do you mean the legal costs to transfer?
812. **Mr Moutray:** Yes.
813. **Mr Millar:** The transfer schemes are fairly simple documents. They are two- or three-page legal documents. Attached to them will be spreadsheets covering all the detail on the title of the car parks. Also attached will be the boundaries. So, they are fairly simple legal documents. We will cover our costs for the production of transfer schemes times 11. There is the cost of officials and the Departmental Solicitor’s Office, but there is a minimal cost, other than staff time, to prepare the actual transfer schemes. The big bit about the transfer schemes is gathering the information.
814. **Mr Moutray:** OK. Thanks.
815. **The Chairperson (Mr Clarke):** OK. Thank you. We will see where we go from here.

26 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Ross Hussey
 Mr Declan McAleer
 Mr Stephen Moutray

Witnesses:

Mr Terry Deehan	<i>Department for Regional Development</i>
Mr Jonathan Glendinning	<i>Fermanagh and Omagh District Council</i>
Mr Kevin O’Gara	

816. **The Chairperson (Mr Clarke):** I welcome Kevin O’Gara and Jonathan Glendinning, who are representing Fermanagh and Omagh District Council. I ask you to limit your presentation to 10 minutes or so, but, if it is less than that, we do not mind. This is a good opportunity for us to put questions, because there has been a general theme coming from many of the councils, so I ask that you limit your presentation to 10 minutes, or 15 minutes at most.

817. **Mr Kevin O’Gara (Fermanagh and Omagh District Council):** Chairman and members of the Committee, on behalf of Fermanagh and Omagh District Council, I thank you for giving us the opportunity to make an oral presentation. Brendan Hegarty sends his apologies to the Committee for not being able to be here this morning.

818. I have a number of slides. It is said that a picture paints a thousand words, so I will quickly go through the slides and then take you through a paper. Copies of the slides and the presentation are available to the Committee. The council welcomes the transfer of car parking but requires that car parks be fit for purpose and that sufficient resources be available to ensure that they are cost-

neutral at the point of transfer. The first slide lists the 40 car parks —

819. **The Chairperson (Mr Clarke):** Kevin, sorry, but if I can just stop you there. We are having difficulty hearing you, so can you come closer to the microphone and get Jonathan to change the slides? Sorry about that.

820. **Mr O’Gara:** Sorry, Chairman.

821. The first slide shows the 40 car parks that are being transferred. We reviewed them to identify areas in which we have concerns about ongoing maintenance and upkeep. Car parks are a critical part of the infrastructure of our towns and villages. It is important that they are of an acceptable standard when they transfer to councils.

822. We identified issues with car parks regarding surface quality, white lining and fencing. We have particular issues with Japanese knotweed at quite a number of our sites, and that will have to be addressed. There are also issues with overall maintenance and upkeep that we feel need to be addressed as part of the process.

823. The next slide gives you an idea of some of the concerns, particularly around worn-out white lining. I thank the Committee members who last night visited a number of sites. It was evident that the quality of some of them was less than we would expect at the point of transfer. The car park in Quay Lane, Enniskillen, is of the standard that we would like to achieve.

824. Parking enforcement is difficult without adequate white lining. We also have issues with disabled car-parking signage and markings that need to be rectified. The next slide is of a car park in Foundry Lane, Omagh, and clearly shows the absence of effective white lining.

825. There are issues with encroachment. The next slide shows a gated area. All

- the car parks are going to transfer to the councils, but we are not aware of whether such areas are authorised. That is one of the issues that the councils feel needs to be addressed when the title maps are transferred so that we know exactly what we are getting and the potential difficulties.
826. The next slide shows an area in Castle Park, Enniskillen, that some Committee members had an opportunity to look at last night. Thankfully, it was not just as wet last night as it is in the photograph. On the left-hand side is the main entrance to the Translink bus depot, and there are obviously major problems associated with flooding at the access there. In the back is the Fermanagh Lakeland Forum area, where, again, there is major blockage with flooding.
827. The flooded area shows part of Castle Park car park, which is to be transferred. Where the car is seen driving is classified as a road, so everything from those couple of red cars backwards will be classified as a road. The car parking on the right-hand side is to be classified as on-street car parking, whereas the remainder of the car parking in the area is to be classified as off-street. We feel that that will pose major problems for Transport NI and the councils.
828. There are issues with poor marking, subsidence, differential settlement and poor-quality surfacing, which need to be upgraded as part of the overall transfer. Japanese knotweed is prevalent in a number of sites. That has to be dug out at great expense and deep-buried or treated annually for five to six years to try to eradicate it.
829. On the costs issue, we have identified that an immediate cash injection of £58,000 is required to bring the car parks up to an acceptable standard. The council carried out a survey of the costs for resurfacing over a period, and it is estimated that it would cost in the region of £55,000 a year compared with the Department's proposal of £17,000. No provision has been made for the transfer of funding for gully cleaning, salting, insurance and lighting. There
- is a proposal to put the lighting on to separate meters, which, we feel, will be an additional unnecessary burden and not a good use of public money. In addition, the costs for upgrading the Castle Park site, improving the drainage and raising the road level are in the region of £70,000. I showed you that slide earlier.
830. Other issues that we feel are important are the lack of information on encroachment, which I touched on briefly before, the legal issues with the lack of documentation and drawings, and a number of legal issues associated with joint ownership of land. There is an issue with new car parks and who will be responsible for them into the future. I do not intend to spend time on it, but that is the basis on which some of the figures have been calculated to build up the overall costs required for the transfer of the ground.
831. I will take you very quickly through the paper. The council welcomes the transfer of off-street parking to councils but requires it to be cost-neutral at the point of transfer. However, the council has identified several areas that require attention in the 40 car parks that are being transferred. It strongly believes that the car parks need to be transferred with no restrictions, conditions or statutory charges on the land. The council sees the regeneration of its towns and villages as a key part of its future regeneration. It will ensure that future regeneration is adequately serviced by car parking in order to see the area prosper. Therefore, it is necessary to ensure full inclusion in and consultation on any further discussions on future charging for off-street car parking and on-street car parking. The council wishes to liaise closely with Transport NI on any future transport and traffic management across the region. The council will ask whether it will be covered for the development of future off-street car parking, particularly about who will be responsible, about the costs of sites that have been identified, and about problems in the past that have

- not been dealt with, such as in Tempo and Dromore.
832. The council has identified issues of legal title that need to be resolved, as well as cases of encroachment. We ask for those to be quantified so that the council knows exactly what has been transferred to it. Transport Northern Ireland has a 30-year rule on possessionary title, and local government has only a 12-year rule. Therefore, Transport NI will need to resolve the encroachment issues before transfer. It is in a far stronger position than councils to do that. A number of the car parks that will be transferring will have an annual rent. That burden will ultimately fall to the council in the future.
833. As I outlined, there are issues with Castle Park causing major flooding problems at approaches to the Translink depot. The council is anxious to have details on the legal title or the claims history associated with the car parks, as that will ultimately transfer to councils, and the liability will transfer with that. The council also feels that consideration needs to be given to salting, gritting, gully cleaning, street lighting, maintenance and electricity, which have not been considered up to date.
834. We have been provided with historical figures on the income generation for a number of years, but DRD introduced the £1 charge for five hours, and we feel that that will have a major, detrimental effect on the income generation for the running of the car parks. We have requested figures to identify what sort of impact that is having, but we have yet to receive the. We feel that it is important that we have those figures in order to see the impact.
835. There will be an impact on the councils from car parking fees. We feel that councils could be adversely disadvantaged by the reduction in the £1 charge for five hours. Therefore, we feel that there could be a cost increase to the ratepayers, and we feel that that needs to be addressed.
836. Estimated collection of parking charge notice (PCN) income for subsequent years is not clear. The allowance figures quoted for the collection of PCN income seem to be lower than the council would anticipate, considering the cross-border nature of the new council. It is reasonable to consider that the collection of PCN income will be more difficult than in other neighbouring councils. We have identified lighting, boundary issues, fencing, surface problems and white lines as issues that need to be resolved.
837. In broad terms, the car parking that we viewed yesterday, which was the subject of the slide on flooding, will require immediate expenditure of £70,000 to ensure that vehicles can access the Lakeland Forum, the Translink bus depot and the car park at Castle Park. In addition, further costs of £58,000 are required to carry out necessary repairs to bring the car parks up to an acceptable standard at the point of transfer.
838. A 20-year programme has been drawn up and costed, and it is in the region of £1.17 million. Over that period, funding was available to allow two car parks to be upgraded at an annual cost to the council of £55,000. That concludes the presentation. We are happy to answer any questions.
839. **The Chairperson (Mr Clarke):** Thanks, Kevin. You said that you have concerns about the car parks. Did you raise those concerns in the consultation on the Bill?
840. **Mr O’Gara:** The council has raised concerns in the past through its chief executive.
841. **The Chairperson (Mr Clarke):** The reason that I am asking you that is that it is our understanding that it was not raised formally in the consultation process, and it is late to start tabling some of those concerns now. Do you not feel that it would have been better to do it at an earlier stage as opposed to leaving it until late in the day?
842. **Mr O’Gara:** I am taking up post with effect from next Monday. Therefore, I

- do not have the background on what has been done in the past, but my understanding is that it has been raised as a potential issue.
843. **The Chairperson (Mr Clarke):** When was the picture taken of the flooding?
844. **Mr Jonathan Glendinning (Fermanagh & Omagh District Council):** Last week.
845. **The Chairperson (Mr Clarke):** You talked about how DRD suggested that there will be separation between the public road and the off-street parking. When were you officially told that that was the case?
846. **Mr O’Gara:** Yesterday.
847. **The Chairperson (Mr Clarke):** Yesterday was the first time that you were made aware of that.
848. **Mr O’Gara:** Yes.
849. **The Chairperson (Mr Clarke):** I appreciate that the flooding is not good, but, in the section you are looking at, surely the Translink depot is on the left-hand side of the car park. Will that not be a public road and will it not still be the responsibility of DRD to maintain that section?
850. **Mr O’Gara:** We were of the understanding that it was all transferring over until the scenario came about whereby half of that road plus the right-hand side of were going to be retained for car parking.
851. **The Chairperson (Mr Clarke):** I should say at the outset that I apologise for not being there last night, but business ran slightly later than expected. Is that the access road to the Translink depot?
852. **Mr O’Gara:** Yes.
853. **The Chairperson (Mr Clarke):** It is difficult to see an opportunity for that section to be transferred, given that it would still be an access road for someone else. I am unsure as to why —
854. **Mr O’Gara:** It floods what we would have perceived as being the public road but also into what we perceived was going to be transferred to —
855. **The Chairperson (Mr Clarke):** I appreciate the point that you are making, but the section that would be the public road appears to be where the deep end of the flooding is. I assume that most of the problems come from there, which would still be the responsibility of DRD. How did you get the costings of what to put right, given that control of a large section of that will be retained by DRD?
856. **Mr O’Gara:** I am sorry, but I missed the start of that.
857. **The Chairperson (Mr Clarke):** You cited £55,000 as the annual cost —
858. **Mr O’Gara:** No, £70,000 is the estimate for —
859. **The Chairperson (Mr Clarke):** Does that include fixing the public road or is that just for the car park section?
860. **Mr Glendinning:** That is the entirety of the area.
861. **The Chairperson (Mr Clarke):** You are being very generous by doing DRD’s work for it.
862. **Mr Glendinning:** The costings were done on the basis that the whole car park would transfer. It was only yesterday that we heard that possibly some of it might not, and we have not had that fully clarified yet.
863. **The Chairperson (Mr Clarke):** I have said many times that many of us come from local government and want to see the control transferred to there. Do you have any plans to dispose of any the car parks for redevelopment or regeneration?
864. **Mr Glendinning:** No. Nothing has been established as yet or will be until we can determine what car parks are transferring and what condition titles are in. We also need to establish whether there are conditions attached to transfers. Nothing has been discussed about the regenerative effect of the car parks.
865. **Mr O’Gara:** There are no plans to dispose of any car parks, and we have

- not considered it. The only reason that the council is anxious that the transfer does not come with any restrictions on it is that, obviously, as regeneration happens and as projects come forward, car parking is a key part of that ultimate regeneration. We will give a guarantee that any regeneration that happens in the future will have more than adequate car parking to allow it to prosper and be successful.
866. **The Chairperson (Mr Clarke):** What is your understanding of the condition that the Committee was considering?
867. **Mr O’Gara:** My understanding was that there was potentially a possibility that it would come with restrictions on the transfer. I know that that that has been discussed but I am not sure what the final outcome was.
868. **The Chairperson (Mr Clarke):** I suppose that there is no final outcome. I will leave it at that,
869. **Mr Lynch:** I know the car park that you are talking about quite well. I was not there last night, as the Assembly sat late, but there are huge issues there. At what point would you not accept the car park transfer? Are you saying that all of the work will have to be done before you will accept transfer?
870. **Mr O’Gara:** What we are saying is that we feel that car parks are an important asset for the area and that it is important and in everyone’s interest that they be kept to a proper standard. We feel that the sorts of costs that we have outlined are necessary to bring them up to and keep them at an acceptable standard.
871. **Mr Lynch:** Give us an example of the legal issues. Is Castle Park an example of the legal issues around ownership and entitlement?
872. **Mr O’Gara:** That is one of the issues. We are aware that there are encroachments and some issues around legal title. To date, we have received no title maps that we could effectively do an analysis of, but we are aware that there are issues. We will seek at the earliest possible time to see proper, legal title maps with a full listing of all potential encroachments or challenges to ownership. We are kind of in a vacuum: we know that there are issues, but we just do not know the extent of them. We will certainly seek that information as soon as possible.
873. **Mr Lynch:** It seems to me — it is coming up in a number of meetings, Chair — that a lot of information and stuff has still to be sorted out between the Department and the councils, and a lot of information is not forthcoming from the Department. Other councils have also expressed that. It seems that this is going to be a long, drawn-out process.
874. **Mr Hussey:** Kevin knows me of old, God help him, so I will try to be fairly reasonable with him. Was there not a suggestion, at one time, that part of Johnston Park car park in Omagh would be redeveloped within a hotel complex? Was there not a planning application for that that included part of the car park?
875. **Mr O’Gara:** Part of Johnston Park would have been part of the old Royal Arms area.
876. **Mr Hussey:** Not that part. That part is specific. That is owned by the property owner. But there was a planning application that included part of Johnston Park car park.
877. **Mr O’Gara:** There could be developers’ concepts coming forward in future, and there probably have been in the past, but there is none on the table at the minute, that I am aware of, that is live and being taken forward. I think the thinking is that you would not want to restrict unnecessarily potential regeneration in an area but you certainly will be protecting the overall car park provision because without that, no development would be successful or prosper.
878. **Mr Hussey:** My own view was that, if the council had no conditions and decided to do away with the car park, it would be obliged to replace it with a similar size car park. You made reference to

- the £1 charge for five hours that applies in certain areas. You know as well as I do — it is a pity that there are no councillors here — that many councillors called for cheaper car parking and free car parking on certain days. Is it still the will of the council that, should they be given such authority, that is what they are going to do; they will set the rates themselves?
879. **Mr O’Gara:** That is an area that needs further discussion. I, personally, do not think it is acceptable not to have charges. Charges are necessary to regulate a space. A space can turn over five, 10 or 20 cars in a day. If it is free or at a relatively low cost, the danger is that one car will sit all day. For an area to be successful, you need as much turnover as possible in every car park. A range of options need to be analysed and considered.
880. **Mr Hussey:** You mentioned that when the car parks are taken over, there is the lighting and various other bits and pieces. When the council develops a piece of land and put lights on it, it is responsible for the lights, so why would you expect DRD to retain responsibility for lights once car parks go into public ownership through the council?
881. **Mr O’Gara:** The proposal, as I understand it, is that every car park will be separately rewired and metered. I think there is a much easier way to do a headcount of street lights in a particular car park. In those 40 car parks, you could quickly decide that there are 200 street lights and do a pro rata charging, which would save you thousands and thousands of pounds redeveloping every one of them, digging them up and putting in separate meter control points. I agree with you that the charge would need to transfer to the councils, but there is an easier and certainly much cheaper way of achieving that.
882. **Mr Hussey:** My final question, Chair, which you will be glad to hear, relates to Enniskillen and the photographs that you showed of the flooding. It is a pity that we do not have one that does not show floods, so that we could compare one against the other. Is that not in a floodplain? Does that area not always flood?
883. **Mr Glendinning:** The area is not on the floodplain, but, unfortunately, it is prone to flooding simply because it really relies on the levels of the lake at the time of rainfall. The levels of the lough are basically right around the Fermanagh Lakeland Forum. The water does not seem to get away because of the actual road level. There is almost a hollow in the road level where the gullies are, and then it just cannot get away quick enough. If there is any heavy downpour at all, it tends to flood. Because of the levels of the lough, it takes a long time for it to dissipate as well.
884. **Mr Hussey:** So, it has been a long-term issue.
885. **Mr Glendinning:** It has been a long-term issue. It has not yet been resolved.
886. Chair, can I just come back on one other point about car parking fees? I know that our chief executive, Brendan Hegarty, had mentioned that he feels that there is a bit of concern about the actual incomes historically with regard to the fees that have been charged. Our understanding is that there is a reduction on the allocation on transfer, given the historical costs. For example, if Fermanagh and Omagh’s joint income is £800,000, that is almost the reduction in the grant coming across from the fees generated, but, in other council areas, specifically neighbouring council areas, the income is significantly less and therefore the block reduction in grant is less. We basically have to get some clarification around that. It is certainly something that the chief executive has raised concerns about with us.
887. **Mr Hussey:** Did the chief executive then put that in any written response to the consultation?
888. **Mr Glendinning:** I need to double-check that, but I think that it did come back through a public consultation response. I will certainly come back and clarify that.

889. **The Chairperson (Mr Clarke):** Can I get back to that? I apologise that we are looking at this while you were speaking, but we are trying to get that information pulled up. Can you just repeat what you said about the £800,000 from your understanding?
890. **Mr Glendinning:** I am sort of working on figures that we have speculated here. If the income is £800,000 —
891. **The Chairperson (Mr Clarke):** Surely you have a copy of those figures.
892. **Mr Glendinning:** We have not got a full copy of all of the figures. We have a copy of the Fermanagh and Omagh 2013-14 figures. That is what we have based this on. We have not sought figures across any other council.
893. **The Chairperson (Mr Clarke):** Sorry: why are other councils relevant?
894. **Mr Glendinning:** The thinking is that obviously the fee income for Fermanagh and Omagh is a lot more than other councils, the block reduction in the allocation of funding coming across will be significantly higher.
895. **The Chairperson (Mr Clarke):** Sorry: I am interested in this. If we look at what I assume you have been given, the figures for each of the councils, we are looking at a car parks asset value of £3.5 million. We are looking at a net value of around £800,000 of an income. I have to say that I struggle with that. I have come from local government, and I am very supportive, but I struggle with how councils even assume that there should be another gift or that the gift horse should keep coming. What would the council plan to do with the £800,000 that is coming?
896. **Mr Glendinning:** Obviously, Chair, you can see that if that is reduced, then it becomes a cost to the council.
897. **The Chairperson (Mr Clarke):** But how will it be reduced?
898. **Mr O’Gara:** Sorry: could I just clarify that? We probably do need some level of clarification. Let us just say, for simplicity, that if £800,000 is generated from car parking and, say, planning comes over with a price of £1 million, it is our understanding that, as the other functions transfer over, that £1 million will be reduced by the income that is generated from car parks. We have certainly asked that question. That is the information that we have been given. Now, if that is not the case, I think that we are talking —
899. **The Chairperson (Mr Clarke):** We will clarify that, but it does not sit with me that that will be the case. Given that planning, as it stands, is supposed to be —
900. **Mr O’Gara:** I just picked planning as one example. It could be any of the transferring functions.
901. **The Chairperson (Mr Clarke):** And we have two different Departments, of course, as well. I am curious as to why DRD would be subsidising DOE. If DOE is transferring a particular function to local government, I would need to be convinced, because, given some of Minister Kennedy’s recent statements about how tight he is getting it, I do not think he would be so liberal with his money as to actually subsidise Minister Durkan. I do not know whether your thinking on that is entirely right. That is why I would like to drill into it. It seems that councils may be coming half prepared for some of this. If we look at the raw figures here, we see that you are getting a £3.5 million asset. You have the opportunity to earn, after a cost, approximately £800,000. Is there confusion there in that the councils do not actually know what is coming across at all between that and DOE or —
902. **Mr O’Gara:** I think the £800,000 is the figure. It is in that general region — slightly up but probably down year by year.
903. **The Chairperson (Mr Clarke):** So, you have got £800,000. What are Fermanagh’s plans for £800,000?
904. **Mr O’Gara:** Well, I would seek the Committee’s clarification. All that I can say is that our understanding is that if there is £800,000 coming, that will

- be reduced over the other transferring functions. If that is not the case, I apologise, but that is what we have been led to believe.
905. **Mr McAleer:** Some of the themes that we are picking up today, we have picked up with other councils. It is one of the reasons that I am glad that the Committee decided to carry out such fact-finding. I am guessing that the information that you have presented here today has come from the independent inspections that you have carried out. I take it that you have conveyed the findings of your inspection to Transport NI?
906. **Mr Glendinning:** Not as yet, no. Obviously, we wanted to discuss them first with the Committee before we released them. We are working on the assumption that car parks are coming across. To use the example of Castle Park, when the surveys were done, the assumption was it was coming across in totality. Obviously, as of yesterday, that has now changed. I am sure that there are other shared car parks. There are different aspects to it. We cannot really release those figures until we are absolutely sure, but we needed to start somewhere to have a discussion around what is coming to us and to try to prepare for it. That was the idea behind getting the independent survey done.
907. **Mr McAleer:** Have you been in negotiation with the Department around all this? How satisfied do you feel with the response that you are getting with regard to sharing information? I am picking up from you that there is a lack of clarity.
908. **Mr O’Gara:** We have certainly been seeking clarity and communicating with them to try to get all the transfer maps, the legal title maps, encroachment data and statistics. It is very slowly coming through to us. In fact, it is not, actually; we are still awaiting clarity on all of them.
909. **Mr McAleer:** That is obviously something that we, as the Committee, need to press the Department to
- resolve. You are not the first council to raise the exact same issues with us.
910. **Mr O’Gara:** It is major asset. It is coming over. We need to know exactly what is coming: the good points, the bad points and everything. Obviously, we are not privy to some of that information. We know that there are issues there, but we just do not know the extent of them.
911. **Mr McAleer:** I should declare an interest as a ratepayer. *[Laughter.]*
912. **The Chairperson (Mr Clarke):** Kevin, another thing strikes me on the back of what Declan said. I am not picking on you on this one. Are you the person who was negotiating with the Department? If not, who is?
913. **Mr O’Gara:** The chief executive has been negotiating with the Department. I am effectively only taking up post next Monday. I have come on to this relatively recently. I know that there have been some ongoing discussions with the Department.
914. **The Chairperson (Mr Clarke):** So, you have been somewhat thrown in at the deep end?
915. **Mr O’Gara:** I would not just say that, but — *[Laughter.]*
916. **The Chairperson (Mr Clarke):** Whilst we can criticise the Department, and I have absolutely no hesitation in doing so, I suppose that it would have been much more appropriate if the chief executive had been here to address some of these issues of what he has been told, what he has not been told and to give us a bit of a timeline. I do see you being thrown in at the deep end, because I do not think that you are best placed to answer some of the questions. You can put out certain allegations about what your understanding is, but I think that the chief executive might have been better placed to speak to us if he was the person doing the negotiations.
917. With regard to your response to Ross, when you said that you would be obliged to provide car parking spaces if you were to dispose of those in regenerating,

- why then are councils so precious? The Committee would suggest that spaces should be replaced either by a more efficient car parking arrangement or another location which is convenient to one that has been disposed of. So, whilst you accept that you should be obliged, what is the problem with having a condition just in case you feel that you should not be obliged?
918. **Mr O’Gara:** I suppose that the feeling from the councils is that they want to regenerate, and, as part of the regeneration, car parking will be a key part of the overall aim.
919. **The Chairperson (Mr Clarke):** Yes, but you are citing an obligation, and our clause is affirming that obligation. We are not preventing regeneration; we are basically saying that you should provide spaces in an adjacent area or a more efficient method of parking. We are trying to ensure that parking is maintained in an area. We are not saying anything more than that. All councils seem to be precious about having this without any conditions, but, if they accept that there is an obligation for them to do something, I am yet to be convinced why councils are so reluctant to support that condition being placed in the Bill. Can you convince me?
920. **Mr O’Gara:** I think that councils will act in a responsible way in developing their area, and your point is reaffirming that.
921. **The Chairperson (Mr Clarke):** Kevin, I did not say that they would not be responsible. I want you to convince me why it would be a bad idea for the Committee to build in the protection in the form of a clause that reinforces that obligation. If you can find a form of words to convince me, that is fine.
922. **Mr O’Gara:** With the wording that you are using, I do not see that — I am only speaking personally — as a particular problem, because I think that that is the way the council will be thinking and that will be the attitude of the council.
923. **The Chairperson (Mr Clarke):** That is very useful.
924. **Mr Dallat:** I was in the car parks last night and got fundered. It was helpful, and it shapes the questions that I will ask. I do not want to use this analogy, but if I was going to buy a second-hand car, I would go round and kick the tyres, point out the scrapes and say, “All that is wrong”. That is what I saw last night. I saw the potholes and the white lines that were not in place, and I have reflected overnight on what the chances of this succeeding are.
925. Finally, I feel that I am shooting the messenger, because you are not even in position yet. Where is your chief executive this morning?
926. **Mr O’Gara:** I am an officer of Omagh District Council, and I have been appointed to the position as of next week. I think that I can certainly speak about the Omagh end and the Fermanagh end, and Johnny is here to represent Fermanagh. It is a major asset that is transferring over. The council is mindful of taking it in a state that is acceptable and protecting that asset, and I do not think that it is unreasonable to say that we look to the overall future of car parking in the area and to keep a clear standard that is acceptable and try to bring it up to that standard. I do not think that that is an unreasonable position for the council to take.
927. **Mr Dallat:** I think that it is a perfectly reasonable debate to have. I think back to the play parks. Imagine if somebody had to take those over before they were all upgraded. They were hopelessly out of date. They did not comply with standards. There is probably an avalanche of compensation claims that could arise. I was looking at DRD’s compensation bill from the last 10 years yesterday; it is absolutely horrendous. I saw street lights last night that have been reversed into and are not in great condition. Why was all that not out in the open before now, given that it is only a few weeks before the Bill might be passed?
928. **Mr O’Gara:** As the process has gone on, more and more research has been done by each council, and part of the issue

- is getting the information to clarify what exactly is transferring. Take the example from yesterday: we thought that a car park was coming to us in its entirety, to discover yesterday that it was not.
929. **Mr Dallat:** On that very point, I have no idea how that can be resolved. A road runs through a car park, and if you attempt to divide it and put a wall up, you would totally ruin both road and car park. Under what circumstances would you take the British Legion car park over?
930. **Mr O’Gara:** Personally, my view is that the car park should revert, all or nothing. I do not know if Jonathan agrees with me or not.
931. **Mr Glendinning:** I think that is the view of the council as well.
932. **Mr O’Gara:** But you have an artificial line up the middle that is dividing it.
933. **Mr Dallat:** I am going home a long distance with depression, because I see problems emerging now. Cooperation, partnership and working together might be the key to it, but if we carry on the second-hand-car-sales strategy, it is not going to work.
934. **The Chairperson (Mr Clarke):** The only thing is, defending the second-hand-car salesmen — *[Laughter.]*
935. **Mr Glendinning:** Declare an interest.
936. **The Chairperson (Mr Clarke):** I declare an interest in that, of course. Of course, they would not give you a car, they would sell you it, but they would not give you earning potential with it. The analogy is not the best.
937. **Mr Dallat:** No, it is not.
938. **The Chairperson (Mr Clarke):** I am not trying to be flippant when I say that —
939. **Mr Dallat:** You are right.
940. **The Chairperson (Mr Clarke):** What we need to be careful about — and I think many people are losing sight of it — is that there is a great earning potential, on one hand, in terms of an income generated for councils. There is another opportunity for regenerating our towns. I think the Minister made a — are you listening, Ross?
941. **Mr Hussey:** Yes.
942. **The Chairperson (Mr Clarke):** I think the Minister made a very good decision in reducing the car parking charges. I think he listened to local government, of course, when he made that decision, but that has now given the power to local government to make those decisions. So, it is not like getting a gift. It is getting a gift that can regenerate our towns and be an income generator as well.
943. **Mr Dallat:** Can I come back just very briefly? I concur entirely with what you are saying. You represent big towns like Enniskillen and Omagh, but you also represent smaller towns. There is enormous opportunity there to use car parking as a regeneration tool by offering, for example, free car parking. But all I have heard is money bags. Car parking is not just about money, I suggest. It is an enormous tool that, for the first time, is going into the hands of local councils and that you can use in many ways. It may well be a charge on the rates to offer some kind of hope to the smaller towns that find it extremely difficult to survive against the big ones.
944. **Mr Hussey:** Did we ever get an answer to your question about where the chief executive is?
945. **Mr Dallat:** No, I did not ask the question to embarrass anybody.
946. **Mr Glendinning:** We just received an apology. I cannot confirm what meeting he had to go to.
947. **The Chairperson (Mr Clarke):** I am not setting out to embarrass anyone either, John.
948. **Mr Dallat:** It will intrigue me for the rest of the day: what was more important this morning than this?
949. **Mr Hussey:** My understanding was that we came here early to suit the chief executive.

950. **The Chairperson (Mr Clarke):** I will just go back to something here, members. I feel that these gentlemen have been thrown in at the deep end somewhat on this one. We talked about the consultation and how you responded. I have a copy of the response. I will read it into the record because I think it is useful. It will not take very long. It states:

“Further to your letter dated 23 June 2014, the above consultation paper has been considered by the members of the Fermanagh and Omagh Shadow Council.

I can confirm that the proposals set out in the consultation have been broadly endorsed by the Shadow Council.

Yours sincerely

Brendan Hegarty”

951. I do not want to read the response to the Committee into the record, but it had five paragraphs. To me that says an awful lot, even about the fact that Mr Hegarty is not here today to answer some of the questions about how the presentation was to be put to the Committee today and in relation to the concerns that the council has. To me, that sums it up.

952. We have criticised the Department, and I am sure it will be in for a lot more criticism before we are finished, but the consultation documentation and all of those concerns that Fermanagh had were summed up in one sentence:

“I can confirm that the proposals set out in the consultation have been broadly endorsed by the Shadow Council.”

953. I will let members draw their own conclusions on that. We can cite DRD’s lack of response in a timely nature, but there was nothing pressing in that response. Do you want to say anything about that? Maybe I am putting you on the spot with that, Kevin.

954. **Mr O’Gara:** When you get down to the detail is when you discover all the issues. I was not privy to that shadow council meeting when it was discussed, but as I said at the start of my presentation, the council broadly

welcomes the transfer. Really, from there on, the question is how the transfer is going to happen. We need to have the information to make a judgement call and to be able to deal up. The devil is in the detail, and the detail needs to be tidied up.

955. The council is broadly happy with the transfer. We are not saying that we are not, but we certainly feel that we need the maps and the land transfer details; we need to know about encroachments; and we need to know whether there are any issues associated with them. Beyond that, once we have that information, we can effectively go forward. We need all of that information to take the process forward.

956. The overall costings are not excessive. We have been asked to estimate of the costings for what it would take to upgrade and bring these car parks up to an acceptable standard. This is what we feel it would take to bring them to an acceptable standard. Car parking is an important issue for the region. We want to take the matter forward and progress it to a successful conclusion.

957. **The Chairperson (Mr Clarke):** I will finish on this, Kevin. I know that John always picks on used car salesmen, but, I wish that, in my time, that I had had more Brendan Hegartys. They would not need to know about the mileage, the service history or anything else; they would just tell me that they were broadly content with the deal. That is just what this looks like. You present the item, and Brendan sends a letter to say that he is broadly content. So the knowledge of the car does not matter. It does not matter how many miles it has done, whether the tyres are nearly done, whether it has a service history or whether it has even got an engine, he is broadly content. I think that the very fact that he is not here today speaks volumes. That is not your fault, Kevin, nor yours, Jonathan. Thank you for the presentation. The points that you have put forward will be considered.

958. I will bring in the departmental officials to answer a couple of queries, briefly.

- Members, we will just ask a few questions about some of the points that have been made because there is a theme here. The officials will be coming back again, so any other questions we can hold, but I really want to get my head around this top-slicing.
959. **Mr Terry Deehan (Department for Regional Development):** I will try to answer as much as I can, Chair.
960. **The Chairperson (Mr Clarke):** There is no point in me framing the question; you heard what has been said. If you can give us an answer to that, we may be able to understand exactly where this is going.
961. **Mr Deehan:** All the car parks transferring in all council areas generate a surplus. That is the first point. After all the costs — costs for resurfacing, costs for liability claims, rates and rent — are taken in, they all generate a surplus.
962. **The Chairperson (Mr Clarke):** Is that collectively rather than individually?
963. **Mr Deehan:** In each individual council, a surplus is generated —
964. **The Chairperson (Mr Clarke):** I am sorry for cutting across you, but I want to get this right. I do not have the figures here for how many car parks are transferring. Some of those car parks in the Fermanagh and Omagh district will run at a loss, but collectively, they bring in a surplus.
965. **Mr Deehan:** In each council area, yes. The overall financial arrangements of transfer of all functions are the responsibility of DFP. We have not been informed how that will take place. That is DFP's responsibility. The functions transferring from DRD generate a surplus. How DFP will roll that together in the full transfer for all functions is its responsibility. We have not been informed exactly how that will work.
966. It is accepted, however, that what the council representatives said is quite correct. If there is a surplus, no budget will transfer. If there is a surplus for one function, that will net off against the budgets transferring for the other functions.
967. **The Chairperson (Mr Clarke):** Even in different Departments?
968. **Mr Deehan:** In different Departments. The Deloitte report, on due diligence, which was commissioned by councils makes the point that:
“No budget will transfer where a financial surplus is made by the transferring function”.
969. It went on to say:
“Moreover, the income received which exceeds the costs of service delivery will be netted against the funding provided for other transferring functions.”
970. That is our understanding of what DFP is going to do, but it is fully DFP's responsibility.
971. **The Chairperson (Mr Clarke):** I have to say that this is worrying for me as well now. DFP is saying, if we take the Fermanagh example of £800,000, that if the DOE or some other Department comes in and there is a cost of £200,000, then, effectively, they will get nothing for that and it will come out of their £800,000 surplus.
972. **Mr Deehan:** That is how we understand it. If you think about it; if DFP were not doing this, it would not be rates neutral because it would be a windfall from the DRD. It would be a surplus for all councils.
973. **The Chairperson (Mr Clarke):** I do not know how you can describe it like that because we have all been at pains to say how good it would be for councils to control the costs for each of their car parks.
974. The difficulty with this is that you are restricting the council, because, from what you are telling me now, Terry, it seems that the model you have chosen is based on the projected costs you are seeing at the moment. Going back to Fermanagh and the £800,000; if they alter that cost, reduce it, or create free car parking, you will still be working on the basis of the £800,000. If, for

- example, Fermanagh tries to do free parking during a particular period, that will come off their surplus. It is also going to be taken off before the Department makes a calculation on the transfer of any other powers.
975. **Mr Deehan:** To make it clear, this is not the model that we have chosen; it is the DFP model, as we understand it. We have explained to councils the benefit from the transfer of functions for that particular council. In the case of Omagh and Fermanagh, it is £800,000, but if they want to make all their car parks free, that would be the cost of doing that.
976. **The Chairperson (Mr Clarke):** I assume that the model you are looking at is £800,000. If another Department transfers a function, the cost of that function is taken off the £800,000, if the charges stay as they are, but you are effectively tying the hands of the councils because, if they decide to do free car parking, that will come at a cost to the ratepayer as opposed to anything else.
977. **Mr Deehan:** I should not be defending DFP's model, but I do not think that the intention is to tie the hands of the councils, but it would be about starting at a neutral point. Do not forget that we have projected that car parking income increases by around 5% on average.
978. **The Chairperson (Mr Clarke):** I have been assured that councils have the figures that we have. Are those based on the £1 car parking charge, or on historical figures?
979. **Mr Deehan:** They are based on historical figures. The £1 for five hours started as a pilot in 2013 for only the Christmas period. This is the first year that it has been running for longer than that. It has been running for six months this year.
980. **The Chairperson (Mr Clarke):** When will you be in possession of the figures that will include the effect of the £1 charge?
981. **Mr Deehan:** The most recent updated figures are based on the 2013-14 financial year. They will include the impact of the £1 for five hours.
982. **The Chairperson (Mr Clarke):** So, the figures that we have for Fermanagh —
983. **Mr Deehan:** They are being updated. Those figures were from July, and they are being updated again.
984. **The Chairperson (Mr Clarke):** When?
985. **Mr Deehan:** They have been sent out to councils this week.
986. **The Chairperson (Mr Clarke):** When will we get them?
987. **Mr Deehan:** You should probably have those, along with the DALO response, tomorrow or at some stage this week.
988. **The Chairperson (Mr Clarke):** Are the figures dropping or increasing?
989. **Mr Deehan:** Because we have added additional costs, where councils have pointed out bad debt provision to us, for example, the benefits are, generally, down by less than 6% or 7% overall.
990. **The Chairperson (Mr Clarke):** Deputy Chair, we will stay on this finance topic, and then we will bring officials back.
991. **Mr Lynch:** Chair, I want to touch on the example of Castle Park. You saw the flooding. There are huge issues with that. There are also legal issues. One half is owned by —
992. **The Chairperson (Mr Clarke):** Seán, we can come back to that. We will stick to the broad theme of top-slicing, because another council will be coming in.
993. **Mr Lynch:** OK.
994. **Mr Dallat:** I am going back to my previous depressive mode. The figures are out of date. There is bashed-up street lighting; there are no white lines; there are no documents to prove ownership; you have only squatter's rights in the —
995. **The Chairperson (Mr Clarke):** I think we will need to come back to that, John. We are talking purely about top-slicing at the

- moment. You will get a chance to put that to the Department later.
996. **Mr Dallat:** OK. The question I would like to ask is this: is it realistic to expect councils to inherit what is essentially, in comparison, a house that has been left in a state of disrepair by a bad tenant who expects the next person to come in and sort it out?
997. **The Chairperson (Mr Clarke):** That is a similar issue. We will come back to that.
998. **Mr Hussey:** I have a question about top-slicing. I am now confused.com. It comes back to the issue of this being cost-neutral. Councils are preparing for this and are expecting £800,000 income, which they are not going to get. I honestly think we need a DFP official here as well. What guidance are you being given to advise councils? Obviously, Fermanagh and Omagh District Council representatives are sitting here with the idea that they will see £800,000. We are getting close to this being finished, but we cannot finish it. Even we are not sure what the top-slicing is going to be.
999. **Mr Deehan:** As I said, it is DFP's responsibility.
1000. **Mr Hussey:** What guidelines are you being given by DFP? Is it sending you an email telling you what the figure is? What guidance is DFP giving you?
1001. **Mr Deehan:** We have not seen any guidance or figures from DFP.
1002. **The Chairperson (Mr Clarke):** I have no issue with DFP or whoever; I do not wish to criticise them. This is not the right Committee for that, and I do not know how we would do that. It is your Minister who is driving this. Your Minister is aware of the arrangements with the Executive, the Finance Minister or otherwise.
1003. Councils have been saying this, but we were not picking up on it. I am glad that we brought you forward. I can understand why councils are getting concerned about top-slicing. I saw this as a good thing because councils would get control and it would be an income-generator, but it is not. Today, we are learning that councils are going to pay for additional services but are going to generate the income to pay for those themselves with something that looked like a gift.
1004. **Mr Deehan:** It is cost neutral —
1005. **The Chairperson (Mr Clarke):** No, it is not, Terry —
1006. **Mr Deehan:** — for all transfers of all functions —
1007. **The Chairperson (Mr Clarke):** No, it is not. It is £800,000, based on the figures you gave us. We do not even have the new figures in relation to the £1 charges, which have been in for almost a year, I think.
1008. **Mr Deehan:** Six months.
1009. **The Chairperson (Mr Clarke):** Six months. So, we have the £1 charge, which is going to reduce the amount of income. Today, however, we are hearing that if another Department transfers some of its functions, the cost will be netted out of the surplus.
1010. We were praising this and thinking that it was a wonderful idea, because councils would have control. If they reduced the £800,000 by creating the opportunity to make car parking free, then that was coming out of their £800,000, but it is not. If all the other functions cost £800,000, it is cost neutral, but, if they decide to do something with this gift, the other functions will become a cost to them, because they will have no control over car parking. This is taking the model in the way that you have framed it, with the charges as they were before the £1 charge came in.. Yes, it is cost neutral today, but, once other functions come across, it will not be cost neutral.
1011. **Mr Hussey:** Could we ask, Chair —
1012. **The Chairperson (Mr Clarke):** Let Terry answer that first.
1013. **Mr Deehan:** We quantified the amount for the £1-for-five-hours scheme. It is not significant over all car parks. It

- is not a significant amount in terms of the reduction. We are not here to defend the DFP model. It does not preclude councils from reducing costs or increasing revenue. They would retain any benefits from that. The idea is that it starts them off on a level playing field for all functions.
1014. **The Chairperson (Mr Clarke):** Terry, come on.
1015. **Mr Deehan:** Otherwise, this would be a function that would be generating income to councils.
1016. **The Chairperson (Mr Clarke):** There is no flexibility. Many of us around the table thought that this was a flexible opportunity for councils to have control over something. That flexibility has been removed by the fact that you are going to top-slice something for other Departments.
1017. **Mr Deehan:** The flexibility would apply if councils reduced costs. Those savings would go directly into their own pocket. If they increase revenue, that will go into their own pockets.
1018. **The Chairperson (Mr Clarke):** Did you reduce costs?
1019. **Mr Deehan:** We have reduced costs enormously. We have reduced costs by £3 million from the last contract.
1020. **The Chairperson (Mr Clarke):** Is there much meat left on that?
1021. **Mr Deehan:** There is, yes.
1022. **The Chairperson (Mr Clarke):** So, Minister Kennedy is going for the soft touch by way of street lights, gully-emptying and white-line marking, and you are telling me that there is still more fat on the car parks. That is very interesting. I am interested in you saying that. I think we will leave it at that, Ross, unless you are going to talk about top-slicing.
1023. **Mr Hussey:** I will be very quick. Apparently, the councils have been written to. So, there must be records somewhere. In the interim, could the officials make a phone call and come back to us with those figures today? If the councils have been written to, there will be a copy on file. Can we know the figures?
1024. **The Chairperson (Mr Clarke):** Sorry?
1025. **Mr Hussey:** We were told earlier that the councils were written to this week. Therefore the figures are available. Could a phone call be made and, maybe, we could be given the figures?
1026. **The Chairperson (Mr Clarke):** Could you get those emailed? The Clerk could pick them up.
1027. **Mr Deehan:** Yes, certainly. I have a copy of the most recent figures with me.
1028. **The Chairperson (Mr Clarke):** We will get a photocopy of those, Terry. We will leave it at that.

26 November 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr John Dallat
 Mr Ross Hussey
 Mr Declan McAleer
 Mr Stephen Moutray

Witnesses:

Councillor Cáthal Mallaghan *Mid Ulster*
 Mr Adrian McCreesh *Council*
 Councillor Kenny Reid
 Mr Anthony Tohill

1029. **The Chairperson (Mr Clarke):** I welcome you to the Committee meeting. I do not know who is leading off. Cáthal, you can introduce the rest of your team.

1030. **Councillor Cáthal Mallaghan (Mid Ulster Council):** Thank you, Chair, and thanks to your members and officials for inviting us here. We know the importance of a quick deputation when it comes to councils, so we will try to reflect that here today.

1031. We acknowledge that many of you have been councillors in your political careers. Sometimes, we feel that there is a gap between council and central government, but we welcome the opportunity to come here and present to you, because you will get to see exactly what we are trying to present. We also understand that this is your fifth or sixth presentation from councils. We will try not to repeat too much of the information you have received already.

1032. Today, I am joined by Kenneth Reid, deputy chair of the Mid Ulster District Council, Anthony Tohill, chief executive of Mid Ulster District Council, and Adrian McCreesh, chief executive of Cookstown District Council. He also has responsibility for development.

1033. The council very much welcomes the opportunity for the transfer of off-street

car parking to councils under local government reform and fully supports the introduction of the Bill to provide councils with the necessary powers to provide that service.

1034. The council is strongly of the view that the Bill should complete its passage through the Assembly without any amendment that would restrict future use by the council. One of the core principles of local government reform is to create stronger local government, where councillors will have a much greater say in shaping how local areas are developed and how local services are delivered. The Bill, as tabled, contains no conditions or restrictions on the disposal of transferring assets, as that would be contrary to the core principle.

1035. The council is committed to ensuring the vibrancy and vitality of its town centres and fully understands the important role that appropriate parking facilities can play in rejuvenating high streets and town centres. The council recognises the strong relationships between parking provision and high street footfall and how making it easier to park will support local shops, local jobs and tourism.

1036. The council is committed to ensuring the vibrancy and vitality of its town centres. It fully understands the important role that appropriate parking facilities can play in rejuvenating high streets and town centres. The council recognises the strong relationship between parking provision and high-street footfall and how making it easier to park will support local shops, local jobs and tourism. The council is committed to providing adequate car-parking provision, and it wishes to act in the best interests of its town centres, residents, consumers, workforce communities and visitors when developing any future town-centre regeneration proposals.

1037. Car parks are being looked at not in isolation but as part of the overall transfer package that will allow councils to use assets and powers to regenerate and grow their town centres. We see them as central to traffic flow, attracting consumers and the best use of our towns' assets. We are still waiting on details from the Department on exactly what is transferring — we still have not been furnished with any of the maps or drawings that will give us the full itinerary of the assets — including the most recent financial figures based on the tariffs currently being used in the town-centre car parks.
1038. We have learned that all the powers transferring from central government to local government, including planning and DSD powers, such as the public realm schemes, are not cost-neutral to councils; most of them are coming with unnecessary budgets. We sincerely hope that car parking does not fall into that same category.
1039. **Councillor Kenny Reid (Mid Ulster Council):** Thank you very much. Good morning, everyone. I have a cold; I am not coming across very clearly, so I apologise about that.
1040. We are repeating what you have already heard from the Fermanagh and Omagh delegation about technical issues and budget transfer. Car parks have a limited lifespan. Therefore, they require periodic reinvestment to remain in service as a safe place of use. Despite their ability to bring in revenue, reinvestment has not always been forthcoming, which has left some in a state of disrepair. A total of 24 off-street car parks are due to transfer to Mid Ulster Council. The DRD has indicated that £27,000, or just over £1,000 per car park per year, will maintain the car parks sufficiently. However, that will not cover the cost of maintenance.
1041. The council awaits information from the DRD, as has been stated, on the conditions of the car parks, including areas such as lining, signage, street lighting, drainage, barriers, boundary walls and fences, surfaces, kerbing, pay machines and variable messaging systems. The council is aware that there are a number of commercial rights of way across car parks, and it awaits information from the DRD on the associated lease arrangements.
1042. I will now hand over to my colleague Mr Tohill, the chief executive of Mid Ulster Council.
1043. **Mr Anthony Tohill (Mid Ulster Council):** Thank you, Councillor. Good morning, Chair and members of the Committee. Thank you for the opportunity to attend here today.
1044. I will pick up briefly on what Councillor Reid said about maintenance. It is important to note the historical spend on car-park maintenance by the Department. The regional transportation strategy 2002-12 originally proposed £40 million, over 10 years, for car-park maintenance. The Department ended up spending £29.2 million. So, on average, the spend on car park maintenance by the Department during the 10 years of that transport strategy was almost £3 million per annum. The amount of money being proposed to transfer to local government is around £200,000. Something is amiss with the historical spend against what is currently being spent on car park maintenance.
1045. Hopefully, the Committee will understand the desire of local government to get to the bottom of these issues and ensure that what is transferred to us in maintenance budgets is adequate to enable us to maintain the car parks. I appreciate that the Committee now has clarity, but if any further clarity is required regarding the submission we sent in by way of written evidence, that is fine.
1046. We noted the suggestion that the revenue from car parks will fund future maintenance. However, that revenue surplus is being top-sliced by DFP. There is no doubt or ambiguity about that; that is what we, in local government, have been told by DFP. We are getting the car parks minus the surplus. In our case, that is car parks minus £288,000.

1047. We note that the Department traditionally received money from in-year monitoring rounds — it might not have been in its budget from the outset — to enable car park maintenance to be undertaken. We feel that, if we do not get the money transferred up front, there should be an opportunity for councils to bid for such expenditure.
1048. I suppose, members, the key reason why we do not feel that any restrictive clause or further restrictions are required in this Bill is that sufficient restrictions to off-street car parking already exist. They are contained in planning legislation, both in regional planning policy (PPS 3) and in the area plans for our town centres. Each town centre has restrictions in place under planning legislation providing the protection that this Committee is seeking to put into the Bill. So, from our point of view, it is unnecessary: it would be an added layer of bureaucracy and red tape at a time when government is supposed to be making things a little bit easier by reducing rules and regulations.
1049. I will now hand you over to Adrian McCreesh, the acting chief executive of Cookstown Council, who will speak about the importance of car parking to our town centres.
1050. **Mr Adrian McCreesh (Mid Ulster Council):** Thank you for the opportunity, Chairman and members. I will labour for a few moments the importance of retail and the role that our town centres play as economic drivers. Fundamental to this is the role that car parks play in supporting the performance of town centres.
1051. In my experience of regenerating Cookstown and its surrounding villages over many years, our car parks and facilities have played a critical role in rejuvenating our high streets and, indeed, the urban environment. They help shape the town centres and create their culture. Speaking from a mid-Ulster perspective, I know that the new council has already committed itself to providing adequate facilities for our town centre to retain car parking, not just now, but moving into the future — whatever the uncertainties about retail and about the longevity of town centres as we know them.
1052. Customers demand convenient parking. They demand parking that is close or accessible to our local shops. That is a fact. They demand a scenario where shopping and retail are accessible with free, or at least cheap and affordable, car parking. If such parking is not available in town centres, we know as well as you do, they go elsewhere: they go to out-of-town shopping centres and they buy online. Increasingly that is the trend, and it is a challenge for all our provincial towns. The result of this trend is lower footfall in town centres. That results in empty shops, dilapidation and job losses, and, subsequently, from a council perspective, a decrease in our income. We are all coming at this from the same angle. In many ways, we are all trying to achieve the same outcome here.
1053. There are three master plans in mid-Ulster: Cookstown, Dungannon and Magherafelt. These, as you know, are designed to shape the future strategic direction, growth and performance of our town centres, supported by car parking. In each of the master plans in place for our three towns, adequate car parking and accessibility is highlighted as a critical factor for future success. Parking strategies in each plan highlight the critical need for the provision of parking for our town centres as they develop and change, and they will change.
1054. Town centres will change continuously; they are not set in stone. As we move forward, the pace of change will probably increase, rather than decrease. There is an emphasis in our master plans on the need to improve car parking immediately. We have flagged that up and the accessibility of our town centres over the years in order to enhance retail opportunities.
1055. Our master plans also reinforce the need to improve linkages to, and in some cases, redevelop, town centre car parks. But there is the stipulation

- that existing spaces be maintained and additional operating car parks be provided.
1056. Chairman, town centres have faced significant challenges in the last number of years due to changes in consumer behaviour, economic uncertainty, the recession, and the technological changes that I have referenced. As these changes continue, any restrictions or conditions placed on the transfer of car parks may impede councils' efforts to develop their town centres, in future regeneration schemes, and from taking up development opportunities that may arise in the future. Policy and legislation, in our view, must be designed to support a flexible, adaptable and dynamic approach to town centre regeneration, because we are operating in a dynamic, fast-changing environment — not one that is set in stone and that can be easily legislated for. Thank you, Chairman.
1057. **Councillor Mallaghan:** Thanks, Adrian. Chair, if you are happy, I will give you a quick summary. There is simply no plausible economic or strategic rationale for introducing unnecessary legislation restricting future usage at this point.
1058. Indeed, one could say that it flies in the face of councils' community planning powers designed to enable local government to act in accordance with current and future social, environmental and economic needs. The government reform was, among other things, predicted upon the creation of strong councils equipped to shape their localities, and any proposed revision in the legislation would be regressive. Additional stipulations or restrictions are unnecessary and would act only to delay and complicate the delivery of the agreed proposals in the master plans.
1059. The reform of local government and the transfer of car park functions is an important milestone for Mid Ulster District Council. We need to ensure that we have the flexibility to provide the strategic shaping that our town centres need in the challenging environment over the next decade. The council wishes to have the same level of flexibility that was afforded to DRD to make unrestricted decisions on future regeneration plans for our town centres linked to the assets in its ownership. Councils are best placed to make the decisions at local level that affect their local economy.
1060. **The Chairperson (Mr Clarke):** Thank you. Anthony, I have a question, and I did not want to interrupt you, because you were in full flow at the time. You referred to £287,000. Do you have the figures there?
1061. **Mr Tohill:** Yes, Chairman. The figure that we originally received for the surplus for car parks in Mid Ulster was £288,000. I understand that the figures are being revised and that, over the next couple of weeks, we will receive figures that show a revised surplus. However, the current figures show a surplus of £288,000.
1062. **The Chairperson (Mr Clarke):** You heard that we asked officials for those figures, and even those are not going to represent the true snapshot, because there is a six-month lead-in for car parking and it is down now to £237,000. I am concerned about that, because that is not very reflective because there is the busy period. You have the busy period with higher charges included, which is at £237,000, if I do my maths right. Obviously, it is going to be somewhat less than that.
1063. **Mr Tohill:** Whatever the surplus is, Chair, it has been taken off us, so we are getting the car parking minus the surplus. We have concerns about the accuracy of the figures, and we also have concerns about the budget provision for maintenance of the car parks, which is also taken into account in the transfer.
1064. **The Chairperson (Mr Clarke):** That is where I had the difficulty. I could not understand why councils would not want that, because they had an opportunity for it to be an income generator. I am stumped today, because this top-slicing has really taken the wind out of me.

1065. **Mr Tohill:** That is how it has been explained to us from the outset. I read with interest some of the Hansard reports of the Committee, and I was surprised that there seemed to be that doubt as to how this was being treated by DFP, but it has been clear to local government from the start that the money was being top-sliced.
1066. **The Chairperson (Mr Clarke):** To substitute other —
1067. **Mr Tohill:** Yes. For example, when planning comes across to our council, it will run at a deficit of approximately £400,000 to £500,000. DFP is proposing to take the £300,000 off us that we would make on income on car parking to set against the cost of running other services such as planning.
1068. **The Chairperson (Mr Clarke):** Does it give you additional funding with that?
1069. **Mr Tohill:** No. The surplus on car parking is being taken off us. It is not for me to speak for Fermanagh and Omagh, but it could end up having to pay money back to the Department.
1070. **The Chairperson (Mr Clarke):** It will have to?
1071. **Mr Tohill:** It could do.
1072. **The Chairperson (Mr Clarke):** So the £237,000, if that is what the figure will be — it will not be that; it will be less — is not building in the maintenance regime either.
1073. **Mr Tohill:** It includes maintenance estimates that the Department has made, but we would be looking at the historical spend over the period of the last regional transportation strategy, where it was approximately £3 million a year. The spend by the Department on car park maintenance has greatly reduced over time, so car parks are being handed over to us at a time when spend on their maintenance is at its lowest.
1074. **The Chairperson (Mr Clarke):** You have an advantage on me Anthony. I think you are reasonably new in post, but you have an advantage in that you have probably read up on this. This was somewhat down the road before I came to the Committee, so I was not across the detail at the start of it.
1075. However, my understanding today is different to what it was when I was introduced to this. I actually thought that councils were looking a gift horse in the mouth with this stuff. I could not understand where you were coming from, but I am starting to get it today, I have to say. I still do not see why you are against the restriction, given the nature of the restriction that we want, however that is not really much in my thoughts today after what I have heard. I am more interested in what arrangements are going on to do with the transfer of the other functions and how, effectively, you are paying for it.
1076. I was very supportive of this because I was in local government, and we did want control of our town centres and regenerate our towns. Car parking charges were too expensive. People did not use our car parks, and we wanted to control that. The bit that is getting me about this is the £237,000, which will drop. If councils decide that they want to do a bit of free car parking to bring people into towns, that will be coming off that again.
1077. **Mr Tohill:** That is correct, Chair.
1078. **The Chairperson (Mr Clarke):** This is not how I first saw it.
1079. **Mr Lynch:** Thanks, men, for the presentation. Anthony, you knew that it was minus the surplus, and you still agreed with the transfer in that context.
1080. **Mr Tohill:** Local government still views car parks as important. We have outlined the importance of the regeneration of our town centres, and we still welcome the transfer. What we are trying to do is have the transfer coming to us on something that is truly rates neutral. We are not looking for favours here. We are not looking a gift horse in the mouth. All we want is a fair chance, and a fair opportunity to run this service with a fair budget.

1081. **Mr Lynch:** Similar to other councils, you have experience of a lack of information coming back from the Department.
1082. **Mr Tohill:** Local government reform is a big challenge. This is one strand of it. All of the Departments and us are running business as usual, and these are additional pressures that are being put on to us all. I will not be critical of the Department. We certainly would have liked the information before now. We are getting into our budget-setting process, and, in the not-too-distant future, we will have to strike the first rate for our new council. We need to know the liability that is coming us from the transfer of off-street car parking.
1083. **Mr Lynch:** I can understand. I want to touch on the restrictions. You, in particular, have made a strong case that there should be no restrictions. Anthony, you outlined that there are restrictions already.
1084. **Mr Tohill:** Yes, the restrictions are in planning legislation. The restrictions covered are exactly what I have read from what I assume to be the Committee's possible intentions on this, which are to protect car parking and ensure that it is retained in town centres. That is exactly what is in the planning legislation and exactly what is in our current area plans.
1085. I know that there is some concern that, with planning coming to local government, councils will be able to ride both horses, but it will take five years for them to develop new area plans. Until such times, planning decisions will have to be made using the existing area plans as material consideration. To us, the restrictions are already there, and there is no need for any additional restrictions.
1086. **Mr Lynch:** You heard the officials saying that it is cost neutral. You are saying that it is not.
1087. **Mr Tohill:** At this time, I could not recommend to my council that the transfer of off-street car parking is rates neutral.
1088. **The Chairperson (Mr Clarke):** I want to come back to the point made prior to the one about cost neutral, which was on the restriction.
1089. Anthony, we are not picking on you here, but you said that it could take five years to develop planning. I have a particular view of officials, whether they are from local government or otherwise. It is nothing personal, but, sometimes, they can use opportunities to raise revenue.
1090. The clause we are talking about would not have been time bounded. That is why we want protection for our town centres. Local government officials have used their imagination in the past to sweat assets in order to bring in revenue, and that is where I would like to see the protection. It is nothing personal against you; it is just a general suggestion about council officials, regardless of what council they are from.
1091. You will have the power for planning in five years. Our restriction would not have been time-bound. The restriction that we were looking at, as you know, was more to do with the fact that some of us are still looking at the local government aspect of it and trying to protect our town centres to make sure that that provision is always there. You will have control of planning, and you can suggest, in five or six years' time, whether you can have a development with or without that car park. I am just making that point; I am not trying to be rude to you — I have never met you before.
1092. **Mr Tohill:** Chair, I hear what you say. Over time, there has been a requirement on officials to be as imaginative as they can. We are living in very difficult financial times, and there is always an onus and pressure on to keep the rate base as low as we can.
1093. **The Chairperson (Mr Clarke):** I think that Mid Ulster does quite well historically.
1094. **Mr Tohill:** It is not too bad. The Committee is hearing quite clearly that we are very protective of our car parks in our town centres, and we are not

going to give up what we value dearly. We would be very concerned about a blanket restriction. There may be car parks in our town centres that are possibly not the most visually appealing and may require an environmental improvement scheme, so we may want to plant a couple of trees or take out some spaces to do the area up. A blanket restriction that covers all spaces and all car parks would be particularly onerous for us.

1095. **The Chairperson (Mr Clarke):** That is fair enough.
1096. **Mr Dallat:** Chairperson, like yourself, I suppose the purpose of having these meetings is to change minds. It seems to me that the gift horse is looking more and more like a Trojan Horse.
1097. **The Chairperson (Mr Clarke):** Where did we hear that this week?
1098. **Mr Dallat:** Don't even go there.
1099. Obviously, you are getting figures late. Do you have any idea what the cost will be to ratepayers if this goes ahead in its present form?
1100. **Mr Tohill:** Thank you, Mr Dallat. Like the other councils, we are trying to do some local due diligence on what we feel the true cost of maintaining the car parks will be to council. At this moment in time, the only conclusion that we could draw is that it will not be rates neutral and that the council will have to put money aside to protect and maintain its car parks.
1101. **Mr Dallat:** Finally, we saw some of the car parks last night. We saw a very good one that was done up for the G8. Do you have any basis on which to quantify what it would take to bring those car parks in your area up to a standard whereby you can be relatively sure that you will not be snowed under with compensation claims from people falling in potholes or street lights falling down on them and all those things?
1102. **Mr Tohill:** We do not have those figures at the moment, but we will work them up. Other councils have provided figures to the Committee. I do not expect the situation in Mid Ulster to be that different. I will go back to the historical spend. If the Department was spending on average £3 million a year on car park maintenance, you cannot suddenly drop that down to £200,000 or £300,000 and maintain the same quality of car park surface. The Department has given us information on the claims history in our car parks, and it is very low in Mid Ulster.
1103. **Mr McAleer:** You may have just answered my question. I was going to ask whether the Mid Ulster council has carried out any sort of independent assessment of the 24 car parks that will be transferred.
1104. **Mr Tohill:** To repeat, we are commencing that process. That is difficult to do when we do not have a map of the car park showing the boundary in which we are supposed to inspect. As you know with car parks, it is not just about the surface and the kerb. There are boundary and retaining walls in some of our car parks, as well as steps, and we do not know whether they should be included in a condition survey. So, we are awaiting some more information from the Department before we send people out to take a real hard look at the condition of the existing car parks.
1105. **Mr McAleer:** Just to be clear, at this point are you not in a position to recommend to council that it inherit those car parks?
1106. **Mr Tohill:** If my responsibility is to Mid Ulster District Council, I could not recommend to the council that the transfer be rates neutral.
1107. **The Chairperson (Mr Clarke):** Are you not heartened today, Anthony?
1108. **Mr Tohill:** Sorry, Chair?
1109. **The Chairperson (Mr Clarke):** Is there no comfort for us today? You just heard that there is loads of meat left on the bone.
1110. **Councillor Reid:** That will be good news for the ratepayers, because the councils

are all in a position whereby the whole restructuring of councils would give savings to the ratepayer.

1111. **The Chairperson (Mr Clarke):** You just heard one of the officials say that there is still meat on the bone. I am heartened by that, because some of the decisions —
1112. **Councillor Reid:** Our ordinary eight colleagues in council, irrespective of what party they are from, will be very glad to hear that, but, unfortunately, I doubt that that will be as forthcoming.
1113. **The Chairperson (Mr Clarke):** Do not take the wind out of our sails, please. About the only good thing that I have heard today is the Department saying that there is still meat on the bone.
1114. **Councillor Mallaghan:** Chairman, I think that your intervention was timely. It was a good opportunity to bring clarification to the Committee, and it was very welcome.
1115. **The Chairperson (Mr Clarke):** Are members content? Is there anything that you want to add?
1116. **Mr McCreesh:** Can I just add one comment? We referenced the value of town centres. In the west in particular, our town centres are the economic drivers, especially in rural economies. I will reinforce for members' benefit how that relays on the ground. For example, in Cookstown, there are 349 properties in our immediate town centre, and they employ over 2,000 people. That is one quarter of our entire active workforce. So, retail is of major significance to us. No mid-Ulster council will speculate unduly with the future of car parks, because we know the significant role that they play in high-performing town centres.
1117. **The Chairperson (Mr Clarke):** Adrian, I think that you are preaching to the converted. Nearly everyone in this room represents a rural constituency. I am glad to say that none of them is a Belfast-based councillor, because many times, most things centre on Belfast and it is as though no one lives

outside Belfast. I do not think that we have any Belfast representatives on this Committee. We are all on the same page with that one. I certainly see the importance of that for the areas that we all represent, and I am sure that my colleagues see the same. As far as this Committee is concerned, there is life outside Belfast. Thanks for the presentation.

8 December 2014

Members present for all or part of the proceedings:

1118. **The Chairperson (Mr Clarke):** I inform members that the Committee will now agree separately each clause of and schedule to the Bill. A hard copy of the Bill as introduced has been provided.

Question, That the Committee is content with clause 1, put and agreed to.

Question, That the Committee is content with the schedule, put and agreed to.

Question, That the Committee is content with the long title, put and agreed to.

1119. **The Chairperson (Mr Clarke):** We will now move into closed session to discuss the Committee report on the Bill. Are members content for the work experience student to remain in the Room? He is with me.

Members indicated assent.

8 December 2014

Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
 Mr Seán Lynch (Deputy Chairperson)
 Mr Joe Byrne
 Mr Alex Easton
 Mr Ross Hussey
 Mr Declan McAleer
 Mr David McNarry
 Mr Stephen Moutray

1120. **The Chairperson (Mr Clarke):** Are members content with paragraph 1?

Members indicated assent.

1121. **The Chairperson (Mr Clarke):** Thank you. We have been through this process before.

1122. Are members content with paragraph 2?

Members indicated assent.

1123. **The Chairperson (Mr Clarke):** Are members content with paragraph 3?

Members indicated assent.

1124. **The Chairperson (Mr Clarke):** Are members content with paragraph 4, as amended?

Members indicated assent.

1125. **The Chairperson (Mr Clarke):** Are members content with paragraph 5?

Members indicated assent.

1126. **The Chairperson (Mr Clarke):** Are members content with paragraph 6?

Members indicated assent.

1127. **The Chairperson (Mr Clarke):** Are members content with paragraph 7?

Members indicated assent.

1128. **The Chairperson (Mr Clarke):** Are members content with paragraph 8?

Members indicated assent.

1129. **The Chairperson (Mr Clarke):** Are members content with paragraph 9?

Members indicated assent.

1130. **The Chairperson (Mr Clarke):** Are members content with paragraph 10, as amended?

Members indicated assent.

1131. **The Chairperson (Mr Clarke):** Are members content with paragraph 11?

Members indicated assent.

1132. **The Chairperson (Mr Clarke):** Are members content with paragraph 12?

Members indicated assent.

1133. **The Chairperson (Mr Clarke):** Are members content with paragraph 13?

Members indicated assent.

1134. **The Chairperson (Mr Clarke):** Are members content with paragraphs 15 to 23?

Members indicated assent.

1135. **The Chairperson (Mr Clarke):** Are members content with paragraph 14, to jump back slightly?

Members indicated assent.

1136. **The Chairperson (Mr Clarke):** Are members content with paragraphs 24 to 28?

Members indicated assent.

1137. **The Chairperson (Mr Clarke):** Are members content with paragraph 29, as amended?

Members indicated assent.

1138. **The Chairperson (Mr Clarke):** Are members content with paragraphs 30 to 37?

Members indicated assent.

1139. **The Chairperson (Mr Clarke):** Are members content with paragraph 38, as amended?

associated minutes of proceedings and appendices to be ordered to be printed?

Members indicated assent.

Members indicated assent.

1140. **The Chairperson (Mr Clarke):** Are members content with paragraphs 39 to 41?

Members indicated assent.

1141. **The Chairperson (Mr Clarke):** Are members content with paragraph 42, as amended?

Members indicated assent.

1142. **The Chairperson (Mr Clarke):** Are members content with paragraph 43?

Members indicated assent.

1143. **The Chairperson (Mr Clarke):** Are members content with paragraphs 44 to 47?

Members indicated assent.

1144. **The Chairperson (Mr Clarke):** Are members content with paragraph 48, as amended?

Members indicated assent.

1145. **The Chairperson (Mr Clarke):** Are members content with paragraphs 49 and 50?

Members indicated assent.

1146. **The Chairperson (Mr Clarke):** Are members content with paragraph 51, as amended?

Members indicated assent.

1147. **The Chairperson (Mr Clarke):** Are members content with paragraphs 52 to 54?

Members indicated assent.

1148. **The Chairperson (Mr Clarke):** Are members content for the extract of today's minutes to be put in the report?

Members indicated assent.

1149. **The Chairperson (Mr Clarke):** Are members content for the report and the



Northern Ireland
Assembly

Appendix 3

Written Submissions

(a) DALO D49 2014 Off-Street Parking (Functions of District Councils) Bill letter (2)

CENTRAL MANAGEMENT BRANCH

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 40836
Facsimile: (028 905) 40064
Email: Julie-Ann.Dutton@drdni.gov.uk

Your reference: DALO/D49/2014
Our reference:

22 August 2014

Dear Paul

Off-Street Parking (Functions of District Councils) Bill

At the Committee meeting on 4 June 2014, officials gave an undertaking to provide Members with a copy of the responses received during the Consultation on the Off-Street Parking (Functions of District Councils) Bill.

The Consultation closed on Friday 8 August 2014 and there were 13 responses in total. Please find attached a copy of these responses for the Committee's information.

This letter and enclosures are fully disclosable under FOI.

Yours sincerely



JULIE-ANN DUTTON
Central Management Branch

From: Paul Casey
To: RMPB_Roads
Cc: Rhoda.Gray; "h.hall@newtownabbey.gov.uk"; Olive.McCartney
Subject: TRIM: Response to Off-Street Parking Bill consultation
Date: 01 August 2014 11:10:16
Attachments: [Off_Street_Parking.docx](#)

To whom it may concern,

Please find attach a response to the Off-Street Parking Bill consultation document submitted on behalf of Antrim and Newtownabbey District Council.

If you require anything further please do not hesitate to contact me.

Kind regards,

Paul

Paul Casey | Information Governance Officer | Antrim Borough Council | 50 Stiles Way | Antrim | BT41 2UBT: 028 9446 3113 | E: paul.casey@antrim.gov.uk | W: www.antrim.gov.uk

Paul Casey | Information Governance Officer | Antrim Borough Council | 50 Stiles Way | Antrim | BT41 2UB
T: 028 9446 3113 | E: paul.casey@antrim.gov.uk | W: www.antrim.gov.uk

email banner



This email and any files transmitted with it are confidential and intended solely for rmpb@drdni.gov.uk, rhoda.gray@antrim.gov.uk, h.hall@newtownabbey.gov.uk, olive.mccartney@antrim.gov.uk. If you have received this email in error please contact paul.casey@antrim.gov.uk. Please note that any views or opinions presented in this email are solely those of paul.casey@antrim.gov.uk and do not necessarily represent those of Antrim Borough Council. All messages sent and received by the Council are virus checked, but it is advisable for the recipient to check this email and any attachments for the presence of viruses. The Council accepts no liability for any damage caused by any virus transmitted in this email.

Antrim & Newtownabbey District Council Submission to DRD



Proposal for an Off-Street Parking (Functions Of District Councils) Bill – Consultation

**Response
Antrim & Newtownabbey District Council**

17th July 2014

Background

The following response to the proposal for an Off-Street Parking (Functions Of District Councils) Bill has been prepared to reflect the views of Antrim and Newtownabbey District Council ("the Council").

Comments on the Off-Street Parking (Functions Of District Councils) Bill

1. In the main the Council is content with the Bill. However the Council note that the Bill only deals with transfer of the function and assets to the councils. It does not set out any details about management, costs, and enforcement as this is at the sole discretion of the councils. It would be useful if the Department would provide some guidance on these matters as the Council is not familiar with the logistics of this function.
2. The Council is not objecting to the transfer of this function however the Council is of the view that a greater assessment by the Council and the Department needs to be undertaken to ensure that the off-street car parks are fit for purpose and proposals are in place for their adequate funding prior to transfer to the Council.
3. The Council will need to see and assess a complete list of income and costs to include contract payments, maintenance, street lighting, rent, and rates (i.e. running costs and income).
4. The Council will need to know the car parks insurance claims history.
5. The Council seeks clarification as to what is meant by "cost neutral" at the point of transfer for both the Department and the Council.
6. The Council understands that enforcement and servicing of on- and off-street parking is provided through a contract between DRD and NSL (parking management company). The 4 year contract began on October 2012, ends in 2016 and can be extended to 2022. NSL employs over 200 staff. Processing of Penalty Charge Notices (PCNs) is done by DRD staff, using an ICT contract with Spur Information Solutions Ltd., ending in October 2016. To operate the car parking service, DRD has agreements with many stakeholders including: Client and Direct Service arms of DRD; hardware and payment software providers; DVA and its Irish counterpart DVCSD; and the Enforcement of Judgements Office.
7. Having regard to the above the Council agrees as recommended by the Department that the Department should continue to enforce parking contraventions and PCNs within those relevant parking places up until the expiry of the Departments existing contracts with the private sector in 2016. The Council is of the opinion that the servicing contracts of the relevant off-street parking should also continue as mentioned above to 2016. The Council is of the view that this will allow time to assess what is the best way to move forward and it will also maintain service delivery.
8. The Council would encourage further discussions with the Department to resolve any matters regarding off street parking prior to the Council accepting legal ownership.

Dear Sirs,

I refer you to the attached letter. To date we have not received a full response from the Department to our response to the consultation document. However we have met with officials from the Department and hope to receive the information very soon.

If you require anything further please do not hesitate to contact me.

Kind regards,

Paul

Paul Casey | Information Governance Officer | Antrim Borough Council | 50 Stiles Way |
Antrim | BT41 2UBT: 028 9446 3113 | E: paul.casey@antrim.gov.uk | W:
www.antrim.gov.uk



**Proposal for an Off-Street Parking (Functions Of District Councils)
Bill – Consultation**

**Response
Antrim & Newtownabbey District Council**

17th July 2014

Background

The following response to the proposal for an Off-Street Parking (Functions Of District Councils) Bill has been prepared to reflect the views of Antrim and Newtownabbey District Council ("the Council").

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8. The Council would encourage further discussions with the Department to resolve any matters regarding off street parking prior to the Council accepting legal ownership.



27 October 2014

ANTRIM AND NEWTOWNABBEY DISTRICT COUNCIL
www.antrimandnewtownabbey.gov.uk

CE/STC/92

Mr Trevor Clarke MLA
Room 351
Parliament Buildings
Ballymiscaw
Stormont
BELFAST, BT4 3XX

Dear Mr Clarke

Re: Transfer of Off-Street Car Parks

Please find attached a copy a letter to Minister Kennedy, in relation to the transfer of Off-Street Car Parks.

I would be grateful if you would bring this to the attention of the Regional Development Committee by way of evidence.

Yours sincerely

A handwritten signature in black ink that reads 'Jacqui Dixon'.

Jacqui Dixon, BSc MBA

Chief Executive, Antrim & Newtownabbey District Council

Enc. Copy of letter to Minister Kennedy

ANTRIM BOROUGH COUNCIL
Antrim Civic Centre 50 Stiles Way Antrim BT41 2UB
T: 028 9446 3113 F: 028 9448 1324
E: info@antrim.gov.uk
www.antrim.gov.uk

NEWTOWNABBEY BOROUGH COUNCIL
Mossley Mill Newtownabbey BT36 5QA
T: 028 9034 0000 F: 028 9034 0200
E: info@newtownabbey.gov.uk
www.newtownabbey.gov.uk



ANTRIM AND NEWTOWNABBEY DISTRICT COUNCIL
www.antrimandnewtownabbey.gov.uk

27 October 2014

CE/STC/92

Minister Danny Kennedy
Minister for Regional Development
10-18 Adelaide Street
BELFAST
BT2 8GB

Dear Minister Kennedy

Re: Transfer of Off-Street Car Parks

The Council understands that the Assembly is considering placing a restriction on the resale of the off-street car park land being transferred to the Councils. It was the expectation and belief of the Council that the full title of these lands was being transferred to Councils without any conditions or restrictions.

The Council is of the view that if any restrictive covenant regarding the resale of the said lands was put in place, this would impede its reasonable use and development by the Council. The Council acknowledges the importance of having car parking spaces in the council area and to this end the Council would reassure you that if the transferring car parks are to be used for a different purpose in the future then the Council is committed to providing car parking facilities in the same area.

Yours sincerely

Jacqui Dixon, BSc MBA

Chief Executive, Antrim & Newtownabbey District Council

ANTRIM BOROUGH COUNCIL
Antrim Civic Centre 50 Stiles Way Antrim BT41 2UB
T: 028 9446 3113 F: 028 9448 1324
E: info@antrim.gov.uk
www.antrim.gov.uk

NEWTOWNABBEY BOROUGH COUNCIL
Mossley Mill Newtownabbey BT36 5QA
T: 028 9034 0000 F: 028 9034 0200
E: info@newtownabbey.gov.uk
www.newtownabbey.gov.uk

Armagh Banbridge & Craigavon District Council Submission to DRD

ARMAGH BANBRIDGE AND CRAIGAVON DISTRICT COUNCIL
30 /7 2014

**RESPONSE CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING
(FUNCTIONS OF DISTRICT COUNCILS) BILL**

The Draft Bill

In terms of the Bill, it is considered that clarification should be given in respect of the process of Appeal in the case of someone being issued with a Penalty Charge Notice. It would be appreciated if it could be made clear as to what Appeal process is envisaged and if District Councils will have the final decision in this matter.

Whilst reference is made to amendments to Articles from 5-28 and Article 38, it is considered that there are other Articles in the Traffic Management (Northern Ireland) Order 2005 which would also require amendment, e.g. dealing with disabled persons and disabled parking badges.

Additional Comments

It is considered that in advance of the transfer of responsibility for off-street car parks, Councils would require the following information:-

1. Copies of the current contracts with NSL in respect of enforcement and Spur Information Solutions Ltd in respect of the IT contract for Penalty Charge Notices processing including confirmation as to whether or not these can be extended beyond the current contract expiry date of 2016. It would also be important that Councils have sight of any contracts and/or agreements that the Department has entered into with third parties on the management and operation of the car parks;
2. The Council would insist on engagement on areas of contractual arrangements that the Department may have on current staffing matters with third party operatives;
3. Copies of title documents pertaining to each off-street car park which the Department intends to transfer to Councils. For clarity purposes in the introductory letter it states, "to facilitate that, it is proposed that the majority of the Department's existing off-street parking places will transfer to the new Councils." Would it be possible to clarify which off-street car parks, if any, are not transferring to the new Council in the Armagh, Banbridge and Craigavon District Council area?;
4. It would be a pre-requisite that current ICT systems integration measures/requirements are clearly articulated within the report, so that agreement and costs can be reached prior to transfer;

5. Copies of definitive maps delineating the precise boundary of each car park;
6. Details of rates assessments for each of the car parks;
7. Condition reports on each car park, i.e. to include maintenance records for the surfacing; line marking; street lighting; and ancillary equipment such as machines, barriers etc. Under Due Diligence, will any defects be rectified prior to the date of transfer?;
8. The requirement for the history of insurance claims both settled and pending must be provided as a baseline for transfer and an assurance from the Department that any claim not settled will be concluded by the Department even after the point of transfer;
9. Confirmation is also required that any claims for damages arising out of incidents occurring prior to the transfer date will remain with the Department for Regional Development;
10. Details of any rights-of-way, easements and/or any other rights claimed over the subject car parks;
11. The Council will require to view arrangements on current staffing matters with regards to their terms and conditions and the "TUPE inference" for those staff who may transfer to Councils on 1st April 2015; and
12. The Council welcomes the fact that all Asset Transfers will be detailed as cost neutral at the point of transfer.
13. Council would also seek an assurance that any assets transferred will not be subject to any conditions or restrictions.

Should the Department wish to engage in a follow up meeting to discuss any matters raised in the Council's response, please contact Eamonn Kelly, Change Management Officer – telephone number 028 3752 9600 - to arrange such a meeting.

Banbridge District Council Submission to DRD



BANBRIDGE
DISTRICT COUNCIL

CIVIC BUILDING, DOWNSHIRE ROAD, BANBRIDGE, CO. DOWN, BT32 3JY
T: 028 4066 0600 F: 028 4066 0601 E: info@banbridge.gov.uk W: www.banbridge.gov.uk

PAT CUMISKEY - ACTING CHIEF EXECUTIVE

Our Ref: GD/5/1/CMcC

6 August 2014

Mr J G Anketell
Department for Regional Development
Transport Policy, Strategy and Legislation Division
Room 3-01
Clarence Court
Adelaide Street
BELFAST
BT2 8GB

Dear Mr Anketell

CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

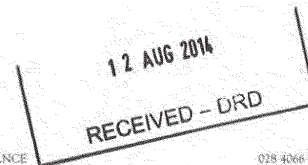
At a recent meeting of Council, your letter dated 23 June 2014 regarding proposals for an Off-Street Parking (Functions of District Councils) Bill was considered by Members.

Members considered the response to this consultation from the Armagh, Banbridge, Craigavon Shadow Council and have agreed to support this response which I have attached to this letter.

Yours sincerely

PAT CUMISKEY
Acting Chief Executive

Enc



BUILDING CONTROL	028 4066 0603
COMMUNITY PLANNING	028 4066 0644
COMMUNITY SERVICES	028 4066 0643
ECONOMIC DEVELOPMENT & REGENERATION	028 4066 0609
ENVIRONMENTAL HEALTH	028 4066 0606



**INVESTORS
IN PEOPLE**

FINANCE	028 4066 0607
HUMAN RESOURCES	028 4066 0608
LEISURE SERVICES	028 4066 0605
MEMBER SERVICES	028 4066 0602
TECHNICAL SERVICES	028 4066 0604

**Appendix 1
DRAFT RESPONSE CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING
(FUNCTIONS OF DISTRICT COUNCILS) BILL**

The Draft Bill

In terms of the Bill, it is considered that clarification should be given in respect of the process of Appeal in the case of someone being issued with a Penalty Charge Notice. It would be appreciated if it could be made clear as to what Appeal process is envisaged and if District Councils will have the final decision in this matter.

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It is considered that in advance of the transfer of responsibility for off-street car parks, Councils would require the following information:-

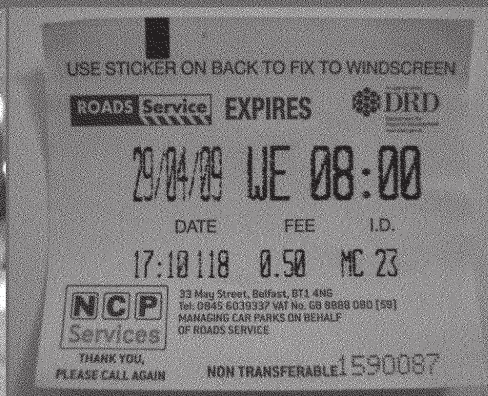
1. Copies of the current contracts with NSL in respect of enforcement and Spur Information Solutions Ltd in respect of the IT contract for Penalty Charge Notices processing including confirmation as to whether or not these can be extended beyond the current contract expiry date of 2016. It would also be important that Councils have sight of any contracts and/or agreements that the Department has entered into with third parties on the management and operation of the car parks;
2. The Council would insist on engagement on areas of contractual arrangements that the Department may have on current staffing matters with third party operatives;
3. Copies of title documents pertaining to each off-street car park which the Department intends to transfer to Councils. For clarity purposes in the introductory letter it states, "to facilitate that, it is proposed that the majority of the Department's existing off-street parking places will transfer to the new Councils." Would it be possible to clarify which off-street car parks, if any, are not transferring to the new Council in the Armagh, Banbridge and Craigavon District Council area?;
4. It would be a pre-requisite that current ICT systems integration measures/requirements are clearly articulated within the report, so that agreement and costs can be reached prior to transfer;
5. Copies of definitive maps delineating the precise boundary of each car park;

6. Details of rates assessments for each of the car parks;
7. Condition reports on each car park, i.e. to include maintenance records for the surfacing; line marking; street lighting; and ancillary equipment such as machines, barriers etc. Under Due Diligence, will any defects be rectified prior to the date of transfer?;
8. The requirement for the history of insurance claims both settled and pending must be provided as a baseline for transfer and an assurance from the Department that any claim not settled will be concluded by the Department even after the point of transfer;
9. Confirmation is also required that any claims for damages arising out of incidents occurring prior to the transfer date will remain with the Department for Regional Development;
10. Details of any rights-of-way, easements and/or any other rights claimed over the subject car parks;
11. The Council will require to view arrangements on current staffing matters with regards to their terms and conditions and the "TUPE inference" for those staff who may transfer to Councils on 1st April 2015; and
12. The Council welcomes the fact that all Asset Transfers will be detailed as cost neutral at the point of transfer.
13. Council would also seek an assurance that any assets transferred will not be subject to any conditions or restrictions.

Should the Department wish to engage in a follow up meeting to discuss any matters raised in the Council's response, please contact Eamonn Kelly, Change Management Officer – telephone number 028 3752 9600 - to arrange such a meeting.

Belfast City Centre Management Submission to DRD

Belfast City Centre Management's Response to DRD's Consultation Paper



**PROPOSAL FOR AN OFF-STREET PARKING
(FUNCTIONS OF DISTRICT COUNCILS) BILL**

August 2014



INTRODUCTION

Belfast City Centre Management (BCCM) is grateful to the Department for the opportunity to respond to the proposal through the consultation process, launched by the Department for Regional Development.

ABOUT BELFAST CITY CENTRE MANAGEMENT COMPANY

This response is submitted on behalf of BCCM, a public/private sector partnership, established to bring together key stakeholders within the city centre with the following mission statement:

'BCCM will deliver additional services into Belfast city centre, on behalf of its core funders, which contribute in a measurable way to a cleaner, safer and more accessible city'

Working as an operational vehicle for Belfast City Council (BCC), the Department for Social Development (DSD) and Belfast Chamber of Trade & Commerce (BCTC), BCCM acts as an enabler, facilitator and coordinator in the city centre.

BCCM works in partnership with its key stakeholders to deliver a shared city centre agenda through bespoke Action Groups, focusing on the following three areas:

- Economic Performance,
- Public Space Management and
- Safer City.

BCCM is a company limited by guarantee and has been structured in such a way that enables the private sector to become involved in the improvement of Belfast city centre and influence the decision-making process by the inclusion of Belfast Chamber of Trade & Commerce on the BCCM Board. The relationship with BCTC is set out in the strategic alliance, outlining the relationship between both organisations.

RESPONSE TO THE PROPOSAL

BCCM does not have an issue with the transfer of off-street car parking management to local Councils. However, BCCM would be concerned that the retention of 'park and ride' and also 'park and share' car parks by the Department may lead to confusion among the public, particularly after the contracted private sector enforcement expires in 2016, as, potentially, different organisations could be appointed by the Department and the local councils to enforce parking regulations in public sector-managed car parks within the same towns and cities of Northern Ireland.

BCCM would be of the view that one organisation should be responsible for all of the relevant car parks to ensure that a standardised and consistent approach to management, enforcement and administration is applied across the board.

From: [David Dornan](#)
To: [RMPB, Roads](#)
Subject: Belfast City Centre Management Company response to the DRD consultation paper on the transfer of off-street parking to local government
Date: 08 August 2014 15:36:43
Attachments: [DRD Consultation response Proposal for an off-street parking \(functions of district councils\) bill 8 August 2014.pdf](#)
Importance: High

Dear Mr/Ms Anketell,

Please find attached the response of Belfast City Centre Management Company to the DRD consultation paper on the transfer of off-street parking to local government.

Thank you for providing the opportunity to participate in this process.

Yours sincerely,

David Dornan
Assistant Operations Manager
Belfast City Centre Management Company
2nd Floor, Sinclair House,
95-101, Royal Avenue,
Belfast BT1 1FE
T: 028 90242111 Mob: 07879236258 F:028 90230809
www.belfastcentre.com d.dornan@belfastcentre.com

Belfast City Council Submission to DRD

From: [Anne Stone](#)
To: [RMPB, Roads](#)
Cc: [Anketell, Gerry](#)
Subject: Response to Consultation on Proposals for an Off-Street Parking (Functions of District Councils) Bill
Date: 08 August 2014 17:55:41
Attachments: [J.G. Anketell DRD - Consultation Response 8.8.14.pdf](#)
Importance: High

Please find attached letter from the Chief Executive in relation to Belfast City Council's response to '*Consultation on Proposals for an Off-Street Parking (Functions of District Councils) Bill*'.

Would you mind acknowledging receipt please.

With many thanks

Anne Stone
Chief Executive's Office
Belfast City Council, City Hall, Belfast BT1 5GS

stonea@belfastcity.gov.uk
Tel: 028 9027 0563
Internal Ext: 6005

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Chief Executive's Department



Your reference

Our reference SW/as

Date 8 August 2014

Mr J G Anketell
 Department for Regional Development
 Transport Policy, Strategy and Legislation Division
 Room 3-01
 Clarence Court
 10-18 Adelaide Street
 BELFAST BT2 8GB

Dear Mr Anketell

**RE: CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING
 (FUNCTIONS OF DISTRICT COUNCILS) BILL**

In relation to the above consultation I would like to submit the response below as an officer response for which I will subsequently be seeking Council approval. I trust pending Council approval that my comments will help to inform your consultation process.

Belfast City Council welcomes the Department's proposal to provide district councils with the necessary legislative powers to discharge the responsibilities transferring to them in relation to the ownership, management and enforcement of off-street car parks on 1 April 2015 as part of Local Government Reform.

The Council strongly supports the intentions of the legislation as laid out in the explanatory memorandum and in particular the statement that '*all assets relating to the ownership, management and operation of off-street car parks would need to transfer to councils*'. The transfer to Belfast of all assets in relation to off-street car parking is key to the realisation of the Council's vision for the city in terms of place shaping and the contribution that these assets will make when linked to the wider regeneration and economic proposals that will be developed as part of the overall local government reform programme.

Transfer without restrictions

It is in this context that the Council would seek assurance from the Department that the lands required by the Council to perform its off-street parking functions are transferred without restriction. In addition, the Council is aware that there are wider discussions required about the whole transfer of assets and would be concerned that some of the car parks previously listed are now not being proposed to transfer.

Belfast City Council, Chief Executive's Department,
 City Hall, Belfast BT1 5GS
 Tel: 028 9027 0202, Textphone: 028 9027 0405, Fax: 028 9027 0232
 Email: wylies@belfastcity.gov.uk



**INVESTORS
 IN PEOPLE**

-2-

The Department has recently proposed that a number of fee paying car parks may only transfer under lease or licence and that the Council will operate these car parks during the interim period whilst DRD retain ownership. The net effect of this proposal would be that at a future point in time, potentially 25% of the total car parking spaces will not be available to the Council, and that the Council, with statutory responsibility for car parking may have to make alternative provision with significant financial consequences. This proposal would appear to run contrary to the provisions as envisaged in the draft Bill and accompanying Explanatory Memorandum and the Council would be firmly of the view that the transfer of functions to councils includes the transfer of all street car parking places situated in the Belfast district.

The Council's ability to deliver functions previously exercised by the Department will be hindered greatly if a number of car parks are excluded from transfer and utilised for a different purpose in the near future without alternative provision being made or the Council being recompensed financially (which would allow the Council to fund re-provision as appropriate).

Budget allocation

The Council would wish to record its concern regarding the recent budget allocation information provided by the Department and the impact that this may have on the net effect of the budget transfer.

The Council notes that the recent figures provided by the Department in relation to the budget allocation for off-street parking differ substantially from earlier figures provided in the Deloitte due diligence report. The Council also notes that the changes proposed to the Deloitte due diligence figures would mean a further detriment to the Council if the net surplus was offset against other transferring budgets. This could impact on the Council's ability to, for example, reduce charges as part of the economic strategy for the regeneration of the City centre. Explanation of the rational detail of the proposed changes to the figures would need to be communicated to Councils. This proposal to offset the net surplus is an issue which will require both political exposure and engagement with Members.

The Council has met with Departmental officials in the past week and the Department has agreed to have further detailed discussions with the Council on how to resolve these important issues. ***The Council would also like to take this opportunity to invite the Department to provide a briefing for elected Members on the proposals for transfer as soon as possible.***

Specific comments on the draft Bill

The proposed Bill suggests that regulation making powers will remain the responsibility of the Department. In particular regulations relating to:

- Approving prescribed devices for gathering admissible evidence [Traffic Management (Northern Ireland) Order 2005, Article 8(3)];
- Revoking or amending previous regulations which determine parking devices [Road Traffic Regulation (Northern Ireland) Order 1997, Article 13];
- Specifying prescribed conditions for the immobilisation of vehicles [Traffic Management (Northern Ireland) Order 2005, Article 18(6)];
- Specifying prescribed conditions for the removal of vehicles [Traffic Management (Northern Ireland) Order 2005, Article 21 (8)];
- Specifying prescribed charges for the immobilisation and release of vehicles [Traffic Management (Northern Ireland) Order 2005, Article 24(1)];

-3-

- Specifying prescribed charges for the removal, disposal and storage of vehicles [Traffic Management (Northern Ireland) Order 2005, Article 24(1)];
- Specifying amounts of penalty charges, contraventions in relation to which a penalty charge is payable and percentages by which any penalty charge may be reduced or increased [Traffic Management (Northern Ireland) Order 2005, Articles 4(3) and 4(4)].

Given the new responsibilities transferring to the Council, the Council would like the opportunity to influence any regulations which are made, amended or revoked in the future in relation to off-street car parking. As such the Council would respectfully request that the Department makes an amendment to the Bill to reflect that the making of new regulations or the revoking or amendment of existing regulations relating to off-street car parking should be subject to consultation with local authorities.

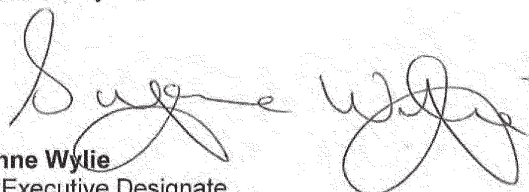
The Council would request that paragraphs (1) and (2) of Article 25 (Parking Attendants) of the 1997 Order be extended to include the word 'authorise' in addition to the word 'appoint'.

In summary the Council welcomes the proposed legislation but would seek reassurances from the Department that the car parks are transferring without restriction and would suggest that the legislation may wish to make this explicit.

I trust this information will assist the Department in the consultation process. If however you require any further information or clarification please contact Mr Damian Connolly, Environmental Health Manager, on 028 90320202 Ext 3361 or by email at connollyd@belfastcity.gov.uk

I would again highlight that this is an officer response and I will be seeking the views of Members through the appropriate committee. I intend to update you further once the Council has considered the proposed Bill more formally.

Yours sincerely



Suzanne Wylie
Chief Executive Designate

Belfast City Council Submission to Committee

Chief Executive's Department



Your reference

Our reference SW/as

Date 30 October 2014

Mr Paul Carlisle
Committee for Regional Development
Room 254
Parliament Buildings
Stormont
BELFAST BT4 3XX
Email: committee.regionaldevelopment@niassembly.gov.uk

Dear Mr Carlisle

OFF-STREET CAR PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Belfast City Council welcomes this opportunity to make a submission of written evidence to the Committee for Regional Development in relation to the Off-Street Car Parking (Functions of District Councils) Bill.

The Council welcomes the Department for Regional Development's proposals to provide district councils with the necessary legislative powers to discharge the responsibilities transferring to them in relation to the ownership, management and enforcement of off-street car parks on 1 April 2015 as part of Local Government Reform. The transfer of this function is vital to the realisation of the Council's vision for the City in terms of place shaping and the development of an economic strategy for the regeneration of the city centre.

The Council is aware that this is a single clause Bill which will simply transfer responsibility for off-street car parking from the Department to the councils. Whilst the Council does not have any major issues with the text of the Bill, there remain a number of potential concerns in relation to the transfer of the assets related to the function and the associated budget. These potential concerns have been set out below for the Committee's information.

1. Transfer without restrictions

In response to the consultation on the Bill, Belfast City Council requested assurances from the Department that the lands required by the Council to perform its off-street parking functions would be transferred without restriction. This is key to the realisation of the Council's vision for the City in terms of place shaping and the contribution that these assets will make when linked to the wider regeneration and economic proposals that will be developed as part of the overall local government reform programme. The Council strongly supports the position taken by the DRD Minister, Danny Kennedy MLA, at the Assembly Second Stage debate on the Bill on 21 October, when he indicated "*that there should be no restrictive conditions as the powers are transferred to the councils*" as the inclusion of such provisions "*could remove a council's ability, potentially, to progress any town centre regeneration proposal for the benefit of local citizens*". It would be helpful if written details on these assurances could be provided as soon as possible.

Belfast City Council, Chief Executive's Department,
City Hall, Belfast BT1 5GS
Tel: 028 9027 0202, Textphone: 028 9027 0405, Fax: 028 9027 0232
Email: wylies@belfastcity.gov.uk



-2-

2. Non-Transfer of Assets

Within its response to the draft Bill, the Council highlighted concerns in relation to the proposed retention by DRD of a number of car parks due to transfer to the Council. The Council has since been informed by the Department that the 5 car parks associated with the proposed City Centre Link Road scheme, together with Shaw's Bridge and Parkgate Avenue car parks will now transfer to the Council. This is a very helpful development. The Council would note the recent statement made by the Minister on 21 October that these car parks will transfer to Belfast City Council with the proposed exception of Corporation Street car park, which the Department has stated is required for the development of the York Street Interchange. The Council would ask the Committee to support the Council's stated position that all off-street car parks should transfer to the Council in full.

If DRD ultimately insists on retaining this car park, the Council would contend that it be recompensed, at open market value, for the loss of this car park and to enable it to replace the 124 parking spaces lost. Replacing these lost spaces will be important to ensuring accessibility to the city centre and supporting the local economy.

It also contends that the estimated surplus income of £65,000 would need to be excluded from the final budget transfer calculation (to ensure rates neutrality).

With respect to the Shaw's Bridge car park, we are content with the proposed transfer of the car park. However Elected Members would seek an assurance that responsibility for the old bridge and associated infrastructure, which could be a significant liability in terms of maintenance and upkeep, will not transfer to the Council.

There are 5 car parks currently leased/licensed by DRD from other public sector bodies including NIHE and Belfast Harbour Commissioners. These are held on short term licence agreements, some of which have already expired (with DRD over holding), and there is therefore no security of tenure with these car parks. The Council feels that the income from these car parks should be excluded from the rates neutral calculation as there is no guarantee that these car parks will be available in the longer term for Council use.

The Council would seek the support of the Committee in ensuring that the Department provides a decision on the final and complete list of car parks transferring and any conditions which may be attached as soon as possible.

The Council would also seek the support of the Committee in ensuring that the following principles are applied by the Department in respect of any decision not to transfer a specific car park to the Council:

- That the Council is recompensed at open market value for the loss of the car park and the associated car parking spaces to ensure replacement spaces can be provided;
- That the income from any such car park is excluded from the rates neutral calculation and is therefore not offset against other transferring budgets;
- That the income from any non secured licensed/leased car parks is excluded from the rates neutral calculation and is therefore not offset against other transferring budgets.

3. Budget allocation

The Council would also like to take this opportunity to record its concern regarding the recent budget allocation information provided by the Department and the impact this may have on the net effect of the budget transfer. The 11 Councils have engaged Deloitte to carry out a further due diligence exercise to question the discrepancies between the initial figures provided and those provided more recently.

-3-

The Council would have significant concerns that the principle whereby the net surplus from off street car parking is offset against other transferring budgets. This could impact on the Council's ability to, for example, reduce charges as part of the economic strategy for the regeneration of the city centre. In this regard, the Council would seek confirmation that the financial allocation model will not negatively impact on the Council's ability to reduce charges if considered appropriate to support the local economy, without putting a burden on the rates.

The Council would seek the support of the Regional Development Committee in ensuring that the Department are committed to providing the Council with the title and lease details, as well as the confirmed financial figures for all transferring car parks at the earliest opportunity to allow the Council to ascertain the nature of the transferring interests and assess any implications for the Council. The Council would also seek an assurance that any remedial works required to ensure assets are fit for purpose shall be completed prior to transfer.

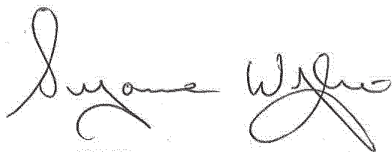
4. Specific comments on the Bill

Through the consultation process the Council also highlighted its desire to influence any regulations which are made, amended or revoked in the future in relation to off-street car parking and respectfully requested that the Department makes an amendment to the Bill to reflect that the making of new regulations or the revoking or amendment of existing regulations relating to off-street car parking should be subject to consultation with local authorities. The Council is aware of discussions at the Committee for Regional Development meeting on 8 October 2014, where assurances were given that should DRD make any new regulations or changes to existing regulations, councils will be consulted first.

The Council also suggested that the Bill provides for an amendment to paragraphs (1) and (2) of Article 25 (Parking Attendants) of the Road Traffic Regulation (NI) Order 1997 to include the word 'authorise' in addition to the word 'appoint'. The Council would seek the word 'authorise' to be added to the Bill to allow for councils to authorise parking attendants to carry out the off-street parking function on their behalf, through a service level agreement with DRD, who appoint parking attendants.

I trust this information will assist the Committee. If however you require any further information or clarification please contact Mr Damian Connolly, Environmental Health Manager, on 028 9032 0202 Ext 3361 or by email at connollyd@belfastcity.gov.uk

Yours sincerely



Suzanne Wylie
Chief Executive

Belfast City Council - Response to Committee Query 20 November 2014

Gavin

Further to the request from Mr McNarry MLA, at yesterday's Oral Evidence Session with the Committee for Regional Development, please find attached the most recent list of car parks transferring to Belfast City Council, as provided by the Department.

You will note that a total of 25 car parks, owned by the Department, are due to transfer to the Council. A further 4 car parks are not owned by the Department and are instead leased from other public sector bodies including NIHE and DSD. In addition Corporation Square car park is partly owned by DRD, with the remaining 14% of the car park owned by Belfast Harbour Commissioners. It will be up to the Council to make arrangements to renew the leases for these car parks, should they decide to do so.

The Department have also indicated that Corporation Street car park may not transfer to the Council as it is required for the development of the York Street Interchange. The Council are still of the position that this car park should transfer.

Mr McNarry MLA also questioned the value of the transferring car parks. The Department have advised that the total net book value of the 25 transferring car parks is £6,815,426.

Please let me know if you would like any further information.

Regards
Carol Ann

Carol-Ann McCrory
Senior Environmental Health Officer

Environmental Health
Belfast City Council
4-10 Linenhall Street
Belfast
BT2 8BP

Email: mccroryc@belfastcity.gov.uk
Tel: 028 90320202 Ext: 3518

www.belfastcity.gov.uk

Car parks due to transfer to Belfast City Council

Charlotte Street
Corporation Square*
Dunbar Street
Exchange Street
Hope Street North
Little Donegall Street
Little Victoria Street
York Street (No1) 60 York Street
Ashdale Street
Marlborough Avenue
Dundela Crescent
Grampian Avenue
Northumberland Street
Ravenscroft Avenue
Sandown Road
Wandsworth Road
Westminster Avenue North
Westminster Avenue East
Westminster Avenue West
Whitla Street
Glenburn Road
Eastside
Parkgate Avenue
Shaws Bridge
Smithfield Market

*86% of car park owned by DRD

Leased car parks

	Owner
Cromac Street	NIHE
Bankmore Street	NIHE
Kent Street	DSD
Station Street	DSD
Corporation Square*	DRD/Belfast Harbour Commissioners

*14% of car park owned by Belfast Harbour Commissioners

Disputed car parks

Corporation Street

Coleraine Borough Council Submission to DRD

From: [John Richardson](#)
To: [RMPB, Roads](#)
Cc: [Aidan Mullan](#); [Bernadette McGuinness](#); [Karen Wallace](#)
Subject: Consultation on Proposals for an off-street parking draft bill
Date: 08 August 2014 15:46:29

DRD Consultation,

Thank you for the opportunity to provide feedback – (closing date 8th August)

Coleraine Borough Councils comments as requested are summarised as follows

Its essential to clarify the following within the proposed draft bill.

1. Your comment – “Councils would, in the future have the power to appoint traffic attendants in respect to off street car parks, but it is anticipated that Council may ask the Dept to continue to enforce contraventions within those parking places up until the expiry of the Dept’s existing **contracts** with the private sector.”

Clarification on point 1

- 1.a - If one or more contract exists – what dates do these terminate ?
- 1.b - Clarification would be needed to assess enforcement officer allocation time – ie on street and off street. ie Council would need a management structure to ensure revenue generation balance.
- 1.c – Contravention enforcement revenue per off road car park – which would be required for future budget holder - critical for financial management ie revenue v operational cost and assessment of enforcement officer activity
- 1.d – Parking charging revenue
- 1e – contract details required
- 2. – Defect reports to assess asset liability upon asset transfer (essential for budget holder)
- 3. – Separation of electrical costs for lighting (poss most lighting fed from existing DRD lighting)
- 4. – Current scheduled maintenance ?
- 5. – Property issues – lease agreements, wayleaves and any other relevant historic info to be provided

Regards

John



**COLERAINE
BOROUGH COUNCIL**

John Richardson

MR JOHN RICHARDSON
 Head of Estates & Facilities
 Coleraine Borough Council.

028 70 347262(w)
07889535689 (m)
john.richardson@colerainebc.gov.uk
<http://www.colerainebc.gov.uk>

Elizabeth Reid Submission to DRD

From: [Elizabeth Reid](#)
To: [RMPB, Roads](#)
Subject: TRIM: Off Street Parking Bill - Consultation Paper
Date: 01 August 2014 17:34:02

Dear Sir

I write with regard to the Consultation Paper on the subject of Off Street Parking.

As a resident of Lisburn City Council, I frequently use the city centre car parks in the course of my work, as well as when shopping or using the services of other businesses. Since the introduction of the '£1 for 5 hours' parking deal in April, I have noticed that there is a significant increase in the number of cars using these car parks. This can only be good for local businesses. It certainly has encouraged me to come into town (and stay longer) when I know that I do not have to be constantly aware of being back to the car before my time is up.

I therefore urge the politicians to pass this bill to transfer powers to local councils and help the local economy (and voters).

Regards

Elizabeth Reid

Elizabeth Reid
Email: elizabeth.reid7@btinternet.com
Tel.: (028) 92651047

Fermanagh & Omagh District Council Submission to DRD

Brendan Hegarty Chief Executive



Your Ref:
Our Ref:
Date: 5 August 2014
Being dealt with by: Brendan Hegarty
Email: brendan.hegarty@fermanaghomagh.com

Mr J G Anketell
DRD Transport Policy, Strategy and
Legislation Division
Room 3-01
Clarence Court
10-18 Adelaide Street
BELFAST BT2 8GB

CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Dear Mr Anketell

Further to your letter dated 23 June 2014, the above consultation paper has been considered by the members of the Fermanagh and Omagh Shadow Council.

I can confirm that the proposals set out in the consultation paper have been broadly endorsed by the Shadow Council.

Yours sincerely

Brendan Hegarty
CHIEF EXECUTIVE



015

Fermanagh & Omagh Shadow Council Submission to DRD

Brendan Hegarty Chief Executive

Your Ref:
Our Ref:
Date: 5 August 2014
Being dealt with by: Brendan Hegarty
Email: brendan.hegarty@fermanaghomagh.com



Mr J G Anketell
DRD Transport Policy, Strategy and
Legislation Division
Room 3-01
Clarence Court
10-18 Adelaide Street
BELFAST BT2 8GB

CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Dear Mr Anketell

Further to your letter dated 23 June 2014, the above consultation paper has been considered by the members of the Fermanagh and Omagh Shadow Council.

I can confirm that the proposals set out in the consultation paper have been broadly endorsed by the Shadow Council.

Yours sincerely



Brendan Hegarty
CHIEF EXECUTIVE



Fermanagh District Council Submission to DRD



1/mm

Robert Gibson B.Sc. Acting Chief Executive

14 August 2014

Mr J G Anketell MBE
DRD
Transport Policy, Strategy &
Legislation Division
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Dear Mr Anketell

Consultation on Proposals for an Off-Street Parking (Functions of District Councils) Bill

At the meeting of Fermanagh District Council on Monday, 4 August 2014 Members considered the above Consultation Paper.

Fermanagh District Council agreed to fully endorse the response from Fermanagh and Omagh District Council and I enclose a copy of that response.

Yours sincerely

Robert Gibson
Acting Chief Executive

Enc

016

Fermanagh and Omagh District Council

Submission to Committee

Brendan Hegarty Chief Executive

Your Ref:
 Our Ref:
 Date: 22 October 2014
 Being dealt with by: Carol Deane
 Email: carol.deane@fermanaghomagh.com



Mr Paul Carlisle
 Clerk to the Committee for
 Regional Development
 Room 254
 Parliament Buildings
 Ballymiscraw, Stormont
 BELFAST BT4 3XX

Off-Street Car Parking (Functions of District Councils) Bill

Dear Mr Carlisle

Thank you for your letter dated 13 October 2014 which was considered at a recent meeting of Fermanagh and Omagh District Council.

The Council is content with the proposals previously set out by the Department and does not wish to make any further comment on the Bill, however, would like to take this opportunity to convey its concerns regarding the condition of car parks transferring to the Council on 1 April 2015 and the implications this will have for the Council and its ratepayers.

The Council commissioned an independent inspection and assessment of the local car parks to transfer to the Council with a view to establishing whether they are currently maintained to an appropriate standard and are fit for purpose. The findings of this report will be shared with Transport NI so as to inform discussions as to the remedial work required and any implications for the budget allocation for the transferring function.

You will be aware that Local Government Reform is based on the principle of rates neutrality and we would seek the support of the Committee in ensuring that this principle is upheld and that any assets transferring will be fit for purpose and supported by an adequate budget allocation.

The Council welcomes the transfer of off-street car parking to local government as this will enable the Council to explore options for town centre regeneration in conjunction with meeting car parking needs. It is important therefore that the assets are transferred without any conditions relating to either use or development.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan Hegarty', is written over a light blue horizontal line.

Brendan Hegarty
 CHIEF EXECUTIVE



Townhall, 2 Townhall Street, Enniskillen
 County Fermanagh, BT74 7BA. Tel 028 66325050

The Grange, Mountjoy Road, Omagh
 County Tyrone, BT79 7BL. Tel: 028 82245321

www.fermanaghomagh.com

Fermanagh and Omagh District Council - Response to Committee 5 December 2015

Brendan Hegarty Chief Executive

Your Ref:
Our Ref: 1/mm
Date: 5 December 2014
Being dealt with by:
Email:



Mr Trevor Clarke MLA
Committee Chairman
Committee for Regional Development
Room 254, Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

Dear Mr Clarke

At the outset, I wish to thank the Committee for Regional Development for meeting in Enniskillen on Wednesday, 26 November 2014 and affording the Council the opportunity to attend and present evidence.

I have had an opportunity to review the official report of the Committee on 26 November and note that during the meeting members considered the contents of the Council's response to the consultation on the Proposed Bill. It is important that members are aware that in July 2014, when members considered the Draft Bill, no budget transfer proposals had been received and the Council had not commenced its inspections of the various car parks in relation to compiling a condition report. The Council only considered the Provisions of the Bill and was content that the Provisions would give legislative effect to the Transfer of the Off Street Car parking function and to provide enforcement powers to Councils in relation to parking contraventions within car parks. It is important that the Committee is aware that the Council's response, at that time, was limited in this regard and that the concerns in relation to the car park conditions and budget transfer proposals arose subsequent to this, as information became available.

I also note from the report that members were disappointed that I did not attend the Committee meeting and did so, in their opinion, without explanation. In my communications with the Clerk of the Committee, I am of the view that it was clear that I would not be able to attend. The Clerk of the Committee had contacted me to offer potential dates for the meeting and I had indicated immediately that 26 November 2014 was a date that I would not be available. On 26 November 2014, I was leading a Council Workshop with the recently appointed Directors to progress work on the Organisation Design for the new Council. Due to the timeline available to get the Organisation Design agreed, it was not possible to rearrange that meeting taking account of the availability of the relevant senior staff. On that basis, I had agreed with the Clerk of the Committee that I would release, from the first phase of the Organisation Design workshop, the recently appointed Director,



Townhall, 2 Townhall Street, Enniskillen
County Fermanagh, BT74 7BA. Tel 028 66325050

The Grange, Mountjoy Road, Omagh
County Tyrone, BT79 7BL. Tel: 028 82245321

www.fermanaghomagh.com

05 December 2014

2

who will be responsible for Off Street Car Parking, so that he could attend the Committee.

As it was important that the Director could participate as fully as possible in the Organisation Design Workshop, I had requested that evidence would be taken from Fermanagh and Omagh District Council first and the Clerk of the Committee offered to commence proceedings at 8.30 am to facilitate my request. I appreciate that the Committee was able to facilitate this and, as a result, the Director concerned, Mr O'Gara, was able to join our Workshop as early as possible. The early start to the session, however, did not facilitate my attendance. Had the meeting taken place on the alternative date suggested, I would have been able to attend.

As I was keen to meet with members of the Committee, I offered to meet with any members who were available on the evening of 25 November, to visit and inspect some of the car parks in Enniskillen. I would like to thank the Committee and especially those members who were available on the evening of the 25th, to meet with Kevin O'Gara, Johnny Glendinning and me and who visited a number of car parks in the area. I did apologise to the members that I was not available for the evidence sessions on the following morning and introduced both Kevin O'Gara and Johnny Glendinning who would attend the Committee, on behalf of the Council.

It would appear from the Hansard Report that those members of the Committee present on 26 November were not aware that I had previously indicated that I was not available on 26th and that I had facilitated and attended the visit to the car parks on the evening of 25th.

The Council's position remains that it is content with the proposals as set down in the Bill but is now extremely concerned that the range of practical issues relating to the transfer of the Off Street Car Parking function including maintenance and budget transfer proposals, as outlined to the Committee, have not been addressed.

I trust that this clarifies the position and, on behalf of Fermanagh and Omagh District Council, thank the Committee for receiving the delegation and taking evidence on behalf of the Council.

Yours sincerely



Brendan Hegarty
Chief Executive

Larne Borough Council Submission to DRD

From: [Lorraine Hunter](#)
To: [RMPB_Roads](#)
Subject: TRIM: Off Street Parking (Function of District Councils) Bill Consultation
Date: 10 July 2014 17:16:37

Dear Sir/Madam

Please see below Larne Borough Council's response to the above consultation:

"Larne Borough Council welcomes the proposed Bill. Council believes that the powers conferred on Mid and East Antrim Council will enable elected representatives the opportunity to manage off street car parks in a way which supports local economic development and community planning policy.

The discounted parking scheme pilot, operational at Agnew Street, Fairhill and Narrow Gauge Road car parks, which aims to support traders, is the type of initiative that Mid and East Antrim may be able to utilise the powers conferred for.

Larne Borough Council would support the contention that the Department continues to enforce parking contraventions until the expiry of its private sector contracts. This would allow the new Councils the time required to embed the transferred functions and have the organisational structures in place to support the operation of off-street car parks and off street parking enforcement."

Trusting the Council's comments will be noted.

Kind regards,
Lorraine Hunter
Head of Democratic & Administrative Services
Smiley Buildings
Victoria Road
Larne

Tel 028 2827 2313

Lisburn City & Castlereagh District Council

Submission to DRD



Lisburn City & Castlereagh District Council

Dr. Theresa Donaldson *Chief Executive*
 Island Civic Centre, The Island, Lisburn, BT27 4RL
 Tel: 028 9250 9451 Email: theresa.donaldson@lisburncastlereagh.gov.uk
www.lisburncity.gov.uk www.castlereagh.gov.uk



Our Ref JT/IW/st

6th August 2014

J G Anketell MBE
 Department for Regional Development
 Transport Policy
 Strategy & Legislation Division
 Room 3-01
 Clarence Court
 10-18 Adelaide Street
 BELFAST
 BT2 8GB

DRD
 11 AUG 2014
 551

Dear Mr Anketell

CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Thank you for the opportunity to respond to the consultation document in regards to the above. The Shadow Council welcomes the proposal that off-street parking places will transfer to council ownership without conditions and looks forward to on-street car parking transferring to district councils at the earliest possible date.

For clarity purposes in your introductory letter you refer, "to facilitate that, it is proposed that the **majority** of the Department's existing off-street parking places will transfer to the new Councils." Would it be possible to clarify which off-street car parks are not transferring to the new Council in the Lisburn City and Castlereagh District Council area?

In the consultation paper it refers to a due diligence report for the assets portfolio which is to transfer to District Councils, can you please confirm that the due diligence report will cover all of the areas under consideration such as:

- Land
- Pay and Display Machines
- Barriers
- Street Lighting etc.

It would be a pre-requisite that any condition surveys, service level agreements and maintenance arrangements as well as any current ICT systems integration



measures/requirements are clearly articulated within the report, so that agreement can be reached prior to transfer.

The Council would insist on engagement on areas of contractual arrangements that the Department may have on current staffing matters with third party operatives. Can you please provide clarity on what arrangements are proposed within the Bill on the enforcement side where there will be scope for appeal procedures etc?

It will be important that Councils see sight of any contracts and/or agreements that the Department has entered into with third parties on the management and operation of the car parks.

The requirement for the history of insurance claims both settled and pending must be provided as a baseline for transfer and an assurance from the Department that any claim not settled will be concluded by the Department even after the point of transfer.

The Council will require to view arrangements on current staffing matters with regards to their terms and conditions and the "TUPE inference" for those staff who may transfer to Councils on 1st April 2015.

The Council welcomes the fact that all Asset Transfers will be detailed cost neutral at the point of transfer and that the power for councils to set off-street car park tariffs is from 1 April 2015.

Should the Department wish to engage in a follow up meeting to discuss any matters raised in the Council's response, please contact the Chief Executive's Office in Lisburn City and Castlereagh District Council, Civic Building, Lisburn to arrange such a meeting.

Yours faithfully



PP **Councillor James Tinsley**
Presiding Member

Mid & East Antrim District Council Submission to DRD

Mid and East Antrim District Council

Response to the consultation on Off-Street Parking (Functions of District Councils) Bill

Mid and East Antrim's response to this consultation focuses on three specific issues regarding the transfer of off-street parking:

- Finance
- Staffing
- Equality Issues

Members discussed each of these 3 areas in turn and their comments have been added to the draft response in red.

General comments were also made by Members and they wished to add that they welcomed the fact that car parking was being transferred to Local Government and felt it was the right place; however concern was expressed as to how the calculations have been arrived at in terms of the service being transferred at a cost neutral position at April 2015 and felt that the due diligence of this work was carried out on older formulae e.g. the new suggestion for car parking may significantly reduce the income from parking fines which have been used to calculate a cost neutral position.

Members recognised that car parking, whilst a small function in terms of finance and staffing to be transferred, it is a very important issue for the public and one that requires lots of public intervention.

1. Finance

Central to the concept of transfer of functions and powers is the assumption that any such transfer will be cost neutral to the new district councils at the point of transfer.¹ As part of this council's review of the Deloitte due diligence document, indicative figures of capital value, generated income and running costs were obtained from Department officials (May 2014). It was agreed at the July council meeting in the Transferring Functions and Powers to Local Government – key issues for Mid and East Antrim paper, that in relation to car-parking that a local due diligence report should be advanced, and currently officers are liaising with the Department to seek funding for this piece of work. Drawing from the regional Deloitte due diligence report, a number of concerns were raised in relation to car-parking of particular concern, including:

¹ DFP statement / Deloitte Due Diligence Review of Transfer of Functions and Powers to Local Government (May 2014)

- The potentially significant downward adjustment of capital values and generated income in light of recent reductions in parking charges in some, if not all facilities, charges as low as £1 per five hours representing a reduction of between 25% - 80%², will undoubtedly have a knock-on effect in terms of generated income.
- Reduction in parking fees is likely to result in a drop in enforcement charges for staff, as it is less likely that someone will receive a penalty charge through breaching a time limit when it costs £1 for five hours.

Mid and East Antrim should note their on-going concern that the transparency of the cost of the transferring function in this area remains unclear, and that with the downward change in the costs of car-parking, that the cost neutral calculation may not remain cost neutral when council take over.

Concerns are also expressed on the merit of transferring the function to council, whilst at the same time maintaining the existing provision until 2016.

Members also queried the options available for councils, such as the ability to have variations in pricing.

2. Staffing

In its consultation paper, the DRD refers to the potential appointment of parking attendants by the new district councils following the expiry of existing contractual arrangements between the DRD and private sector providers at some point in 2016. This assumes that councils will not opt to put in place their own staffing structure to carry out such enforcement duties.

The current cost of the contract assumes the cost of the staff and therefore it remains unclear for council as to the percentage/finance that will be transferred per staff out of this lump sum. This is further complicated by the dual role of the existing staff under these contracts that not only enforce the off-street parking that will be transferred to council, but also the on-street parking. This remains a very unclear position and should be highlighted as part of this consultation as an on-going concern.

Members highlighted their concern about staffing in the long term and about Council's potential use of their own staff.

3. Equality Issues

With the transfer of off-street parking to Local Government, the function is split between the DRD and Council, and it is important that a partnership approach, in terms of planning future car-parking, is managed to ensure that our towns and villages have enough disabled provision, loading bays and overall parking facilities to enhance our economy. Another consideration

² These are generalised estimates. Detailed analysis of patterns of use on a facility by facility basis is required with particular focus on length of stay and numbers of enforcement notices per site.

Council have identified which needs addressed under this approach is provision of parking for residents who live within town centres.

Council would be keen to ensure that the current and future arrangements have a joined-up approach, for example striking the correct balance between provision in the town centres for residents parking and the desire for all day parking for workforce.

Members also raised concerns that a blanket approach is not taken and that car park pricing can fluctuate depending on the needs of the community allowing for some to be free, some to be charged, and at different rates, if required.

From: [Louise Kennedy](#)
To: [RMPB_Roads](#)
Subject: CONSULTATION ON PROPOSALS FOR AN OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL
Date: 08 August 2014 16:22:46
Attachments: [Off-Street Parking cons aug full council.docx](#)

Please find attached response from Mid and East Antrim District Council for the above consultation.

This was approved by council on 5 August 2014.

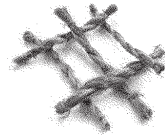
Kind regards
Louise

Louise Kennedy
Change Manager
Mid and East Antrim
T. 02825660388
M. 07808106270
E. Louise.Kennedy@midandeastantrim.gov.uk

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Mid and East Antrim District Council - Response to Committee Queries 20 November 2014

Mid and East Antrim District Council



THE BRAID
BALLYMENA TOWN HALL
MUSEUM & ARTS CENTRE

1 – 29 Bridge Street
Ballymena
Co Antrim
BT43 5EJ

Our Ref: TF/AD/LK

24 November 2014

Mr Paul Carlisle
Clerk to the Committee for Regional Development
Room 254
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Re: Off-Street Parking (Functions of District Councils) Bill

Dear Paul

Thank you for facilitating the delegation from Mid and East Antrim who gave oral evidence on the Off-Street Parking (Functions of District Councils) Bill on Wednesday 19 November 2014.

Following the request of the Chairman, I have forwarded you a copy of a letter which is to be circulated to the Committee as evidence. The letter was issued to Transport NI on 11 September 2014 and outlines a number of questions and points of clarification which Council have asked Transport NI to address. I have also forwarded a further list of queries submitted to Transport NI following a meeting with Officials on 23 September 2014.

I would like to point out the Committee that a significant number of the queries and questions submitted remain outstanding. I trust the Chairman will include this in the evidence for the Committee.

Yours sincerely

Anne Donaghy
Chief Executive

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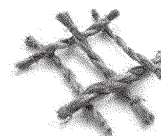
Chief Executive: Anne Donaghy
Email: anne.donaghy@midandeastantrim.gov.uk
Web: www.midandeastantrim.gov.uk

Mid and East Antrim District Council

Our ref: MEA/CP/SC/LK

Date: 11 September 2014

Mr Terry Deehan
Director of Corporate Services
Transport NI
Clarence Court
10 - 18 Adelaide Street
BELFAST
BT2 8GB



THE BRAID
BALLYMENA TOWN HALL
MUSEUM & ARTS CENTRE

1 – 29 Bridge Street
Ballymena
Co Antrim
BT43 5EJ

Dear Terry

Re: Transfer of off-street parking to Mid and East Antrim

I refer to your recent correspondence dated 1 August 2014 regarding the transfer of off-street parking.

Mid and East Antrim have considered the issue, however are unable to provide a response until we complete local due diligence on this issue.

We would ask that you extend the time period which you previously indicated until 31st October, in order that our local due diligence can be completed.

In order to assist our decision making process, I have listed below a number of queries in relation to off-street parking that I ask that you consider. These focus on three documents: firstly the Deloitte Due Diligence Review, secondly the paper on the decision in respect of participation in the DRD arrangements for the delivery of off-street parking and thirdly draft figures provided in the summary report for the Mid and East Antrim Cluster.

Deloitte Due Diligence Review

- 1 Can you provide a reconciliation of the net position of off street car parking in the Deloitte report (-£4,555) with the net position of the DRD figures of August 2014 (-£7,053) for the sector?
- 2 Which car park is leased from Carrick BC? – what are the terms of the lease how much is the rental? (point 3.2)
- 3 What is the claims history for MEA car parks? – how much is included in misc costs to cover this liability? (Point 3.3). This will impact on Council insurance premiums.
- 4 How much bad debt is contained within PCN income if any – is there a provision for this figure?
- 5 Is there any income in MEA relating to billboard advertising space point 3.4?
- 6 What are the current arrangements with NSL for enforcement, staff deployment, maintenance, cleaning, cash collection & clamping – how will this be resourced going forward if the contracts are not renewed? Can we have a copy of the contracts currently in place? (point 3.6)

Chief Executive: Anne Donaghy
Email: anne.donaghy@midandeantrim.gov.uk
Web: www.midandeantrim.gov.uk

- 7 What are the current arrangements with Spur Info systems? Is there a procurement process for post 2016? Could Council have a copy of this contract? How will this arrangement link with Council financials? (Point 3.6)
- 8 The staff element of PEU relating to off street CP – how is this being managed post March 2015? (point 3.7)
- 9 Notional costs for off street CP – how has this been calculated & are these being transferred? (point 3.8)
- 10 Where within the figures is the cost allocation for refurbishment of carparks - tarmacing, line painting? (point 3.8)
- 11 Are there any carparks in MEA being considered as potential sites for regeneration?
- 12 With no staff transferring from DRD how will the service they provided be resourced?
- 13 Figures in Deloitte report are based on 2012/13 – have the budgets been revised based on more up-to-date information?

DRD Paper on Decision in respect of participation in the DRD arrangements for delivery of off street car parking

- 14 At point 2 in the paper it says there is a significant amount of in-house processing by DRD staff. What is this work & how will this be progressed post March 2015?
- 15 What would be included in the SLA with DRD? – what option does Council have at this late stage – point 9 “unlikely to be possible for councils to develop alternative delivery options”?
- 16 The approach (SLA with DRD) has been recommended by the TOFWG & RTOB at point 6? Is there a draft SLA to review?
- 17 Can we have the report on the condition surveys for review?
- 18 Who carries out the activities in annex B?
- 19 Are the agreements & protocols at annex C to be transferred to Councils?
- 20 Could we have an explanation of the assumptions made within the trading account at Annex A?

Summary reports for MEA Cluster provided by DRD

1. Can we have a 3 year history of the income for car parks in MEA both off street receipts and PCN's?
2. Can we have the dimensions of the car parks in MEA?
3. Can we have copy of the leases on car parks for MEA?
4. What are the other costs included within maintenance £86k for MEA?
5. Could Council have a copy of the opening hours of the car parks in MEA?
6. Can we have an explanation of the contract roads figure of £18,378 for the multi storey in Ballymena?
7. Can we have a history of the electric figure of £31,244 for the multi storey in Ballymena?
8. What is included in the Est P&A maintenance charge £14,803 for the cluster?
9. Can we have a breakdown of the payment on foot costs of £421,765?
10. Can we have a copy of the car park charges for MEA?
11. What major refurbishments of car parks have been performed in the last 3 years in MEA – how is provision for this being made in transferred budgets?
12. Has the effect of the DSD minister scheme of £1 for 5 hours been applied to income projections?
13. Is there a provision for car park inspections in the figures circulated?

Chief Executive: Anne Donaghy
 Email: anne.donaghy@midandeastantrim.gov.uk
 Web: www.midandeastantrim.gov.uk

General

14. Council feel that the netting off of expenditure with income in car parking limits the flexibility of council in terms of car park charging.

I would ask that you consider our queries and provide the information requested at your earliest convenience, in order that we can proceed with the decision-making process for Mid and East Antrim.

Yours sincerely



Anne Donaghy
Chief Executive

cc. Sean McConnell

Chief Executive: Anne Donaghy
Email: anne.donaghy@midandeantrim.gov.uk
Web: www.midandeantrim.gov.uk

Further queries post meeting of 23rd September 2014

Can you provide further details on the car park facilities in MEA as follows

- 1 Copies of Land Registry map showing the extent of all facilities including any easements / rights of way and the number of available spaces in each car park.
- 2 The NBV of carparks in MEA. Can we have a copy of the LPS report. Does the valuation include the land and all the equipment?
- 3 Full condition survey of each site with a list of defects and evidence of defects / maintenance carried out over the last 3-5 years.
- 4 A full structural report and structural adequacy certificate for the Multi-Storey carpark at Springwell Street, Ballymena-you had indicated in our meeting that this was available. This facility is now in the region of 30 years old and may be ready for major refurbishment (roof, lift, electrics, ventilation, surfacing, structure).
- 5 There are 29 P&D machines in car parks in MEA. How long have these been in place & how much does it cost to replace one of these machines.
- 6 Details of any maintenance contracts for Pay & Display machines, lifts, electrics, surfacing, etc. Consideration should be given to period of contract outstanding and costs, etc.
- 7 Provide details of any street lighting owned by DRD and servicing these facilities. A current electrical certificate should be provided.
- 8 Provide details of any current contracts awarded to carry out works to any facility.
- 9 Provide details of any claim history for each facility to allow our insurers to consider when providing cover for M&EA.
A high number of claims may also highlight areas which require immediate attention. Are there any outstanding litigation matters at present?
- 10 Provide copies of the leases for 2No carparks (Joymount, Carrickfergus and Balmoral Avenue, Whitehead) to determine responsibility for maintenance and length of lease. This will also highlight costs for leasing the facility and if any increase in rental is imminent.
- 11 There will be a cost for providing new signage relating to M&EA at each location – is this being provided for in the budget transfer .
- 12 The 5 hours for £1 scheme. Can you provide evidence of how this has impacted on usage and income generation.

Mid Ulster District Council Submission to Committee

Mid Ulster
DISTRICT COUNCIL

www.midulstercouncil.org
info@midulstercouncil.org

23 October 2014

Paul Carlisle
Clerk to the Committee for
Regional Development
Room 254
Parliament Buildings
Stormont
Belfast
BT4 3XX

Dear Mr Carlisle

Off-Street Car Parking (Functions of District Councils) Bill

I refer to your email and letter of 13 October 2014 inviting written submissions on the above. Attached is Mid Ulster District Council's response on the Bill.

Yours sincerely



Anthony Tohill
Chief Executive

Mid Ulster District Council

Response to DRD Committee Call for Evidence on Off Street Car Parking

1.0 Local Government Reform

- 1.1 One of the core principles of Local Government Reform is to create stronger Local Government where councils would have a much greater say in shaping how local areas are developed and how local services are delivery. The Bill as originally tabled contained no conditions or restrictions on the disposal of transferring assets as that would be contrary to this core principle.
- 1.2 Mid Ulster District Council is strongly of the view that the Bill should complete its passage through the Assembly without any amendment that would restrict future use by Council.

2.0 Importance of Town Centre Car Parking

- 2.1 Mid Ulster District Council is committed to ensuring the vibrancy and vitality of its town centres and fully understands the important role that appropriate parking facilities can play in rejuvenating shops and the high street. Council recognises the strong relationship between parking provision and high street footfall and how making it easier to park will help support local shops, local jobs and tourism.
- 2.2 Town centres rely on convenient, safe and secure car parking with appropriate tariffs and proportionate parking enforcement.

3.0 Current Restrictions

- 3.1 Councils are required to act in accordance with existing regional planning policy contained within PPS3 (Access Movement and Parking). There are also a number of local policies contained within Area Plans for the protection of town centre car parks.
- 3.2 Plan Policy TRAN 2 Retention of Car Parks in Dungannon Town Centre, identifies five car parks to be retained in the centre. Development proposals that would result in the loss of parking spaces would normally be refused, except where car parking spaces are to be replaced either by a more efficient car parking arrangement or in another location that is conveniently located to the Primary Retail Core.
- 3.3 A similar policy protecting the car parking spaces of Loy Street, Union Street and Burn Road/Orritor Street is included in the Cookstown Area Plan.
- 3.4 Councils have also demonstrated their commitment to improving car parking provision in the Town Centre Master Plans prepared in partnership with DSD

for Cookstown, Dungannon and Magherafelt. Each of these documents include proposals for enhancement of car parks, improvement of linkages to car parks and in some case redevelopment of car parks, but with stipulation that existing spaces be retained and additional operational car parking provided.

- 3.5 Council considers that any additional stipulations or restrictions are unnecessary and would only act to delay and complicate the delivery of the agreed proposals within the Master Plans.

4.0 Existing Car Parks

- 4.1 Car parks have a limited lifespan and therefore require periodic reinvestment in order to remain in-service and safe to use. Despite their ability to bring in revenue, reinvestment has not always been forthcoming leaving some car parks in a state of disrepair.
- 4.2 Council awaits information from DRD on the condition of the car parks including areas such as lining, signage, street lighting, drainage, barriers, boundary walls, surfaces, kerbing, variable messaging systems.
- 4.3 Council is aware that there are a number of commercial rights of way across car parks and awaits information from DRD on the associated lease arrangements.

5.0 Budget transfer

- 5.1 It is claimed that the revenue from car parks will fund future maintenance, however the revenue surplus is being top sliced by DFP before transfer leaving Councils to foot the bill for future maintenance spend.
- 5.2 DRD received monies from in year monitoring rounds to undertake major resurfacing of off-street car parks, this opportunity needs to be available to councils.
- 5.3 DRD applied the same tariff across many provincial towns in Northern Ireland with little consideration given to local circumstances. Councils may find it more appropriate to reduce or remove charging in some of its car parks however any reduction from current DRD tariffs will mean a deficit to be met by Councils.
- 5.4 The local ratepayer should not be forced to pay for decisions made by DRD to apply a one size fits all tariff in provincial towns.

October 2014

Mid and East Antrim District Council Submission to Committee

Mid and East Antrim District Council

Written evidence to Committee for Regional Development on the Off-Street Car Parking (Functions of District Councils) Bill

Prepared By:	Anne Donaghy, Chief Executive, Mid and East Antrim Council
Approved by:	Community Planning Committee, 28 October 2014
Contact Officer:	Louise Kennedy, Change Manager

1. Introduction

- 1.1. Mid and East Antrim District Council will assume full powers on 1 April 2015, replacing the current Ballymena, Carrickfergus and Larne Borough Councils.
- 1.2. Mid and East Antrim District Council responded to the initial consultation on the Off-Street Parking (Functions of District Councils) Bill in August 2014. This written evidence will not rehearse the queries raised in the consultation response, however it raises a number of key points which Council ask the Committee to consider.

2. 'Rates Neutral' at the point of transfer

- 2.1. Council note the transfer principles outlined in the Deloitte Due Diligence Report, most notably principle 1 and 2:
 1. *The Transfer of functions and powers must be 'rates neutral' at the point of transfer*
 2. *Funding will include the total cost of discharging the responsibility, providing the service and/or maintaining the asset.*

*Transfer of Functions and Powers to Local Government:
Due Diligence Review, Deloitte*
- 2.2. Mid and East Antrim District Council welcome the transfer of off-street parking to Councils. Council do, however, wish to seek assurance that the function will be transferred at a 'rates neutral' position at the point of transfer..
- 2.3. Council strongly discourage the Committee from considering any amendment to the Bill which could potentially add restrictive conditions, as this would be contrary to the principle of 'rates neutral' at the point of transfer. Inclusion of any such conditions could potentially remove Council's ability to consider future projects for the benefit of local citizens, eg town centre regeneration.

3. Transparency of costs

- 3.1. Council continues to lack detailed information on many elements of the transfer of off-street parking. Clarification is currently being sought with the Department, however Council would like to make the Committee aware of its concerns, and would strongly encourage the Department and Officials to provide clarification on the various issues as soon as possible, in order that localised due diligence can be completed.
- 3.2. Council urgently await detailed information on the income history for car parks over the previous three years.
- 3.3. Council would like the Committee to note that significant information is currently outstanding for the Springwell Street Multi-Storey Car Park in Ballymena, for example further information on structure, electrics, cladding, graffiti and canopy.
- 3.4. Council also believe that resurfacing of car parks has the potential to be an extensive cost, and have noted that this is not included in the proposed budget allocation to transfer to local government.
- 3.5. Post-transfer, regular inspection works on car parks will be required to be undertaken by Councils. This will require revenue resource by Council and it is unclear if this is included in the proposed budget transfer.
- 3.6. Information remains outstanding on street lighting owned by DRD and arrangements for servicing such facilities.
- 3.7. Council also await details of the claims history of the car parks, which is a requirement of insurance provision.

4. Condition Surveys

- 4.1. Council are currently attempting to complete condition surveys of the off-street car parks, however the Department have so far been unable to provide boundary maps to identify the extent of the transfer. This has significant impact on the completion of local condition surveys.
- 4.2. The information provided by the condition surveys which have been completed thus far indicate the requirement for extensive refurbishment works to bring the facilities to an acceptable standard. Council believe this should be factored into the funding allocation associated with the transferring function.

5. Staffing

- 5.1. Council seek clarification on the potential appointment of parking attendants by the new District Councils following the expiration of existing contractual arrangements with DRD. Council would wish clarity on the ability for Councils to appoint their own staff and the financial flexibility for doing so within the arrangements.

6. Equality Issues

- 6.1. With the transfer of off-street parking to Local Government, the parking function will be split between DRD and Councils. Council believe it is important that a partnership approach is adopted, in terms of planning future car parking provision and ensuring the correct mix of provision is planned, to meet our citizens' needs, particularly with regard to accessible parking, and enhancing and growing our town centres.

7. Conclusion

- 7.1. Mid and East Antrim District Council welcome the transfer of off-street parking to local government. Council do, however, wish to ensure the principle of 'rates neutral at the point of transfer' is upheld, in order to ensure fairness for our ratepayers.

Ministerial Advisory Group Submission to DRD



MAG

Response to DRD Consultation

Off-Street Parking (Function of District Councils) Bill



RAISING EXPECTATIONS

DRD CONSULTATION**OFF STREET PARKING (FUNCTION OF DISTRICT COUNCILS) BILL**

For submission by 8 August 2014

MAG - The Ministerial Advisory Group

MAG is the government's publicly appointed multi-disciplinary group which advises the Minister of Culture, Arts and Leisure on the implementation of the Architecture and Built Environment Policy.

This advice is offered within the Policy's Guiding Principle 2, Heritage,

"Pursue good urban and rural design, targeting the creative re-use of existing and historic buildings at risk, as well as public open spaces and regeneration."

and Objective 1, Delivery of Good Design, which states

"Make guidance and support from professional advisers available to officers in the public service....."

Three Hundred and Thirty Eight Public Open Spaces in Historic Town Centres

The Bill will apply to approximately 338 public open spaces which are mainly located in historic town centres, many of which are over 400 years old.

Restrictive Regulations

The current regulations, control of which the Bill indicates is to be retained by DRD, restrict the use of these public open spaces for 168 hours each week. Yet charges and associated enforcement only apply to limited times during the working week.

The Need for Change

Specific reference to the need for change is made on page 31 of the MAG report, "Civic Stewardship.....doing more with what we've got", which was published in November 2013 and is available to read or download at http://www.dcalni.gov.uk/civic_stewardship_symposium_interim_report_final.pdf

Local and Appropriate Regulation

MAG advocates that in addition to the responsibility for owning and maintaining these public open spaces and enforcing parking as appropriate locally, District Councils should undertake the responsibility for writing regulations which are suitable for the particular place, rather than being required to use regulations written in central government.

Multi-Use Places

The survival and development of town and city centres as multi-use places for the widest possible constituency of local people and visitors depends on appropriate stewardship of public open spaces.

Assumption

The Bill in its name and present form assumes that off-street car parks will remain in their present use. Beneficial use beyond car parking and beyond the normal working hours will be obtained when it is understood that these places are not "car parks" as such but instead are public open spaces.

A Myriad of Additional Activities

There is potential for a myriad of additional activities to take place if the regulations are changed to allow these. For example, these important and often strategically placed town and city centre public open spaces could host evening or weekend activities as well as being used for parking cars during the working or shopping day. Markets, concerts, art exhibitions, children's play, youth activities, vintage and veteran vehicle shows, flower shows, vegetable growing competitions, cultural and civic events could all be hosted in these 338 very important places. In addition, to bring additional energy into the town centres, these public open spaces could be used by the hundreds of passionate communities of interest that are associated with every town and city centre. These passions may be for charitable activities, cycle club race starts, running clubs, walking groups, agricultural shows, exercise and fitness groups, local history tours and overnight stays of motorhomes or caravans to aid tourism and the evening and weekend economies of town and city centres. The uses of these places are only dependent on the imagination and energy of people and their passions.

Multi-Functional Places

The Bill should specifically recognise and encourage the multifunctional capability of public open spaces in towns and city centres. Rather than designating these places as "off street car parking places" the Bill should identify them as "Public Open Spaces" with regulations able to be defined locally to suit specific needs of town and city centres and the vast array of interests that would benefit from using these important public open spaces.

Social Inclusion, Equality and Tackling Poverty

NISRA figures based on the 2011 Census indicate that across Northern Ireland, some 23% of households do not have access to a car.

http://www.nisra.gov.uk/Census/key_stats_bulletin_2011.pdf

The figure is much higher in Neighbourhood Renewal Areas, many of which are situated near town and city centres, where poverty and social exclusion are concentrated, creating large inequalities. Public Open Spaces should be accessible and useful to all. The regulations and terminology of use should not be framed to favour just car owners and users. Many people who are currently subjected to poverty would benefit from being just a walk or cycle ride from these places which instead of being deserted at nights and weekends, could bring societal benefits with alternative trading opportunities and events open to all, not just people with access to a motor car.

A New Name for the Bill

Following the above recommended amendments, the Bill could usefully be renamed the Public Open Spaces (Functions of District Councils) Bill.

Further Advice

MAG is pleased to offer further constructive advice as required.

Arthur Acheson
Chair of MAG
30 July 2014

From: [Doughty, Peter](#)
To: [RMPB, Roads](#)
Cc: [Lutton, Richard](#); [Arthur Acheson](#)
Subject: DRD Consultation - Off Street Parking (Function of District Councils) Bill - MAG Response issued
Date: 08 August 2014 09:15:37
Attachments: [DRD Off Street Parking Bill Consultation - MAG Response - Finalised.PDF](#)

Good morning,

Please see attached response to the above DRD consultation by the Ministerial Advisory Group (MAG) for Architecture and the Built Environment. Please acknowledge receipt of the MAG's response.

Should DRD need any clarification, MAG would be pleased to assist with this, and with connections to Councils in respect of the potential for multi-functional creative activities and uses for these important public open spaces.

Kind regards,

Peter Doughty
MAG Secretariat, Architecture & Built Environment
Department of Culture, Arts & Leisure

NIIRTA Submission to Committee



Submission to Assembly Regional Development Committee on Off Street Car Parking Bill (Functions of Councils)

Introduction

The Northern Ireland Independent Retail Trade Association (NIIRTA) welcomes the opportunity to give evidence to the above Bill.

NIIRTA is the representative business organisation for the independent retail and wholesale sector in Northern Ireland. Our 1500 members include independent retailers of all kinds, wholesalers, suppliers to the sector and affiliated Chambers of Commerce and Traders' Associations.

We are committed to a vision of 21st Century Town Centres, which are centres of retail and hospitality excellence. Affordable and accessible car parking for shoppers and consumers is an absolutely essential element in modern and vibrant Town Centres.

Earlier this year NIIRTA produced a detailed Eighty Point Programme for Local Government entitled **Local First**. The report sets out a number of policy priorities for the new eleven Super Councils in relation to car parking, which we include with this submission.

NIIRTA, along with our colleagues in local Chambers of Commerce, led the successful campaign to prevent the introduction of on-street car parking charges (first 1-2 hours free). We also successfully lobbied for the DRD Minister to introduce the Five Hours for £1 discount scheme in off-street car parking locations and for the freezing of car park charges.

NIIRTA also successfully negotiated with NCP for a Christmas and New Year discount scheme for Montgomery Street car park in Belfast City Centre. NCP Montgomery Street was the most expensive car park in Northern Ireland.

Getting the private sector car park owners to introduce a Christmas and New Year discount scheme remains a top priority for this year.

Local Government Reform

We believe that the proposed new system encompassing eleven Councils with enhanced powers, provides a real opportunity to make a difference for local communities, the economy and town centres.

They can be the change makers.

It is about refreshing local government to permit a greater freedom for citizens, expressing and fulfilling their ambitions for their local communities.

The reform of government to date has been very much about process. We believe now the focus needs to move towards policy development and external consultation, so the newly elected Councillors will hit the ground running when power is formally devolved to them in 2015.

What are they going to do with these new powers to help create employment, regenerate town centres, revamp car parking and create a fair planning system, which supports local business?

New Community Planning powers will be key in integrating all the various streams of public life. Councils will work with their local businesses, communities and statutory bodies and agencies to promote the well-being of their area and improve the quality of life of its citizens.

Town Centre Car Parking

- NIIRTA is content for the current Bill to complete its passage without amendment. If the new eleven Councils are to take the lead in regenerating town centres then it is absolutely essential that they have powers over their off street car parking.
- We are aware of concerns raised about the possibility of Local Councils selling off their off-street car parks. Generally speaking unless there is a sound economic reason, which is beneficial to a local town centre, NIIRTA would be opposed to such sales.
- NIIRTA would also support Blue Badge disabled drivers be given free car parking in off-street car parks.
- In our discussions with Shadow Council Chief Executives, concerns have been raised that revenue from car parks will fund future maintenance but that the revenue surplus is being top sliced by DFP before transfer leaving Councils to foot the bill for future maintenance.
- DRD money received from monitoring rounds to resurface off-street car parking needs to be available to Councils.

Other Key Points on Car Parking from NIIRTA Programme for Local Government

- NIIRTA calls upon the DRD to devolve on-street car parking to Councils by 2020 to give Councils more responsibility to develop the potential of their town centres.
- Councils should give discounts on their off-street car park charges in key times such as Christmas and festivals.
- Free first one hour on-street car parking in the thirty towns should continue and DRD should consult and give serious consideration to offering the same schemes to city centres in Belfast, Newry and Lisburn.
- Existing large out-of-town superstores with free car parking should pay a rate surcharge for this competitive advantage, which will be redirected into maintaining town centre car parks and keeping their charges low.
- Councils to work with DRD for the introduction of a 'timed disc' system for delivery and service vehicles.
- Responsibility for local roads should be devolved to Councils by 2020, giving them a wider role in improving infrastructure.

Glyn Roberts
NIIRTA Chief Executive
245 Upper Newtownards Road
Belfast BT4 3JF

Tel: 028 90220004

Email: glyn.roberts@niirta.com

NILGA Submission to DRD



Draft response to DRD proposals for an Off Street parking (Functions of District Councils) Bill

8th August 2014

For further information or to discuss any of the issues highlighted, please contact Karen Smyth at the NILGA Offices: Email: k.smyth@nilga.org Tel: 028 9079 8972.

**Derek McCallan
Chief Executive**

8th August 2014

Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. NILGA represents and promotes the interests of local authorities and is supported by all the main political parties in Northern Ireland.

The consultation on the Bill proposals was published over the summer at a particularly difficult time for councils, when many committees are in hiatus, including the NILGA Executive Committee. This response is therefore submitted in draft, and will be considered by the NILGA Executive on 15th August 2014, after which any amendments or additional comments will be forwarded to the Department.

The transfer of functions to councils is a key issue within the wider programme for Local Government Reform, NILGA is pleased to be able to have an opportunity to comment on the Bill proposals, and we trust that our comments will be taken into account when developing the final legislation.

Key Issues

NILGA broadly welcomes the Department's proposal to provide district councils with the necessary legislative powers to discharge the responsibilities transferring to them in relation to the ownership, management and enforcement of off-street car parks on 1st April 2015 as part of Local Government Reform.

The proposed Bill suggests that regulation making powers will remain the responsibility of the Department. In particular regulations relating to

- Approving prescribed devices for gathering admissible evidence
- Revoking or amending previous regulations which determine parking devices.
- Specifying prescribed conditions for the immobilisation of vehicles
- Specifying prescribed conditions for the removal of vehicles
- Specifying prescribed charges for the immobilisation and release of vehicles
- Specifying prescribed charges for the removal, disposal and storage of vehicles
- Specifying amounts of penalty charges, contraventions in relation to which a penalty charge is payable and percentages by which any penalty charge may be reduced or increased.

Given the new responsibilities transferring to councils, NILGA would assert that councils should be provided with the opportunity to influence any regulations which are made, amended or revoked in the future in relation to off-street car parking.

As such, it would be helpful for an amendment to be made to the Bill to reflect that the making of new regulations or the revoking or amendment of existing regulations relating to off-street car parking should be subject to consultation with local authorities.

NILGA would also seek to ensure that the lands required by councils to perform their off-street parking functions are confirmed as a matter of priority, and transferred without restriction.

I trust this information will assist the Department in the consultation process. If however you require any further information or clarification please contact Karen Smyth, Head of Policy at NILGA on (028)90798972 or by email at k.smyth@nilga.org.

Disclaimer

The Northern Ireland Local Government Association (NILGA) endeavours to ensure that the information contained within our Website, Policies and other communications is up to date and correct.

We do not, however, make any representation that the information will be accurate, current, complete, uninterrupted or error free or that any information or other material accessible from or related to NILGA is free of viruses or other harmful components.

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NILGA Submission to Committee



Response to DRD Committee call for evidence regarding DRD proposals for an Off Street Parking (Functions of District Councils) Bill

Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. NILGA represents and promotes the interests of local authorities and is supported by all the main political parties in Northern Ireland.

The transfer of functions to councils is a key issue within the wider programme for Local Government Reform, NILGA is pleased to be able to have an opportunity to comment on the Bill proposals, and we trust that our comments will be taken into account when developing the final legislation.

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- Specifying prescribed charges for the immobilisation and release of vehicles
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As such, it would be helpful for an amendment to be made to the Bill to reflect that the making of new regulations or the revoking or amendment of existing regulations relating to off-street car parking should be subject to consultation with local authorities.

NILGA would also seek to ensure that the lands required by councils to perform their off-street parking functions are confirmed as a matter of priority, and transferred without restriction.

NILGA is also most concerned that many councils have found that the state of repair of some car parks is very poor. This suggests that inadequate sums have been spent on maintenance in recent years. NILGA would seek that appropriate sums are included in the Department's budget for transferring functions in respect of proper on-going maintenance, not sums based on recent expenditure, and also that where councils have to incur costs at an early stage to bring some car parks up to a reasonable standard, that an appropriate one-off transfer can be made to cover such necessary costs.

I trust this information will assist the Committee in its consideration of the draft Bill. If however you require any further information or clarification please contact Karen Smyth, Head of Policy at NILGA on (028)9079 8972 or by email at k.smyth@nilga.org.

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North Down & Ards District Council Submission to DRD

ITEM

North Down and Ards District Council

Council/Committee	Council meeting
Date of Meeting	7 th August 2014
Responsible Officer	Richard Brittain & Graham Yarr
Date of Report	7 th July 2014
File Reference	RD 2378
Legislation	Road Traffic Regulation Order NI 1997 & Traffic Management (NI) Order 2005
Subject	Off Street Car Parking
Attachments	Appendix One

Background

As part of the Northern Ireland Executive's vision for the future of government in Northern Ireland it has proposed that from 1st April 2015 Councils will be provided with powers to operate off-street car parks and off-street parking enforcement operations. To that end it is proposed to introduce an Off-Street Parking (Functions of District Councils) Bill and to transfer car parks (see appendix one), presently in DRD control, to Councils.

Initial details of this matter were reported to the STC at its meeting on the 1st May 2014 at which it was agreed to refer the matter to the Shadow Council for consideration.

This report considers three elements relating to this transferring function.

1. Considers the existing consultation on proposals related to the introductions of the Off –Street Parking (Functions of District Councils) Bill
2. Examines a potential way forward to allow the Council to manage and control off street car parking from the 1st April 2015, and
3. Considers further issues associated with this transferring function and impact on the Council.

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Consultation on proposals for an Off-Street Parking (Functions of District Councils) Bill

Correspondence dated 23rd June 2014 has recently been received from the Department of Regional Development seeking comments on the draft bill. The department has asked that responses are returned by 8th August 2014.

Legislative Proposals

It is proposed that powers in respect of off-street car parks presently exercised by the Department will be transferred on 1st April 2015. These powers include the following:

- Establishing the level of fees for use of parking spaces
- Make provision for determining the manner in which vehicles shall be driven into or out of the parking place
- Provide for the suspension of the use of a parking place or any part of it on such occasions or in such circumstances as may be specified in the order,
- Prohibit or restrict the carrying on of trade or other activities or the doing of any other thing at a parking place;
- Specify the functions of parking attendants in relation to a designated parking place;
- Provide for the illumination of a parking place and the erection or display of notices or traffic signs, and the carrying out of works on or in the vicinity of a parking place
- Provide for the removal from a parking place of any vehicle left there in contravention of an order.

It is noted that the Department will continue to be responsible for parking contraventions in respect of park and ride and park and share car parks and similarly the existing enforcement regime of parking contraventions on public roads will remain unchanged.

Comments

The proposed Bill paves the way for the transferring functions placing the enforcement and management of off street parking functions on a statutory footing.

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The dual Department and Council enforcement regime proposed may cause public confusion and misunderstanding and will need management to promote an understanding of the Council's role.

The Council's ability to manage and control a large number of car parks within the new Council area is welcome. In particular its ability to set the level of tariff for parking, ability to suspend the use of parking bays so that they may be used for other purposes and control parking attendants duties. These powers will allow the Council to integrate the use of these assets and functions into the Council's other strategies and priorities connected with issues such as economic regeneration and tourism/development.

Recommendation

It is **recommended** that the Council highlights the following

1. The potential for confusion and misunderstanding between the dual enforcement regime and urges the Department to work with Councils to clearly highlight to the public the roles and delineation between the two functions.
2. The Council welcomes the ability to manage and control off street car parking at a local level. It urges the Department not to place conditions on the transferring car parks that may restrict the Council's ability to fully utilise the asset and potential benefits to the local community.

Potential way forward to allow the Council to manage and control off street car parking from the 1st April 2015

Correspondence has been received from the Local Government Support Team providing an update on the Transfer of the Off Street Parking arrangements. The paper outlines the existing contractual arrangements for the enforcement and servicing of on and off street parking between DRD and NSL. In particular it notes that the existing contract between DRD and NSL to deliver the enforcement and servicing of off street car parking is due to end in October 2016, although this can be extended to 2022. It is also notes that an ICT contract between DRD and Spur Information Solutions Ltd which provides services to DRD staff relating to the processing of Penalty Charge Notices is also due to end in October 2016.

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In conclusion the paper outlines the recommended next steps and has asked that the Shadow Council, by August 2014, agrees in principle to the following, namely.

1. The proposed extension of the current DRD contracts in place in relation to continuation of current systems for parking enforcement and Penalty Charge Notices within in off street car parks between 1st April 2015 and October 2016;and
2. The development of formal joint working arrangements between DRD and local government to explore and develop options in regards to the future operation of car parking functions by local government after October 2016 (taking account of the overall ICE process)

Comments

In view of the need to have in place, by 1st April 2015, arrangements to allow off street car parking to continue to be managed it would appear that Councils have little option but to agree to continue with the DRD contracts up until October 2016. The extension will allow the Council time to consider its options for the future while also providing it with a better understanding of the financial and operational implications associated with this transferring function.

Recommendation

It is **recommended** that the Shadow Council supports the proposed "Next Steps" as detailed within the paper.

Further issues associated with this transferring function and impact on the Council.

There are a number of issues that the Council may want to consider as a result of this transferring function as outlined below.

Cost

The Department has repeatedly indicated that the transferring function will be cost neutral at the point of transfer. To date however Councils have not, despite assurances to the contrary from DRD, been supplied with any financial information concerning the cost of this function. Furthermore in discussion with DRD staff they have indicated that limited

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information is available in relation to the maintenance costs associated with the car parks and the relevant equipment contained within.

Condition - Transferring car parks

DRD have indicated that the car parks will be “fit for purpose” at the point of transfer. It has however confirmed that condition reports are not available for each car park. Local knowledge would suggest that some of the transferring car parks are in poor condition, see photos of two car parks in Millisle below, and would not meet the standard expected of existing Council facilities.



Whitechurch Road

Ballywhisken

Cleansing

At present Ards Borough Council has an agreement with DRD to clean 20 of its car parks on a summer and winter frequency. This agreement, which generates £5,000 income, does not extend to those car parks for which parking fees are collected. The cleansing regime requested by DRD is seen as inadequate and additional resources, as yet unknown, would be required to bring them up to a standard that meets the Council's standards.

ITEMLandscaping

Many of the car parks to be transferred have soft landscaping namely boundary flower beds and hedges. Detail of the cost and maintenance arrangements for these have not yet made available. Initial contact with Ards Parks and Cemetery Manager has indicated that the Ards section would not have the capacity at present to maintain these areas within existing resources.

General Maintenance

As already highlighted within this report information concerning maintenance costs and requirements have not yet been provided. General maintenance will include a wide range of issues including surfaces, line marking, lighting, maintenance of equipment such as barriers, ticket machines etc. The absence of condition reports or detailed information concerning costs will hamper the Council's ability to understand the impact that this transferring function will have on its resources both financial and on officer time.

Insurance

The addition of these car parks will result in an increase in premiums. The extent of the effect on the Public Liability policy will be dictated by the claims experience for the previous five years, at this point only average figures are known for the entire portfolio. Whilst the DRD will remain responsible for claims prior to 1 April 2015 any claims resulting from the poor condition of the car park at transfer will fall to the Council where the incident occurs on or after 1 April 2015.


Future claims defence will rest on having the maintenance and inspection regimes in place on day one together with a robust response to the need for emergency cleansing, maintenance and claims.

Recommendations

The lack of detailed information concerning costs, claims history and condition of off street car parking and associated services is causing great concern and impacting on service planning. Similarly the absence of condition reports for each car park brings into question the assurances made that the car parks will be fit for purpose. It is **recommended** that the Council writes to the Minister asking that the detailed information, including claims history promised is supplied

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without delay and that assurances are provided that the full and appropriate funding will be transferred to the Council to ensure the promised cost neutrality. It is **further recommended** that condition reports for each individual car park and equipment is also supplied along with a schedule detailing the remedial work that is required and confirmation that it will be completed prior to 1st April 2015.



Richard Brittain
Director of Environmental
Services

Graham Yarr
Director of Environmental
Services

DRAFT

ITEM

Appendix 1 – Off Street Car Parking

Car Park Details

1		2	3	4
Asset Description and Location		Current Use	Floor/Site Area	Title
ABBEY STREET EAST	Bangor	Operational Car Park		Freehold
BINGHAM LANE	Bangor	Operational Car Park		Freehold
CASTLE ST	Bangor	Operational Car Park		Freehold
CLIFTON ROAD	Bangor	Operational Car Park		Freehold
HOLBORN AVE	Bangor	Operational Car Park		Freehold
MILLS RD	Bangor	Operational Car Park		Freehold
THE VENNEL	Bangor	Operational Car Park		Freehold
ABBEY STREET WEST	Bangor	Operational Car Park		Freehold
CENTRAL AVE	Bangor	Operational Car Park		Freehold
DUFFERIN AVE	Bangor	Operational Car Park		Freehold
CHURCH RD	Hollywood	Operational Car Park		Freehold
HIBERNIA ST NTH	Hollywood	Operational Car Park		Freehold
HIBERNIA ST STH	Hollywood	Operational Car Park		Freehold
SPRINGWELL DRIVE	Groomsport	Operational Car Park		Freehold
ANN ST	Newtownards	Operational Car Park		Freehold
KENNEL LANE	Newtownards	Operational Car Park		Freehold
MILL ST GAS WKS NORTH (split)	Newtownards	Operational Car Park		Freehold
MILL ST	Newtownards	Operational Car Park		Freehold
OLD CROSS STREET EAST	Newtownards	Operational Car Park		Freehold
OLD CROSS STREET WEST	Newtownards	Operational Car Park		Leasehold
SOUTH ST/ COURT ST	Newtownards	Operational Car Park		Freehold
4 SOUTH ST (7 Court Street)	Newtownards	Operational Car Park		Freehold
WEST STREET	Newtownards	Operational Car Park		Leasehold
UPPER COURT STREET, NEWTOWNARDS	Newtownards	Operational Car Park		No Title
HARBOUR ROAD	Ballyhalbert	Operational Car Park		Freehold
PORTAVOGIE ROAD	Ballyhalbert	Operational Car Park		Freehold
SPRINGVALE ROAD	Ballywalter	Operational Car Park		Freehold
MAIN RD	Cloughey	Operational Car Park		No Title

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CASTLEBRIDGE ST	Comber	Operational Car Park	Freehold
GLEN LINK	Comber	Operational Car Park	No Title
KILLINCHY ST	Comber	Operational Car Park	Freehold
NEWTOWNARDS RD (Copeland Road)	Comber	Operational Car Park	Freehold
RAILWAY ST	Donaghadee	Operational Car Park	Freehold
TEMPLEPATRICK CARPARK (231 Millisle Road)	Donaghadee	Operational Car Park	No Title
SHORE RD	Kircubbin	Operational Car Park	Freehold
THE GREEN (25 Main Street)	Kircubbin	Operational Car Park	Freehold
BALLYWALTER ROAD	Millisle	Operational Car Park	Freehold
BALLYWHISKIN (179 Ballywalter Road)	Millisle	Operational Car Park	Freehold
MOSS ROAD	Millisle	Operational Car Park	Freehold
MILL ST GAS WKS SOUTH (Split Valuation)	Newtownards	Operational Car Park	Freehold
TALBOT ST	Newtownards	Operational Car Park	Freehold
MEETING HOUSE STREET	Portaferry	Operational Car Park	Freehold
THE SQUARE	Portaferry	Operational Car Park	No Title

DRAFT

From: [Yarr, Graham](#)
To: [RMPB, Roads](#)
Cc: [Brittain, Richard \(ABC\)](#); [Reid, Stephen](#); [Taylor, Jayne](#)
Subject: Off-street Parking Consultation.
Date: 08 August 2014 15:12:42
Attachments: [Report Consultation and Way Forward.docx](#)

Dear sirs,

Please see attached a report presented to the North Down and Ards Shadow Council on 7th August 2014, in connection with the above consultation. I can confirm that the report was accepted in full by Council as representative of their views and during debate, further concern was expressed by members that the transferring car parks must be fit for purpose and that information on all costs and liabilities must be fully disclosed. In line with recommendations within the report, a letter will now be sent to the Minister, seeking clarification and further information on the points of concern raised. I hope this is helpful.

Graham Yarr
 Director of Environmental Services
 North Down BC

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Omagh District Council Submission to DRD



DANIEL McSORLEY Chief Executive



Your Ref:
Our Ref: MS/4/1 M/L 17703
Date: 4 August 2014
Being dealt with by: Chief Executive's Dept
Email: daniel.mcsorley@omagh.gov.uk

Department for Regional Development
Transport Policy, Strategy and Legislation Division
Room 3-01
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Dear Sir/Madam

RE: Consultation on Proposals for an Off-Street Parking (Functions of District Councils) Bill

I am writing on behalf of Omagh District Council in response to the consultation on the 'Proposals for an Off-Street Parking (Functions of District Councils) Bill'.

Omagh District Council is broadly content with the proposed changes to the legislation as outlined in the draft Bill. The Council notes the reference to the financial effects of the Bill which are anticipated to be cost neutral at the point of transfer for both the Councils and the Department. The Council would seek an assurance that due consideration will be given to the appropriate ongoing resourcing and budgetary requirements in relation to the true costs for upgrading of car parks and their maintenance, including those costs associated with drainage and winter maintenance.

On behalf of Omagh District Council I wish to thank you for the opportunity to respond to this consultation.

Yours sincerely

PP

D McSORLEY
Chief Executive

DRD Consultation Synopsis of Responses and Departmental Reply

No.	Issue	No.	Comments*	Submitted by	Department's Response (Including Rationale)
		1	Council welcomes the proposed Bill & believes it will enable elected representatives of Mid and East Antrim Council the opportunity to manage off street car parks in a way which supports local economic development and community planning policy.	Lorraine Hunter, Larne Borough Council	
		2	Council welcomes the fact that asset transfers will be cost neutral at the point of transfer.	Eamonn Kelly, Armagh, Banbridge & Craigavon District Council	
		3	In the main, Council is content with the Bill	Paul Casey, Antrim & Newtownabbey District Council	
		4	Welcomes the Bill & encourages politicians to pass it.	Elizabeth Reid	
		5	Council is broadly content	Sonya McAnulla, Omagh District Council	
		6	Council welcomes the fact that car parking is being transferred to Local Government	Louise Kennedy, Mid and East Antrim District Council	
		7	Council welcomes the proposal	Suzanne Wylie, Belfast City Council	
		8	Stradow Council welcomes the proposal	James Tinsley, Lisburn City & Castlereagh District Council	
		9	Broadly content with the proposed changes to the legislation as outlined in the draft Bill	Daniel McSorley Omagh District Council	
		10	The proposals set out in the consultation paper have been broadly endorsed by the Stradow Council	Brendan Hegarty Fermanagh & Omagh District Council	
		11	Fermanagh District Council agreed to fully endorse the response from Fermanagh & Omagh District Council	Robert Gibson, Fermanagh District Council	
	General Response				

	<p>Council supports the proposal that the Department continues to enforce 1 parking contraventions until the expiry of its private sector contracts in 2016.</p>	<p>Lorraine Hunter, Larne Borough Council Paul Casey, Antrim & Newtownabbey Council Graham Yarr, North Down & Ards Shadow Council</p>	<p>The Department is content to continue enforcing parking contraventions in off-street car parks on behalf of councils post 1 April 2016. Any council wishing the Department to do so would be required to enter into a service level agreement to deliver those services.</p>
	<p>Clarification should be given in respect of the process of Appeal in the case of someone being issued with a Penalty Charge Notice. It would 2 be appreciated if it could be made clear as to what Appeal process is envisaged and if District Councils will have the final decision in this matter.</p>	<p>Eamonn Kelly, Armagh, Banbridge & Craigavon District Council Pat Cumiskey, Banbridge District Council</p>	<p>The appeal process is set out in Article 13 of the Traffic Management (NI) Order 2005. A person can appeal to an adjudicator who will serve notice of his decision on both the appellant and the council and may also give the council such directions as he/she sees fit. The council is required to comply with any directions so given. (Response issued by email 13/8/14)</p>
<p>2 Enforcement</p>	<p>3 Council seeks copies of the current contracts with NSL in respect of enforcement and Spur Information Solutions Ltd in respect of the IT contract for Penalty Charge Notices processing including confirmation as to whether or not these can be extended beyond the current contract expiry date of 2016. It would also be important that Councils have sight of any contracts and/or agreements that the Department has entered into with third parties on the management and operation of the car parks</p>	<p>Eamonn Kelly, Armagh, Banbridge & Craigavon District Council Pat Cumiskey, Banbridge District Council</p>	<p>The information contained in current contracts would be commercial in confidence and the department is not in a position to disclose it. Councils will not be required to contract with Spur IS Ltd or NSL. The Department will provide each council requesting it with a draft Service Level Agreement (SLA) for the provision of enforcement services. The SLA will provide all necessary information on costs for the enforcement and processing services. The enforcement contract may be extended beyond 2016 but the Penalty Charge Notice IT Processing contract will have to be renewed in 2016.</p>
	<p>4 Dual enforcement responsibilities of the Department and councils may cause confusion. The Department should work with councils to publicise the delineation between the two.</p>	<p>Graham Yarr, North Down & Ards Shadow Council</p>	<p>If, as it proposes in its report to Council, the North Down and Ards Council elects to use the Department's traffic attendants there should be no confusion regarding roles.</p>
	<p>5 To avoid confusion one organisation should be responsible for enforcement including park and ride and park and share car parks to ensure that a standardised and consistent approach to management, enforcement and administration is applied across the board.</p>	<p>David Dorman, Belfast City Centre Management Company</p>	<p>If Belfast City Council decides to use the Department to provide a parking enforcement service then there would only be one organisation enforcing parking contraventions in all off-street car parks.</p>

3 Blue Badges	Whilst reference is made to amendments to Articles from 5-28 and Article 38, it is considered that there are other Articles in the Traffic Management (Northern Ireland) Order 2005 which would also require amendment, e.g. dealing with disabled persons and disabled parking badges	Eamonn Kelly, Armagh, Banbridge & Craigavon District Council Pat Cumiskey, Banbridge District Council	Article 19 of the Traffic Management (NI) Order 2005 provides that an immobilisation device shall not be fitted to a vehicle displaying a disabled person's badge. (Response issued by email 13/8/14)
4 Staffing	The Council would insist on engagement on areas of contractual arrangements that the Department may have on current staffing matters with third party operatives & will require sight of terms & conditions for transferring staff and any TUPE inference.	Eamonn Kelly, Armagh, Banbridge & Craigavon District Council Pat Cumiskey, Banbridge District Council	Staffing matters with third party operatives & their terms & conditions cannot be disclosed by the Department as they are Commercial in Confidence and may be subject to data protection. There will be no Departmental staff transferring under TUPE.
5 Assets	<p>Copies of title documents, maps, rates assessment, condition reports, maintenance reports, public liability claims history, details of insurance claims not settled, ICT systems, rights of way, easements, confirmation that they are fit for purpose etc., pertaining to each off-street car park which the Department intends to transfer to Councils will be required. Council also seeks assurance that transferring assets will not be subject to any conditions or restrictions.</p> <p>Any off-street car parks are not transferring to the new Council in the Armagh, Banbridge and Craigavon District Council area will need to be identified</p> <p>Any off-street car parks not transferring to the new council in the Lisburn City & Castlereagh District Council area should be identified</p>	<p>Eamonn Kelly, Armagh, Banbridge & Craigavon District Council Paul Casey, Antrim & Newtownabbey District Council Graham Yarr, North Down & Ards Show Council John Richardson, Coleraine Borough Council Louise Kennedy, Mid and East Antrim District Council Suzanne Wylie, Belfast City Council James Tinsley, Lisburn City & Castlereagh District Council Pat Cumiskey, Banbridge District Council</p> <p>Eamonn Kelly, Armagh, Banbridge & Craigavon District Council Pat Cumiskey, Banbridge District Council</p> <p>James Tinsley, Lisburn City & Castlereagh District Council</p>	<p>The information requested will be contained in schedules to be included in a transfer scheme to be made by the Department under Section 122 of the Local Government Act (NI) 2014</p> <p>Work is in hand to produce this information which shall be provided in due course.</p> <p>Work is in hand to produce this information which shall be provided in due course.</p>
	<p>Confirmation is sought about what is meant by 'cost neutral'. Council seeks an assurance that due consideration be given to ongoing resourcing & budgetary requirements re the true costs for upgrading car parks & their maintenance including costs associated with drainage and winter maintenance.</p> <p>The Department is urged not to place conditions on the transferring car parks that may restrict the Council's ability to fully utilise the asset and potential benefits to the local community.</p> <p>Car parks must be fit for purpose. Concerns expressed about the condition of some car parks and their future cleansing arrangements and costs to maintain landscaped areas</p>	<p>Paul Casey, Antrim & Newtownabbey District Council</p> <p>Sonya McAnulla & Daniel McSorley, Omagh District Council</p> <p>Graham Yarr, North Down & Ards Shadow Council Suzanne Wylie, Belfast City Council</p> <p>Graham Yarr, North Down & Ards Shadow Council</p>	<p>Minister Attwood in his statement to the Assembly on 22 April 2013 stated that : "functions that are to transfer from central to local government should be fit for purpose, sufficiently funded and cost-neutral to the ratepayer at the point of transfer".</p> <p>After 1 April 2015 it will be for councils to fund off-street car parks and to upgrade, maintain etc as they see fit, all off-street parking places in their area for which they have become responsible.</p> <p>The Bill places no such conditions on the transferring assets</p> <p>Transferring car parks will be inspected against the Department's normal maintenance standards and will be fit for purpose at time of transfer. Where survey</p>

	6 Equality	<p>1 it is important that a partnership approach, in terms of planning future car-parking, is managed to ensure that our towns and villages have enough disabled provision, loading bays and overall parking facilities to enhance our economy. Another consideration Council have identified which needs addressed under this approach is provision of parking for residents who live within town centres.</p>	<p>Louise Kennedy, Mid and East Antrim District Council</p>	<p>Separate Community Planning arrangements and Partnership Panel between central and local government is provided for within the Local government Act 2014. Residents parking schemes are not included in the Bill.</p>
		<p>1 MAG advocates that in addition to the responsibility for owning and maintaining these public open spaces and enforcing parking as appropriate locally, District Councils should undertake the responsibility for writing regulations which are suitable for the particular place, rather than being required to use regulations written in central government</p>	<p>Ministerial Advisory Group on Architecture & the Built Environment (DCAL)</p>	<p>The future use of off-street car parks will lie in the hands of the council for the area in which they are situated</p>
7		<p>2 Council respectfully requests that new or amending regulations be subject to consultation with local authorities.</p>	<p>Suzanne Wylie, Belfast City Council</p>	<p>Should the Department intend to make regulations that may impact on councils and their off-street car parks the councils will be consulted.</p>
	Regulation	<p>3 Council requests that paragraphs (1) and (2) of Article 25 (Parking Attendants) of the 1997 Order be amended to include the word 'authorise' in addition to the word 'appoint'.</p>	<p>Suzanne Wylie, Belfast City Council</p>	<p>The Department considers that the amendment requested is unnecessary. If a council wishes to authorise a member of staff to act as a traffic attendant it can appoint him/her accordingly.</p>
		<p>4 It would be helpful for an amendment to be made to the Bill to reflect that the making of new regulations or the revoking or amendment of existing regulations relating to off-street car parking should be subject to consultation with local authorities.</p>	<p>Karen Smyth, NILGA</p>	<p>The Department considers that the suggested amendment is not required. The Handbook on Subordinate Legislation which is published by OFMDFM for the guidance of Departments states that Departments should consider, as a matter of course, the need for public consultation on the content of a statutory rule. Consequently the Department would consult councils regarding any policy proposal likely to impact on off-street car parks prior to the making of a statutory rule.</p>

8	Future Tariffs	<p>Members also raised concerns that a blanket approach is not taken and that car park pricing can fluctuate depending on the needs of the community allowing for some to be free, some to be charged, and at different rates, if required.</p> <p>1</p>	<p>Louise Kennedy, Mid and East Antrim District Council</p>	<p>It will be for a council to determine the levels of future charges and whether any charges are to be levied or variations in charges made across its council area .</p>
9	On Street parking places	<p>1 Council is firmly of the view that all street car parking places in the Belfast District should transfer to the Council.</p>	<p>Suzanne Wylie, Belfast City Council</p>	<p>In accordance with the Executive's wishes, responsibility for on-street car parking and enforcement will remain with the Department.</p>
10	Retention of off-street car parks by the Department	<p>1 The Department should not retain any fee paying off-street car parks for the Council to operate under licence or lease. This could reduce the number of car parking places available to the Council by some 25%. Council should be recompensed accordingly.</p>	<p>Suzanne Wylie, Belfast City Council</p>	<p>The Bill proposes that DRD will only retain park and ride and park and share car parks.</p>
11	Use of off-street parking places	<p>There is potential for a myriad of additional activities to take place if the regulations are changed to allow the use of off-street parking places for other activities such as evening or weekend activities, markets, concerts, art exhibitions, children's play, youth activities, vintage and veteran vehicle shows, flower shows, vegetable growing competitions, cultural and civic events. They could also be used for charitable activities, cycle club race starts, running clubs, walking groups, agricultural shows, exercise and fitness groups, local history tours and overnight stays of motorhomes or caravans to aid tourism and the evening and weekend economies of town and city centres.</p> <p>1</p> <p>The Bill in its name and present form assumes that off-street car parks will remain in their present use. Beneficial use beyond car parking and beyond the normal working hours will be obtained when it is understood that these places are not "car parks" as such but instead are public open spaces.</p> <p>2</p>	<p>Ministerial Advisory Group on Architecture & the Built Environment (DCAL)</p>	<p>The Bill places no restriction on the use of off-street parking places for the range of activities mentioned. It would be up to councils to decide whether to use them as multi-functional spaces when not required for parking purposes</p> <p>While the Bill would transfer off-street parking places to district councils and provide councils with the necessary powers to manage them it makes no assumption that they will remain in their present use.</p>
12	Miscellaneous	<p>1 The Bill could usefully be renamed as the Public Open Spaces</p>	<p>Ministerial Advisory Group on Architecture & the Built Environment</p>	<p>The title of the Bill is not within the gift of the Department. That falls to OLC.</p>



Northern Ireland
Assembly

Appendix 4

Memoranda and Papers from DRD

Departmental Letter re Consultation - 29 May 2014

CENTRAL MANAGEMENT BRANCH

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO/D29/2014
Our reference:

29 May 2014

Dear Paul

OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Firstly, thank you for agreeing, in my unavoidable absence this morning, to speak to Gerry Anketell about the Department's forthcoming consultation on proposals for an Off-Street Parking (Functions of District Councils) Bill. As Gerry will have explained, the Bill seeks to put into effect the Executive's wish that district councils would become responsible for off-street parking places and for enforcement of parking contraventions within them.

The consultation paper which is attached includes some background information, along with the draft Bill which has a single clause, its draft Explanatory and Financial Memorandum and a list of consultees.

Finally, I can confirm that the officials who will attend the briefing session with the Committee on Wednesday 4 June will be:

- Terry Deehan, Acting Director of Corporate Services, Transport NI
- Davy Millar, Head of Lands and Legislation Branch, Transport NI
- Seán McConnell, Acting Head of Parking Enforcement Unit, Transport NI
- Gerry Anketell, Bill Team Leader, Transport Legislation, DRD

Yours sincerely



ALAN DOHERTY
Departmental Assembly Liaison Officer

Departmental Consultation



PROPOSAL FOR AN OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

A CONSULTATION PAPER

*Transport Policy, Strategy & Legislation Division
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB*

Telephone: 028 90540525

Facsimilie: 028 90540604

Contents

A note setting out the background to the Bill's proposal

Draft Off-Street Parking (Functions of District Councils) Bill

Draft Explanatory and Financial Memorandum for the Bill

List of Consultees

Background

The Department for Regional Development is the single public road authority for Northern Ireland. Its duties as road authority have, in the past been exercised, on its behalf by Roads Service, which has lately become subsumed into Transport Northern Ireland (TNI).

Under powers available to it in the Road Traffic Regulation Order (Northern Ireland) 1997 the Department provides both on and off street parking places. It uses powers under both the 1997 Order and the Traffic Management (Northern Ireland) Order 2005 to deal with parking contraventions and employs a number of traffic attendants to enforce those contraventions. The 2005 Order introduced a decriminalised system of enforcement which largely provided for offenders to pay penalty charge notices rather than face prosecution through the Courts.

Reform of Public Administration

In her speech to the Assembly on 31 March 2008 on the Executive's proposals for the Reform of Public Administration in Northern Ireland, Minister Foster announced, among other things, proposals to transfer 11 road-related public realm functions to the new district councils. Following discussions with local government officials an alternative suite of roads public realm functions were proposed in 2009.

A Roads (Functions of District Councils) Bill was prepared and issued for public consultation between April and July 2010. Following consultation that Bill was withdrawn from the legislative programme because insufficient progress had been made in introducing the new council structure and it would have been impracticable to introduce the arrangements proposed in the Bill across a 26 council structure.

In April 2013 the Northern Ireland Executive concluded that the only roads-related function that should transfer to district councils should be the future ownership, management and enforcement of off-street car parks. As a result, the Off-Street Parking (Functions of District Councils) Bill has been prepared.

Legislative Proposal

The Off-Street Parking (Functions of District Councils) Bill proposes that certain powers which the Department presently exercises in respect of off-street car parks under the Road Traffic Regulation (Northern Ireland) Order 1997 and the Traffic Management (Northern Ireland) Order 2005 would, with effect from 1 April 2015, be exercised by the councils. The Department will continue to be responsible for parking contraventions occurring in respect of park and ride and park and share car parks.

There are no proposals to change the existing enforcement regime in respect of parking contraventions occurring on public roads. Responsibility for that would remain with the Department.

Councils would, in the future, have the power to appoint traffic attendants in respect of those off-street car parks but it is anticipated that the councils may ask the Department to continue to enforce parking contraventions within those parking places up until the expiry of the Department's existing contracts with the private sector in 2016. Existing Local Government legislation will enable that to take place.

A transfer scheme being prepared in liaison with DOE officials and in accordance with the provisions of the Local Government Bill will arrange for the transfer, to councils, of assets including land, "pay and display" machines, barriers, systems of street lighting erected within the off-street car parks etc.

Comments Invited

The Department would welcome any comments you may wish to make on these proposals and the draft Bill.

The Department also invites your views on the potential impact, if any, you consider that the draft Bill might have on equality of opportunity, human rights issues and rural impact.

An electronic copy of the Consultation Paper is available on the Department's Website at www.drdni.gov.uk as is a copy of the Department's Section 75 Equality of Opportunity Screening Analysis Form and copies can be made available in different formats if required.

Written comments on the Department's proposal and draft Bill may be forwarded by email to rmpb@drdni.gov.uk or by post to J G Anketell MBE, Department for Regional Development, Transport Policy, Strategy & Legislation Division, Clarence Court, 10-18 Adelaide Street, Belfast, BT2 8GB.

The closing date for receipt of all responses is ## ####### 2014.

Confidentiality of Consultations.

The Department tries to make its consultation procedure as thorough and open as possible. Following the end of the consultation we may publish details of the responses received. Information that you provide in your response, including **personal information** could be published or disclosed under the Freedom of Information Act 2000 (FOIA). Under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with obligations of confidence. If you want the information that you provide to be treated as confidential it would be helpful if you could explain why. Although we will take full account of your explanation we cannot give an assurance that confidentiality can be maintained in all circumstances. Any, automatic confidentiality disclaimer generated by your IT system will not be regarded as

binding on the Department.

For further information about the confidentiality of responses please contact the Information Commissioner's Office (or see web site at: www.ico.org.uk).

Off-street Parking (Functions of District Councils)

A

BILL

TO

Transfer to district councils certain functions in relation to off-street parking places; and for connected purposes.

B E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Transfer to district councils of functions in relation to off-street parking places [j1]

1.—(1) Subject to subsection (3), the functions which are exercisable immediately before the commencement of this section by the Department under

5 Articles 10 to 14 and 25 to 27 of the 1997 Order in relation to off-street parking places situated in the district of a district council are transferred to that council.

(2) Subsection (1) does not apply to—

(a) functions in relation to off-street parking places operated as “park and ride” or “park and share” parking places;

10 (b) functions concerning the making of regulations.

(3) Subject to subsection (5), the functions which are exercisable immediately before the commencement of this section by the Department under Articles 3 to 28 of the 2005 Order so far as relating to relevant contraventions which occur in relation to off-street parking places situated in the district of a council are

15 transferred to that council.

(4) In subsection (3) “relevant contravention” means a contravention of Article 14(1) of the 1997 Order to which Schedule 1 to the 2005 Order applies.

(5) Subsection (3) does not apply to—

20 (a) functions relating to contraventions which occur in relation to off-street parking places operated as “park and ride” or “park and share” parking places;

(b) functions concerning the making of regulations.

(6) The Schedule contains amendments to the 1997 Order and the 2005 Order to give effect to the transfer of functions under this section.

Off-street Parking (Functions of District Councils)

(7) In this section—

“the 1997 Order” means the Road Traffic Regulation (Northern Ireland) Order 1997;

5 “the 2005” Order means the Traffic Management (Northern Ireland) Order 2005;

“the Department” means the Department for Regional Development;

“off-street parking place” has the meaning given in Article 2(2) of the Road Traffic Regulation (Northern Ireland) Order 1997.

10 (8) The preceding provisions of this section (with the Schedule) come into operation on 1st April 2015.

(9) This Act may be cited as the Off-street Parking (Functions of District Councils) Act (Northern Ireland) 2014.

SCHEDULE 1

Section 1

AMENDMENTS [S1]

The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2)

5 1. At the beginning of Part 4 insert the following Article—

“Parking places: introductory

9A. In this Part “the parking authority” means—

- (a) in relation to off-street parking places operated as “park and ride” or “park and share” parking places, the Department;
- 10 (b) in relation to any other off-street parking places, the district council for the district in which the parking places are situated;
- (c) in relation to parking places on roads, the Department.”.

2.—(1) Subject to sub-paragraph (2), in Articles 10 to 14 for “Department” (wherever it occurs) substitute “parking authority”.

15 (2) Sub-paragraph (1) does not apply to—

- (a) Article 10(4) and (6); and
- (b) Article 13(8).

3.—(1) Article 10 is amended as follows.

(2) After paragraph (2) insert—

20 “(2A) A district council may acquire by agreement or compulsorily any land required for the purposes of providing parking places under this Article.”.

(3) In paragraph (3) after “acquire” insert “under paragraph (2A) (in the case of a district council) or (in the case of the Department)”.

25 (4) In paragraph (9) after “roads” insert “(in the case of the Department)”.

4. In Articles 25, 26 and 27 for “Department” (wherever it occurs) substitute “parking authority”.

5. In Schedule 4, at the end insert—

30 “8. Paragraphs 1 to 7 apply in relation to orders under Article 13 made by a district council as they apply in relation to orders under that Article made by the Department, but with the substitution for references to the Department of references to the council.”.

The Traffic Management (Northern Ireland) Order 2005 (NI 14)

6.—(1) Article 2 is amended as follows.

35 (2) In paragraph (2)—

- (a) after the definition of “disabled person’s badge” insert— “ “enforcement authority” means—

Off-street Parking (Functions of District Councils) SCH. 1

- (a) in relation to an offence under Article 14(1) of the 1997 Order to which Schedule 1 applies which is committed in relation to an off-street parking place (other than one operated as a “park and ride” or “park and share” parking place), the council for the district in which the off-street parking place is situated;
- (b) in relation to any other offence to which Schedule 1 applies, the Department.”.
- (b) in the definition of “notice of rejection” for “Department” (wherever it occurs) substitute “enforcement authority”;
- (c) after that definition insert—
 - “ “off-street parking place” has the meaning given by Article 2(2) of the 1997 Order;”.

(3) In paragraph (4) for “Department” substitute “enforcement authority”.

7.—(1) Article 3 is amended as follows.

(2) For paragraph (1) substitute—

“(1) The Department may provide for the enforcement by individuals of contraventions specified in Schedule 1 in relation to which the Department is the enforcement authority.

(1A) A district council may provide for the enforcement by individuals of contraventions specified in Schedule 1 in relation to which the council is the enforcement authority.

(1B) The individuals referred to in paragraphs (1) and (1A) are to be known as traffic attendants.”.

(3) In paragraph (2) for “the Department” (wherever occurring) substitute “an enforcement authority”.

(4) After paragraph (2) insert—

“(2A) In relation to any function conferred by this Order on an enforcement authority, a reference to a traffic attendant is a reference to a traffic attendant employed by, or in pursuance of arrangements made by, that enforcement authority under paragraph (2).”.

(5) In paragraph (3) for “Department” (wherever it occurs) substitute “enforcement authority”.

8.—(1) Subject to sub-paragraph (2), in Articles 5 to 28 for “Department” (wherever it occurs) substitute “enforcement authority”.

(2) Sub-paragraph (1) does not apply to—

- (a) Article 8(3) and (4);
- (b) Article 18(6);
- (c) Article 21(8);
- (d) Article 24(1).

9.—(1) Article 18 is amended as follows.

(2) In paragraph (1)—

- (a) omit “on a public road or in a parking place”; and

)

(b) in sub-paragraph (b) after “recoverable” insert “by the enforcement authority”.

(3) After paragraph (1) insert—

5 “(1A) The power of an enforcement authority under paragraph (1) is exercisable only—

(a) in the case of a district council, in relation to a vehicle in an off- street parking place in the district of the council (other than one operated as a “park and ride” or “park and share” parking place);

10 (b) in the case of the Department, in relation to a vehicle on a public road or in an off-street parking place operated as a “park and ride” or “park and share” parking place.”.

10.—(1) Article 21 is amended as follows.

(2) In paragraph (1)—

(a) omit “on a public road or in a parking place”; and

15 (b) in sub-paragraph (b) after “recoverable” insert “by the enforcement authority”.

(3) After paragraph (1) insert—

“(1A) The power of an enforcement authority under paragraph (1) is exercisable only—

20 (a) in the case of a district council, in relation to a vehicle in an off- street parking place in the district of the council (other than one operated as a “park and ride” or “park and share” parking place);

(b) in the case of the Department, in relation to a vehicle on a public road or in an off-street parking place operated as a “park and ride” or “park and share” parking place.”.

11. In Article 28(1) for “Department’s” substitute “enforcement authority’s”.

12. After Article 38 insert—

“Acquisition of land for purposes of council’s functions under this Order

30 38A. A district council may acquire by agreement or compulsorily any land required for the purposes of its functions under this Order.”.

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Draft Off-Street Parking (Functions of District Councils) Bill

Explanatory and Financial Memorandum

INTRODUCTION

This Explanatory and Financial memorandum has been prepared by the Department for Regional Development in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

In March 2008 the Northern Ireland Executive agreed proposals for the reform of local government as part of the Review of Public Administration (RPA). These proposals included the transfer of certain functions that are currently exercised by central government Departments to the proposed new district councils.

Initially, 11 local roads functions were identified as being suitable for transfer to local government. Detailed discussions between officials from the Department, the Department of the Environment and representatives of local government about the detail of the functions proposed to transfer ensued. During those meetings local government representatives proposed a number of changes to the functions identified for potential transfer.

In August 2009, a refined suite of public realm functions requested by local government were agreed. This would have seen the creation of powers enabling district councils to authorise local road race events; issue access permits to pedestrian zones and to enforce parking contraventions on roads and in off-street car parks.

The Department consulted on a Roads (Functions of District Councils) Bill between April and July 2010. Following consultation the Bill was withdrawn from the legislative programme. This was because the arrangements for introduction of the new council structure had been delayed and it would have been impractical to introduce the proposed arrangements in the Bill across the existing 26 district councils.

In April 2013 the Northern Ireland Executive reconsidered the position regarding the transfer of certain road related functions to the councils and concluded that district councils should become responsible for the future ownership, management, operation and enforcement of parking contraventions occurring within off-street parking places, excluding park and ride and park and share car parks for which the Department would remain responsible.

To achieve that vision all assets relating to the ownership, management and operation of off-street car parks would need to transfer to councils. That will be achieved through a Transfer Scheme provided for by the Local Government Bill.

In addition, legislative powers in relation to the provision, operation, management and enforcement of off-street car parks would be required in order for councils to implement this vision.

OPTIONS CONSIDERED

The Department considered that there were two options.

DRAFT

Option 1 – provide councils with an enforcement regime modelled on that contained within the Road Traffic Regulation (Northern Ireland) Order 1997. That would have given the councils powers of enforcement through a criminal process.

Option 2 – provide for councils to use a decriminalised enforcement procedure such as that provided for in the Traffic Management (Northern Ireland) Order 2005 and used by the Department's traffic attendants. Discussions with representatives of district councils strongly favoured that option and the Department was asked to put the necessary arrangements in place.

OVERVIEW

The Bill would, with effect from 1 April 2015, transfer to district councils, certain powers contained in the Road Traffic Regulation (Northern Ireland) Order 1997 relating to off-street car parks. It would also provide councils with powers under the Traffic Management (Northern Ireland) Order 2005 to employ traffic attendants and to enforce certain parking contraventions occurring within those off street parking places.

COMMENTARY ON CLAUSES

The Bill contains only one clause. Subsection (1) of clause 1 provides that the functions presently exercised by the Department under Articles 10 to 14 and 25 to 27 of the Road Traffic Regulation (Northern Ireland) Order 1997 would transfer to the councils with effect from 1 April 2015.

Subsection (2) makes it clear that those functions do not include functions relating to park and ride or park and share parking places nor the making of regulations.

Subsection (3) of clause 1 provides that the functions presently exercised by the Department under Articles 3 to 28 of the Traffic Management (Northern Ireland) Order 2005 would become exercisable, from 1 April 2015, in relation to relevant contraventions occurring within off-street car parks within the district of a council to which those parking places have been transferred.

Subsection (4) defines relevant contraventions.

Subsection (5) makes it clear that functions relating to contraventions occurring in park and ride and park and share parking places and functions regarding the making of regulations will not become exercisable by the councils.

FINANCIAL EFFECTS OF THE BILL

The general financial implications of the transfer of assets from Departments to councils are dealt with in the Department of the Environment's Local Government Bill. It is anticipated that the proposals contained in this Bill will be cost neutral at the point of transfer for both the Department and the new councils. A regulatory impact assessment is not therefore required.

HUMAN RIGHTS ISSUES

The Department has considered the proposed legislative provisions in relation to Human Rights issues with the Human Rights Unit and has concluded that the proposals have no human rights impact.

EQUALITY IMPACT ASSESSMENT

The Department has considered the proposed legislative provisions against the Section 75 criteria of the Northern Ireland Act 1998 and, in conjunction with the Equality Unit, and has screened out the requirement for an Equality Impact Assessment in relation to these policy and legislative proposals.

DRAFT

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

The Department has considered the proposed legislative provisions against the criteria for regulatory impact and concluded that this is not required for these legislative proposals.

LEGISLATIVE COMPETENCE

The member in charge of the Bill, Danny Kennedy MLA, has made the following statement under section 9 of the Northern Ireland Act 1998:

“In my opinion the Off-Street Parking (Functions of District Councils) Bill would be within the legislative competence of the Northern Ireland Assembly.”

List of Consultees

Antrim Borough Council
Ards Borough Council
Armagh City and District Council
Ballymena Borough Council
Ballymoney Borough Council
Banbridge District Council
Belfast City Council
Carrickfergus Borough Council
Castlereagh Borough Council
Coleraine Borough Council
Cookstown District
Craigavon Borough Council
Derry City Council
Down District Council
Dungannon and South Tyrone Borough Council
Fermanagh District Council
Larne Borough Council
Lisburn Borough Council
Magherafelt District Council
Moyle District Council
Newry and Mourne District Council
Newtownabbey Borough Council
North Down Borough Council
Omagh District Council
Strabane District Council
The Shadow Councils
 Antrim and Newtownabbey District Council
 Armagh, Banbridge and Craigavon District Council
 Belfast District Council

Causeway Coast and Glens District Council

Derry and Strabane District Council

Fermanagh and Omagh District Council

Lisburn and Castlereagh District Council

Mid and East Antrim District Council

Mid Ulster District Council

Newry Mourne and Down District Council

North Down and Ards District Council

Chairpersons of the Regional Transition Committees

Police Service of Northern Ireland

Northern Ireland Departments

Northern Ireland Political Parties

Northern Ireland MPs

Members of the Legislative Assembly

Northern Ireland Local Government Association

Those bodies identified in Appendix 3 of the Department's Equality Scheme and identified as being suitable consultees.

Departmental Letter re Committee Queries - 20 June 2014

CENTRAL MANAGEMENT BRANCH

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO 42D/3/2013

20 June 2014

Dear Paul

Off Street Parking (Functions of Councils) Bill

I refer to the above DALO letter received in the Department on 4 June 2014.

Unfortunately the Department is not yet able to respond to your queries. We will issue a response as soon as we are in a position to do so.

This letter is fully disclosable under FOI.

Yours sincerely



ALAN DOHERTY
Departmental Assembly Liaison Officer

Departmental Letter re Committee Queries - 27 June 2014

CENTRAL MANAGEMENT BRANCH

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO/42D/3/2013

27 June 2014

Dear Paul

CONSULTATION ON OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Following officials' presentation to the Committee on 4 June 2014, regarding the proposed consultation on the above Bill, you wrote to me with a number of queries. Please see below Transport NI's responses to those queries.

Will the Department confirm that similar arrangements to those used during consultation on the Road Races Bill for sharing of consultee responses will be applied in respect of this draft Bill?

Yes, the same arrangements will be put in place.

What are the values of each car park, by new council area, being transferred?

Appendix A attached lists the estimated total value of car parks transferring by new council area. Work is still ongoing to establish the final list of car parks that will transfer.

What revenues have been collected, both fees and charges, in each of the off street car parks, by new council area, for the past three financial years to date?

Appendix B attached details the estimated income for 2013/14, by new council area. Total income figures are also provided for 2011/12 and 2012/13 years. As already stated, work is still ongoing to establish the final list of car parks that will transfer. In due course further detail on these figures can be provided to the Committee if

deemed necessary. I can also advise that income from PCNs issued in car parks over the last 3 years was 2011/12 - £1,293,818.00, 2012/13 - £1,235,420.00 and 2013/14 - £1,392,619.00.

Can the Department provide a definition of cost-neutral?

The transfer of the car parks and associated equipment will be rates neutral at the point of transfer to the new councils, with DFP being responsible for the necessary financial arrangements and implications. This means that DFP, as provided for by the Local Government Act 2014, will provide funding to offset the costs of those functions transferring.

Deloitte made a presentation to the Transfer of Functions working group, on which the Department is represented, in respect of due diligence. Can the Department provide the Committee with a copy of this presentation/report?

A copy of Deloitte's Due Diligence Review report, commissioned by Belfast City Council, is attached.

Officials made reference to a service level agreement to be agreed between the Department and local Councils. Can the Department furnish the Committee with the current draft SLA being discussed?

To date the new councils have not responded to the Department's offer to carry out for them certain operation and enforcement activities in the car parks up to Oct 2016. A discussion paper on the terms of a possible SLA was presented to the Transfer of Functions Working Group on 9 June – copy attached at Appendix C.

Can the Department provide the current staff numbers being deployed in enforcing both on street and off-street parking?

NSL employ 170 Traffic Attendants to ensure 107 are deployed across NI daily Monday – Saturday, mostly from 08.00 to 18:00 – with some evening work in Belfast. A scaled down service of approx 2 Traffic Attendants per Division is provided on Sundays from 13.00 to 18.00.

Can the Department provide the Committee with notes of meetings held with Chief Executives designates?

Officials have attended only one meeting of the Chief Executives Designates on the 30 April 2014. A copy of the draft note of that meeting is attached at Appendix D.

You will wish to draw this to the attention of the Committee.

This letter is fully disclosable under FOI.

Yours sincerely

A handwritten signature in black ink, appearing to read "A. Doherty", with a short horizontal line underneath the name.

ALAN DOHERTY
Departmental Assembly Liaison Officer

APPENDIX A

Car Parks

Total Value 2013/14 £'000
46,621

2013/14 Valuation by New
Council Area

Council Area	Net Book Value 2013-14
ANTRIM AND NEWTOWNABBEY	3,281,596
ARMAGH BANBRIDGE AND CRAIGAVON	3,465,326
BELFAST	8,477,792
CAUSEWAY COAST AND GLENS	5,958,012
DERRY AND STRABANE	2,118,085
FERMANAGH AND OMAGH	3,525,725
LISBURN AND CASTLEREAGH	1,883,666
MID AND EAST ANTRIM	7,515,564
MID ULSTER	2,581,098
NEWRY MOURNE AND DOWN	3,587,013
NORTH DOWN AND ARDS	4,227,142
Total	46,621,019

APPENDIX B

Car Parks	£'000
Total Income 2011/12	8,010
Total Income 2012/13	8,414
Total Income 2013/14	8,768

2013/14 Estimated Income by
New Council Area

Council Area	Revenue 2013/14
ANTRIM AND NEWTOWNABBEY	246,049
ARMAGH BANBRIDGE AND CRAIGAVON	694,210
BELFAST	2,009,987
CAUSEWAY COAST AND GLENS	830,637
DERRY AND STRABANE	816,523
FERMANAGH AND OMAGH	789,120
LISBURN AND CASTLEREAGH	672,914
MID AND EAST ANTRIM	1,078,728
MID ULSTER	340,920
NEWRY MOURNE AND DOWN	436,893
NORTH DOWN AND ARDS	852,183
Total	8,768,164

APPENDIX C

Discussion Paper to be presented to the Transfer of Functions Work Group for Off Street Car Parking

Background;

Off-Street Parking (Functions of District Councils) Bill is a single clause Bill. The Timetable for the Bill is as follows;

Key Stage	Completion Date
Instruct OLC	Nov 13 – March 2014
Draft Bill agreed with OLC	March 2014
Committee consultation	June 2014
Consultation on draft Bill	June – July 2014
Assessment of responses	August 2014
Executive clearance	September 2014
Introduction & Second Stage	September 2014
Committee Stage	September – October 2014
Final Stage	November 2014
Royal Assent	January 2015

The Bill proposes that councils will;

- become the owners and operators of off-street parking places (other than park & ride and park & share parking places).
- operate and maintain those parking places
- enforce parking contraventions within them.

Councils may require DRD, Transport NI, Parking Enforcement to carry out the following activities for the period from April 2015 – Oct 2016;

- employ traffic attendants
- deliver parking enforcement services in off-street parking places
- process Penalty Charge Notices (PCNs)
- Collect all payments of PCNs
- Provide options to pay PCNs – online, by post, automated telephone system.
- maintain and operate off-street car parks
- maintain and operate off-street car park Pay & Display machines
- provide Pay by Phone cashless parking service
- provide cash collection and reconciliation
- management and reporting of contract Key Performance Indicators
- provide parking adjudication service
- provide customer service
- provide clamp and removal service (debt recovery)
- provide permit parking scheme – Season Tickets
- (As data holder) process all requests for information including FOI's, ministers questions etc

APPENDIX C

If that is the case it is proposed that a generic Service Level Agreement between DRD, Transport NI, Parking Enforcement and the Councils may be the best way to manage the operation. If a generic SLA can be agreed at the outset, it may, upon agreement with both parties, be amended to reflect the needs of individual councils.

If Councils agree that DRD, Transport NI, Parking Enforcement carry out the function and that a SLA is the way forward then a formal project plan could be developed alongside the SLA to take the actions /issues forward. The following are actions /issues that should be addressed in the project plan or SLA;

- Assets
 - List of Car Parks Transferred
 - Pay and Display /Pay on Foot equipment and associated car park signage
 - Due Diligence Completed
 - Information provided on Claims to assist councils make PL insurance provision
 - Agreements relating to e charging points and advertising hoardings
- Enforcement
 - Agreement on Deployed Hours per Council / per car park
 - Agreement on Cost of a deployed hour
 - Agreement on flexibility of change and notice required for change to take place
 - Agreement on Charging and Management of Enforcement Contract
 - Agreement on parking enforcement policy and procedures
- PCN Processing
 - Management of telephone calls
 - Collection of PCN Debt
 - PCN Debt Financial Reports
 - Payment of PCN Debt to Council accounts
 - Management of Challenges, Representations and Appeals
 - Conflict of Interest Policy for Council Officials
 - Policy for Waive & Cancellation of PCNs
 - Policy on Debt Recovery – Clamping & Removal, EJO or Other?
 - Policy on how fees for clamping and removal or EJO service are (a) funded and (b) recovered
- PCN Processing IT Contract
 - Briefing on Management of IT Contract
 - Agreement on Cost to the Council of the service provided by the Parking Enforcement Team
 - Discuss options for Procurement of new IT
- Termination of SLA
 - Agree notice to be provided by both parties
 - Agree Exit Plan
 - Agree Business Continuity Plan
- Data Protection
 - Agree policy re data retention , disposal etc
- Freedom of Information
 - Agree Policy with Council on how FOI queries are managed

APPENDIX C

The SLA will not cover the following matters. Councils will be required to budget separately for them and make their own arrangements for the delivery of these services:

- Setting of Tariffs,
- Drafting relevant policies,
- Insurance,
- Upgrading of assets ,
- Replacement of machines,
- Any additional maintenance or cleaning in outside the NSL contract,
- Lighting?

This SLA will **only apply** to “charged” car parks. For the purpose of cleaning and maintenance of free car parks the councils will need to put in place their own arrangements.

APPENDIX D

**DRAFT NOTE OF MEETING WITH CHIEF EXECUTIVES (DESIGNATE)
30TH APRIL 2014
SPIRES CENTRE, BELFAST**

DOE	Leo O'Reilly (Chair) Ian Maye Linda McHugh Terry A'Hearn Mary MacIntyre Angus Kerr Liz Loughran Wesley Shannon	Local Government: Anne Donaghy Theresa Donaldson Liam Hannaway Brendan Hegarty John Kelpie Stephen Reid Anthony Tohill Roger Wilson Suzanne Wylie Adrian Kerr (LGSC) Derek McCallan
	(NILGA)	

DFP Brian McClure
Barry Armstrong

DSD Tracy Meharg

DRD Terry Deehan
Seán McConnell
Gerry Anketell
David Millar

In Attendance
from DOE Brian Moreland
Claire Bradley

		ACTION
1.	WELCOME & OPENING REMARKS	
1.1	The Chair welcomed everyone to the meeting and congratulated the 11 new local Chief Executives (Designate) on their appointments.	
1.2	Apologies were noted from: David Jackson, Causeway Coast & Glens Jacqui Dixon, Antrim & Newtownabbey Fiona McCandless, DOE (Planning) Pauline Keegan, DARD Will Haire, DSD	
1.3	The Chair advised that Part 4 of the Agenda has been amended to allow for a discussion on future engagement between senior local	

APPENDIX D

	government officers and central government departments to move forward in this final stage of implementation.	
2.	PART 1: LOCAL GOVERNMENT POLICY DIVISION	
2.1	Legislation, including Transitional Arrangements	
2.1.1	The Chair invited the Director of Local Government Policy Division (1) to provide an update on legislative arrangements following passage of the Local Government Bill through the Assembly.	
2.1.2	The Director advised that a number of amendments had been tabled and approved by the Assembly during Consideration Stage and Further Consideration Stage of the Local Government Bill. These would now become part of the statutory framework for the future operation of local government. The Director outlined the new statutory provisions and advised the potential impact these will have on the new councils.	
2.1.3	<p>Approved amendments to the Local Government Bill included:</p> <ul style="list-style-type: none"> • Producing a constitution by 30th April 2015 and publishing it on the new council website; • Producing regulations by 30th September 2014 to introduce restrictions relating to staff who can't be councillors, following the lifting of the blanket ban (also a provision in the Bill); • All main council meetings must be audio recorded and available in the council offices for 6 years (and available on council website for at least 2 years); • Permission to use social media in meetings, as long as it does not affect the running of the meeting; • Right of Appeal to the High Court (in relation to the Code of Conduct for Councillors) has been extended; • Community Planning will now link social well-being to section 75 and economic well-being will be tied in with anti-poverty measures; • The Department will determine the frequency of Performance Improvement Audits in consultation with the Local Government Auditor, on a risk based approach; • The Partnership Panel may now include up to 5 representatives from a representative body of local government; • A specific reference to the need for councils to act in accordance with their International Obligations; • An enabling power for DFP to introduce a Transfer of Functions Grant; • DFP are to provide a mid-term assessment in relation to the Rates Relief Scheme; • "Sunset clause" has been inserted to wind up the Local Government Staff Commission; and 	
2.1.4	<ul style="list-style-type: none"> • Department must specify standard format for domain 	

APPENDIX D

	names in Regulations.	
2.1.5	The Director also advised that the Department may now have to produce a further Bill in relation to the role of the Commissioner of Complaints; and two further sets of Regulations will be required to implement the further amendments incorporated into the legislation.	
2.1.6	Local government Chief Executives (Designate) outlined some concerns regarding the financial implications of changing domain names further down the line to comply with Regulations. The Director of Local Government Policy Division (2) advised that preliminary legal advice indicated that as far as domain names were concerned 'standard' will not mean 'single'. It was suggested that the Department should contact clusters to ascertain what domain names are being used at the moment. It was agreed this would be a useful exercise.	DOE
2.1.7	The Director of Local Government Policy Division (1) also advised that there are a number of consultations out at the moment, including Transitional Arrangements, Executive Arrangements and the Code of Conduct. It is hoped that the consultation on Standing Orders can be issued next week. The Director also advised that as the Standing Orders may not be in place before the elections, it is the intention of the Department to insert some of the mandatory elements of the Standing Orders into Regulations to allow the new councils to nominate to more than one committee at their first meeting.	
	A number of queries were raised from local government Chief Executives (Designate) in relation to flexibility within Regulations relating to nominations to Committees, Standing Orders, Transitional Arrangements, Statutory Guidance, Qualified Majority Voting and other legislative matters. It was agreed that local government Chief Executives (Designate) and support staff should meet with the Local Government Policy Division Legislation Team to work out the detail of these issues. It was suggested that this meeting should take place on Monday, 12 th May 2014 from 4pm onwards. The Director advised that she would check with the legislation team and confirm.	DOE
2.2	Organisational Design <ul style="list-style-type: none"> • iESE Organisational Design Toolkit • Group Structures • Future of Waste Management Groups 	
2.2.1	<u>iESE Organisational Design Toolkit</u> The Director for Local Government Policy Division (1) advised that the iESE Organisational Design Toolkit has been circulated and informed Chief Executives (Designate) that it is now over to local government to determine how it is used.	

APPENDIX D

2.2.2	A local government Chief Executive (Designate) advised that the new 11 Chief Executives (Designate) were scheduled to discuss this matter on Friday (2 nd May) and asked if any discussion/decision could be deferred until then.	
2.2.3	<p><u>Group Structures</u></p> <p>A local government Chief Executive (Designate) advised that an initial meeting had taken place in relation to the future of Group Structures and the minutes of the meeting had been circulated to local government colleagues. At the meeting a number of principles were established and a number of methods of working were identified. It is intended that the matter is discussed further at the meeting on Friday and it is the aim of the Chief Executives (Designate) to have a paper ready for circulation to the councils operating in shadow form by the end of June.</p>	
2.2.4	The Deputy Secretary queried if the role of LGEMG had been considered. The local government Chief Executive (Designate) advised that once the broad principles are agreed, broader operational arrangements will be considered, including arrangements for emergency management.	
2.2.5	<p><u>Future of Waste Management Groups</u></p> <p>The Head of Environment and Marine Group in the Department introduced a paper relating to the future of Waste Management Groups. A local government Chief Executive (Designate) advised that since local government had only just received the paper, it would be helpful if discussion on this matter could be deferred until after the Chief Executives (Designate) meet on Friday 2nd May.</p>	
2.2.6	It was advised that once Chief Executives (Designate) were in a position to provide a view, it would be an individual view, in the first instance, as ultimately this will be a decision for the new councils.	
2.2.7	It was agreed that the paper be amended to highlight the key issue of ongoing procurement exercises within the current Waste Management Groups. The need to share information with officer groups dealing with waste management was also highlighted.	DOE
2.3	<p>Transfer of Functions</p> <ul style="list-style-type: none"> • Due Diligence 	
2.3.1	<p><u>Due Diligence</u></p> <p>The Director of Local Government Policy Division (1) advised that at the last meeting of the Transfer of Functions Working Group further comments were received and that the final version of the Due Diligence report was currently being worked up.</p>	
2.3.2	It was agreed that further discussions need to take place at the	

APPENDIX D

2.3.3	Transfer of Functions Working Group to identify gaps and next steps.	
2.3.4	<p><u>Rates Convergence</u></p> <p>The Director of Rating Policy Division (DFP) provided an update on the Rates Relief Scheme, advising that a consultation will be issued shortly seeking views on the approach and duration of the Scheme. The Director advised that the impact of the revaluation of non-domestic rates is not yet known (which may have an impact on the Rates Relief Scheme); however, there is a need to consult on the key aspects now. The Director offered to meet with council groupings to help inform discussions on this matter. The Chief Executive of NILGA offered to help DFP with co-ordinating a consultation on this issue. The Director thanked the NILGA Chief Executive for the offer and advised he would be in touch to take up this offer.</p>	
2.3.5	<p>The Director also provided an update on the Transfer of Functions Grant, which will provide a mechanism to supplement local government rates based revenue income to reflect the sums to be transferred to local government in respect of the functions transferring from central to local government. A key objective of this mechanism will be to provide a permanent transfer of resources that will not be susceptible to future variations in departmental spending programmes.</p> <p><u>DSD Capital Funding</u></p> <p>Local government Chief Executives (Designate) raised concern regarding DSD Capital Funding issues, particularly in relation to capital projects that have already commenced, as councils have been advised that funding will not be available from DSD after 2015 to complete these projects. The DSD representative explained that DSD would be releasing all of its existing regeneration budget to local government and would, therefore, not be able to fund any works post April 2015. A request was made that central government departments should work with local government to help find funding to complete these projects; otherwise projects will have to be halted in the next couple of months, as councils would may not have the necessary funding available to see these projects through without financial support from departments. It was noted that these issues would have to be considered by relevant Ministers in due course in the context of their approved funding allocations.</p>	
2.4	Capacity Building	
2.4.1	The Director of Local Government Policy Division (1) advised that a Capacity Building Framework has been agreed through NILGA, the Local Government Training Group and the NAC.	
2.4.2	The Director highlighted concern that clusters have not yet put	

APPENDIX D

2.4.3	<p>forward plans to utilise funding available, and that the final plan has not yet been received from the Local Government Training Group (LGTG). She advised that if it becomes apparent that the available funding cannot be used on time, the resources will either have to be reallocated to areas that can spend it, or returned to DFP for reallocation to other spending priorities.</p> <p>The Chief Executive of the Local Government Staff Commission advised that the regional level plans from the LGTG are fairly well advanced and it is hoped that the plans can be finalised fairly quickly.</p>	
2.5 Partnership Panel		
2.5.1	<p>The Director for Local Government Policy Division (2) advised that a paper had been provided today outlining proposals for the Partnership Panel.</p>	
2.5.2	<p>The Director advised that the Department is proposing a 2 phase approach, firstly concentrating on transition (replacing the Regional Transition Committee as the main political driver of the final implementation phase for Local Government Reform) and then secondly looking at central – local relationships and how Executive Ministers will engage with local government in the future.</p>	
2.5.3	<p>The Director advised that the paper was presented to the Political Reference Group this week for comments and had also been shared with NILGA for comments. The Director proposed a meeting with the Chief Executives (Designate) to get comments from them, prior to proposals being submitted to the Northern Ireland Executive for consideration and approval.</p>	
2.5.4	<p>A local government Chief Executive (Designate) advised that Chief Executives would discuss this matter on Friday at their meeting and suggested the matter is discussed with the Department thereafter. It was recognised that proposals would have to be finalised soon by the Department for consideration by the Executive, particularly in relation to phase 1 in order to see through the final stages of implementation for local government reform.</p>	
2.6 Systems Convergence		
2.6.1	<p>A local government Chief Executive (Designate) advised that the first meeting of the Systems Convergence Programme Board had taken place, which focused on both short term and longer term issues.</p>	
2.6.2	<p>The Chief Executive (Designate) also advised that 2 or 3 clusters should be in a position shortly to bid for funding.</p>	
2.6.3		

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	Local government Chief Executives (Designate) also queried if there was any scope to utilise funding that had been returned to DFP to assist with other systems convergence work. A representative from DFP advised that a business case would need to put forward.	
2.7	Programme Implementation Plan	
2.7.1	The Director for Local Government Policy Division (2) advised that she has recently revised reporting arrangements to ensure that they are congruent with the iESE toolkit. The Director also advised that the Programme Management team has made arrangements to meet with Change Managers to refine the reporting arrangements further.	
3.	PART 2: PLANNING <ul style="list-style-type: none"> • Presentation on Planning (Subordinate Legislation) • Other Planning Matters 	
3.1.	The Director of Planning Policy Division provided a presentation on subordinate legislation programme relevant to local government and planning reform. The presentation outlined the scope of the subordinate legislation and the proposed timetable for moving forward.	
3.2	Following the presentation, local government Chief Executives (Designate) raised a number of queries including asking when the learning outcomes of the Planning Pilot in Newry, Down & Mourne will be known. It was advised that the Planning Pilot is due to go 'live' in September. It was also advised that DOE Planning will engage with the clusters on a rolling basis. There is no need to await the final outcome of the pilot. Learning can be utilised now.	
3.3	It was also noted that Senior Planners for the new councils should be identified by this summer. An update on the work to put in place shadow area planning teams was also sought.	
3.4	It was agreed that further engagement between DOE Planning and local government to work through both local and regional issues will be essential to ensure a smooth transfer of planning responsibilities to the new councils on 1 April 2015.	
4.	PART 3: DRD <ul style="list-style-type: none"> • Off Street Car Parking 	
4.1	A number of representatives from DRD provided a presentation on the transfer of off street car parks to local government. The presentation focused mainly on legislation required to transfer the function and key issues that will need to be dealt with once local government have the responsibility for off street car parking.	
4.2	A local government Chief Executive (Designate) advised that decisions relating to car park tariffs and enforcement will need to	

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	be made at a political level.	
4.3	Queries were raised in relation to whether income generated from off street car parking exceeds the cost of delivering the service. DRD officials advised that further information was required at a local level to ascertain if car parks generated a profit or loss, so that DRD could determine the impact that would have in terms of budget allocation across the 11 councils, given the principle that transfers should be cost neutral at point of transfer.	
4.4	It was agreed that a paper should be prepared outlining local costing implications, the short term and longer term decisions that need to be made and options available to move forward.	DRD
5.	PART 4: FUTURE LIAISON • Shaping the Way Forward	
5.1	The Chair advised that he believed it was important that a forum continued to exist to facilitate good communication between departmental representatives and the Chief Executives (Designate) of the new councils in the critical period leading up to the transfer of responsibilities to the new councils in April 2015. The Chair suggested that a group should meet frequently in this last stage of implementation, perhaps monthly, and on the basis of well defined and focused agenda items.	
5.2	A local government Chief Executive (Designate) advised that he welcomed engagement with DOE and other departments and that ideas for future engagement can be discussed at the Chief Executives' (Designate) meeting on Friday, with a view to feeding back the views of the Chief Executives (Designate) thereafter.	
5.3	It was suggested that future agendas should focus on 2 or 3 issues at a time, in order to allow the detail to be discussed.	
5.4	The Deputy Secretary also advised that the Director of Local Government Policy Division (2) is currently reviewing working group structures in order to ensure they are fit for purpose for this last phase of implementation.	
5.5	The Chair thanked everyone for their attendance and the presentations made by Planning and DRD Roads Service staff.	
	<i>Meeting Closed at 5.30pm</i>	

Departmental Letter re Consultation Responses - 22 August 2014

CENTRAL MANAGEMENT BRANCH



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 40836
Facsimile: (028 905) 40064
Email: Julie-Ann.Dutton@drdni.gov.uk

Your reference: DALO/D49/2014
Our reference:

22 August 2014

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX

Dear Paul

Off-Street Parking (Functions of District Councils) Bill

At the Committee meeting on 4 June 2014, officials gave an undertaking to provide Members with a copy of the responses received during the Consultation on the Off-Street Parking (Functions of District Councils) Bill.

The Consultation closed on Friday 8 August 2014 and there were 13 responses in total. Please find attached a copy of these responses for the Committee's information.

This letter and enclosures are fully disclosable under FOI.

Yours sincerely



JULIE-ANN DUTTON
Central Management Branch

Ministerial Letter re Introduction of Bill - 30 September 2014



Department for
**Regional
Development**
www.drdni.gov.uk

Trevor Clarke Esq MLA
Chairman
Committee for Regional Development
Northern Ireland Assembly
Parliament Buildings
Stormont
BELFAST
BT4 3SX

Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

Tel: 028 9054 0105
Fax: 028 9054 0028
Email: private.office@drdni.gov.uk

Your Ref:
Our Ref: DRD/SUB/780/2014
Date: 30 September 2014

Trevor,

Off-Street Parking (Functions of District Councils) Bill

Further to my letter of 17 September to your predecessor, I now enclose, in confidence, an advance copy of the Off-Street Parking (Functions of District Councils) Bill and its Explanatory and Financial Memorandum prior to introduction.

My officials briefed the Committee on 4 June, prior to consultation, about the Bill's aims. Broadly speaking the Bill was welcomed. The consultation concluded on 8 August and only 17 responses, mostly from existing or shadow councils were received. A copy of each response received has already been furnished to the Committee and I understand that my officials will attend an oral briefing with the Committee on 8 October.

None of the issues raised during consultation required the Bill to be amended and, at its meeting on 25 September the Executive approved its introduction which is scheduled for 7 October. Consequently the Bill will be introduced as originally drafted.

I would reiterate my previous request that the Committee complete its scrutiny of the Bill within the 30 working days from referral as provided for by Standing Order 33(2).

This would help to ensure that the Bill will come into operation on 1 April 2015.

DANNY KENNEDY MLA
Minister for Regional Development



Bill as Introduced

Off-street Parking (Functions of District Councils)

[7/3/2014 10:41:55]

CONTENTS

1. Transfer to district councils of functions in relation to off-street parking places [j1]

Schedule

Amendments [s1]

Off-street Parking (Functions of District Councils)

A

BILL

TO

Transfer to district councils certain functions in relation to off-street parking places; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Transfer to district councils of functions in relation to off-street parking places [j1]

1.—(1) Subject to subsection (3), the functions which are exercisable immediately before the commencement of this section by the Department under
5 Articles 10 to 14 and 25 to 27 of the 1997 Order in relation to off-street parking places situated in the district of a district council are transferred to that council.

(2) Subsection (1) does not apply to—

- (a) functions in relation to off-street parking places operated as “park and ride” or “park and share” parking places;
- 10 (b) functions concerning the making of regulations.

(3) Subject to subsection (5), the functions which are exercisable immediately before the commencement of this section by the Department under Articles 3 to 28 of the 2005 Order so far as relating to relevant contraventions which occur in relation to off-street parking places situated in the district of a council are
15 transferred to that council.

(4) In subsection (3) “relevant contravention” means a contravention of Article 14(1) of the 1997 Order to which Schedule 1 to the 2005 Order applies.

(5) Subsection (3) does not apply to—

- (a) functions relating to contraventions which occur in relation to off-street parking places operated as “park and ride” or “park and share” parking places;
- 20 (b) functions concerning the making of regulations.

(6) The Schedule contains amendments to the 1997 Order and the 2005 Order to give effect to the transfer of functions under this section.

Off-street Parking (Functions of District Councils)

(7) In this section—

“the 1997 Order” means the Road Traffic Regulation (Northern Ireland) Order 1997;

5 “the 2005” Order means the Traffic Management (Northern Ireland) Order 2005;

“the Department” means the Department for Regional Development;

“off-street parking place” has the meaning given in Article 2(2) of the Road Traffic Regulation (Northern Ireland) Order 1997.

10 (8) The preceding provisions of this section (with the Schedule) come into operation on 1st April 2015.

(9) This Act may be cited as the Off-street Parking (Functions of District Councils) Act (Northern Ireland) 2014.

Off-street Parking (Functions of District Councils)

SCH. 1

SCHEDULE 1

Section 1

AMENDMENTS [S1]

The Road Traffic Regulation (Northern Ireland) Order 1997(NI 2)

5 1. At the beginning of Part 4 insert the following Article—

“Parking places: introductory

9A. In this Part “the parking authority” means—

- (a) in relation to off-street parking places operated as “park and ride” or “park and share” parking places, the Department;
- 10 (b) in relation to any other off-street parking places, the district council for the district in which the parking places are situated;
- (c) in relation to parking places on roads, the Department.”.

2.—(1) Subject to sub-paragraph (2), in Articles 10 to 14 for “Department” (wherever it occurs) substitute “parking authority”.

15 (2) Sub-paragraph (1) does not apply to—

- (a) Article 10(4) and (6); and
- (b) Article 13(8).

3.—(1) Article 10 is amended as follows.

(2) After paragraph (2) insert—

20 “(2A) A district council may acquire by agreement or compulsorily any land required for the purposes of providing parking places under this Article.”.

(3) In paragraph (3) after “acquire” insert “under paragraph (2A) (in the case of a district council) or (in the case of the Department)”.

25 (4) In paragraph (9) after “roads” insert “(in the case of the Department)”.

4. In Articles 25, 26 and 27 for “Department” (wherever it occurs) substitute “parking authority”.

5. In Schedule 4, at the end insert—

30 “8. Paragraphs 1 to 7 apply in relation to orders under Article 13 made by a district council as they apply in relation to orders under that Article made by the Department, but with the substitution for references to the Department of references to the council.”.

The Traffic Management (Northern Ireland) Order 2005 (NI 14)

6.—(1) Article 2 is amended as follows.

35 (2) In paragraph (2)—

- (a) after the definition of “disabled person’s badge” insert—
“enforcement authority” means—

Off-street Parking (Functions of District Councils)

SCH. 1

- (a) in relation to an offence under Article 14(1) of the 1997 Order to which Schedule 1 applies which is committed in relation to an off-street parking place (other than one operated as a “park and ride” or “park and share” parking place), the council for the district in which the off-street parking place is situated;
- (b) in relation to any other offence to which Schedule 1 applies, the Department.”.
- (b) in the definition of “notice of rejection” for “Department” (wherever it occurs) substitute “enforcement authority”;
- (c) after that definition insert—
- “ “off-street parking place” has the meaning given by Article 2(2) of the 1997 Order;”.
- (3) In paragraph (4) for “Department” substitute “enforcement authority”.
- 7.—(1) Article 3 is amended as follows.
- (2) For paragraph (1) substitute—
- “(1) The Department may provide for the enforcement by individuals of contraventions specified in Schedule 1 in relation to which the Department is the enforcement authority.
- (1A) A district council may provide for the enforcement by individuals of contraventions specified in Schedule 1 in relation to which the council is the enforcement authority.
- (1B) The individuals referred to in paragraphs (1) and (1A) are to be known as traffic attendants.”.
- (3) In paragraph (2) for “the Department” (wherever occurring) substitute “an enforcement authority”.
- (4) After paragraph (2) insert—
- “(2A) In relation to any function conferred by this Order on an enforcement authority, a reference to a traffic attendant is a reference to a traffic attendant employed by, or in pursuance of arrangements made by, that enforcement authority under paragraph (2).”.
- (5) In paragraph (3) for “Department” (wherever it occurs) substitute “enforcement authority”.
- 8.—(1) Subject to sub-paragraph (2), in Articles 5 to 28 for “Department” (wherever it occurs) substitute “enforcement authority”.
- (2) Sub-paragraph (1) does not apply to—
- (a) Article 8(3) and (4);
- (b) Article 18(6);
- (c) Article 21(8);
- (d) Article 24(1).
- 9.—(1) Article 18 is amended as follows.
- (2) In paragraph (1)—
- (a) omit “on a public road or in a parking place”; and

Off-street Parking (Functions of District Councils)

SCH. 1

(b) in sub-paragraph (b) after “recoverable” insert “by the enforcement authority”.

(3) After paragraph (1) insert—

5 “(1A) The power of an enforcement authority under paragraph (1) is exercisable only—

(a) in the case of a district council, in relation to a vehicle in an off-street parking place in the district of the council (other than one operated as a “park and ride” or “park and share” parking place);

10 (b) in the case of the Department, in relation to a vehicle on a public road or in an off-street parking place operated as a “park and ride” or “park and share” parking place.”.

10.—(1) Article 21 is amended as follows.

(2) In paragraph (1)—

(a) omit “on a public road or in a parking place”; and

15 (b) in sub-paragraph (b) after “recoverable” insert “by the enforcement authority”.

(3) After paragraph (1) insert—

20 “(1A) The power of an enforcement authority under paragraph (1) is exercisable only—

(a) in the case of a district council, in relation to a vehicle in an off-street parking place in the district of the council (other than one operated as a “park and ride” or “park and share” parking place);

25 (b) in the case of the Department, in relation to a vehicle on a public road or in an off-street parking place operated as a “park and ride” or “park and share” parking place.”.

11. In Article 28(1) for “Department’s” substitute “enforcement authority’s”.

12. After Article 38 insert—

“Acquisition of land for purposes of council’s functions under this Order

30 38A. A district council may acquire by agreement or compulsorily any land required for the purposes of its functions under this Order.”.

Explanatory and Financial Memorandum

This Memorandum refers to the Off-Street Parking (Functions of District Councils) Bill as introduced in the Northern Ireland Assembly on [Bill Office will insert date], (Bill [Bill Office will insert No.] 2014)

OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL 2014

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by the Department for Regional Development in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. In March 2008 the Northern Ireland Executive agreed proposals for the reform of local government as part of the Review of Public Administration (RPA). These proposals included the transfer of certain functions to district councils that are currently exercised by central government Departments.
4. Initially, 11 local roads functions were identified as being suitable for transfer to local government. Detailed discussions between officials from the Department, the Department of the Environment and representatives of local government about the detail of the functions proposed to transfer ensued. During those meetings local government representatives proposed a number of changes to the functions identified for potential transfer.
5. In August 2009, a refined suite of public realm functions requested by local government were agreed. This would have seen the creation of powers enabling district councils to authorise local road race events; issue access permits to pedestrian zones and to enforce parking contraventions on roads and in off-street car parks.
6. The Department consulted on a Roads (Functions of District Councils) Bill between April and July 2010. However, the Bill was withdrawn from the legislative programme since the arrangements for introduction of the new council structure had been delayed and it would have been impractical to introduce the proposed arrangements in the Bill across the existing 26 district councils.
7. In April 2013 the Northern Ireland Executive reconsidered the position regarding the transfer of certain road related functions to the councils and concluded that district councils should become responsible for the future ownership, management, operation and enforcement of parking contraventions occurring within off-street parking places,

¹
NIA Bill [Bill Office will insert No.]-EFM Session [Bill Office will insert session/date]

This Memorandum refers to the Off-Street Parking (Functions of District Councils) Bill as introduced in the Northern Ireland Assembly on [Bill Office will insert date], (Bill [Bill Office will insert No.] 2014)

excluding park and ride and park and share car parks for which the Department would remain responsible.

8. To achieve that vision all assets relating to the ownership, management and operation of off-street car parks would need to transfer to councils. That will be achieved through a Transfer Scheme provided for in the Local Government Bill.
9. In addition, legislative powers in relation to the provision, operation management and enforcement of off-street car parks would be required in order for councils to implement this vision..

OPTIONS CONSIDERED

10. The Department considered that there were two options.
11. Option 1 – provide councils with an enforcement regime modelled on that contained within the Road Traffic Regulation (Northern Ireland) Order 1997. That would have given the councils powers of enforcement through a criminal process.
12. Option 2 – provide for councils to use a decriminalised enforcement procedure such as that provided for in the Traffic Management (Northern Ireland) Order 2005 and used by the Department's traffic attendants. Discussions with representatives of district councils strongly favoured that option and the Department was asked to put the necessary arrangements in place.

OVERVIEW

13. The Bill would, with effect from 1 April 2015, transfer to district councils, certain powers contained in the Road Traffic Regulation (Northern Ireland) Order 1997 relating to off-street car parks. It would also provide councils with powers under the Traffic Management (Northern Ireland) Order 2005 to employ traffic attendants and to enforce certain parking contraventions occurring within those off street parking places.

COMMENTARY ON CLAUSES

14. The Bill contains only one clause. Subsection (1) of clause 1 provides that the functions presently exercised by the Department under Articles 10 to 14 and 25 to 27 of the Road Traffic Regulation (Northern Ireland) Order 1997 would transfer to the councils with effect from 1 April 2015.
15. Subsection (2) makes it clear that those functions do not include functions relating to park and ride or park and share parking places nor the making of regulations.
16. Subsection (3) of clause 1 provides that the functions presently exercised by the Department under Articles 3 to 28 of the Traffic Management (Northern Ireland) Order

2

NIA Bill [Bill Office will insert No.]-EFM Session [Bill Office will insert session/date]

This Memorandum refers to the Off-Street Parking (Functions of District Councils) Bill as introduced in the Northern Ireland Assembly on [Bill Office will insert date], (Bill [Bill Office will insert No.] 2014)

2005 would become exercisable, from 1 April 2015, in relation to relevant contraventions occurring within off-street car parks within the district of a council to which those parking places have been transferred.

17. Subsection (4) defines relevant contraventions.
18. Subsection (5) makes it clear that functions relating to contraventions occurring in park and ride and park and share parking places and functions regarding the making of regulations will not become exercisable by the councils.

FINANCIAL EFFECTS OF THE BILL

19. The general financial implications of the transfer of assets from Departments to councils are dealt with in the Department of the Environment's Local Government Bill. It is anticipated that the proposals contained in this Bill will be cost neutral at the point of transfer for both the Department and the new councils. A regulatory impact assessment is not therefore required.

HUMAN RIGHTS ISSUES

20. The Department has considered the proposed legislative provisions in relation to Human Rights issues with the Human Rights Unit and has concluded that the proposals have no human rights impact.

EQUALITY IMPACT ASSESSMENT

21. The Department has considered the proposed legislative provisions against the Section 75 criteria of the Northern Ireland Act 1998 and, in conjunction with the Equality Unit, and has screened out the requirement for an Equality Impact Assessment in relation to these policy and legislative proposals.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

22. The Department has considered the proposed legislative provisions against the criteria for regulatory impact and concluded that this is not required for these legislative proposals.

LEGISLATIVE COMPETENCE

23. The member in charge of the Bill, Danny Kennedy MLA, had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my opinion the Off-Street Parking (Functions of District Councils) Bill would be within the legislative competence of the Northern Ireland Assembly."

3

NIA Bill [Bill Office will insert No.]-EFM Session [Bill Office will insert session/date]

This Memorandum refers to the Off-Street Parking (Functions of District Councils) Bill as introduced in the Northern Ireland Assembly on [Bill Office will insert date], (Bill [Bill Office will insert No.] 2014)

4
NIA Bill [Bill Office will insert No.]-EFM Session [Bill Office will insert session/date]

Departmental Letter re Updated Briefing - 3 October 2014

CENTRAL MANAGEMENT BRANCH



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO/D67/2014
Our reference:

03 October 2014

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX

Dear Paul

TRANSFER OF FUNCTIONS (OFF STREET PARKING) BILL

Departmental Officials are due to brief the Committee on 8 October 2014 on the Transfer of Functions (Off street parking) Bill. You asked for further information for this meeting. Officials have provided a spread sheet which summarises the responses received to the consultation which may assist with your deliberations.

Also attached is a **working draft** of a Service Level Agreement which could be used if any of the new Councils wish to avail of the Department's contract for parking enforcement. At the Committee meeting held on 4 June Members requested a copy of this draft document. While I emphasise that this is still a work in progress document, officials are content to share it with Members for their information.

This letter and enclosures are being sent to you in confidence. We would ask that they not be disseminated beyond the Committee at this stage. To this end, the Department would rely on the exceptions provided under Regulations 12(4)(d), 12(4)(e) and 12(5)(d) of the Environmental Information Regulations 2004.

Yours sincerely



ALAN DOHERTY
Departmental Assembly Liaison Officer

Draft Off Street parking Service Level Agreement - 3 October 2014

402.2339.0.LR

Service Level Agreement

xxxx Council

and

DRD, Transport NI

for

| ~~Civil p~~Parking enforcement in Council
owned off-street car parks

| V11407

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Appendix 1 – List of assets

Appendix 2 – Schedule of maintenance and cleaning activities carried out by NSL

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Appendix 9 – Monthly financial report template

THIS AGREEMENT is made on the day of 2014

BETWEEN THE PARTIES:

1. **Name of Council of Address of Council ('the Council'); and**
2. **Department for Regional Development Transport NI of *insert DRD address***
(‘the DRD, Transport NI’)

SECTION 1: INTRODUCTION

The Northern Ireland Executive has agreed, as part of the process of Local Government Reform (LGR), to transfer certain functions in relation to off-street car parking to the 11 district councils being created as part of the LGR process. Historically, ‘the DRD Transport NI’, was the single public road authority for Northern Ireland and carried out a range of statutory functions in respect of off street car parking under the Road Traffic Regulation (Northern Ireland) Order 1997 (‘the 1997 Order’) and the Traffic Management (Northern Ireland) Order 2005 (‘the 2005 Order’). Certain functions carried out by the DRD Transport NI under the 1997 Order and the 2005 Order in relation to off-street car parking are intended to transfer to *insert name of Council* (hereinafter referred to as ‘the Council’) under the Off-Street Parking (Functions of District Councils) Act¹ (hereinafter referred to as ‘the Act’).

The DRD has agreed that for the period specified in paragraph 3.1 hereto the DRD Transport NI shall, subject as herein, deliver the functions transferred to the Council under the said Act for and on behalf of the Council insofar as the functions relate to the civil enforcement and management of off-street car parking (hereinafter referred to as ‘the Service’).

This SLA has been developed to define the roles and responsibilities of the DRD Transport NI and *insert name of Council* in respect of the Service to be provided by the DRD Transport NI in relation to off street car parking and civil parking enforcement on behalf of Council’s in Council owned off-street car parks.

SECTION 2: SCOPE

This SLA records the basis upon which DRD Transport NI will provide the services described at paragraph 4.1 hereto to the Council in all cases throughout the period specified in 3.1.

The services are:
Off Street Enforcement
Cash Collection
P & D Machine Maintenance
Car Park Cleaning
Car Park landscaping
PCN Processing

¹ i.e. the draft Bill once enacted.

Debt Recovery

This SLA shall apply to the car parks, equipment and associated car park signage described in Appendix 1 (hereinafter referred to as 'the Assets').

Free car parks

The SLA only applies to the charged car parks listed in schedule xxx. If the council wish to begin enforcement in free car parks, they may be added to the schedule by agreement with Transport NI.

If the council wish to carry out enforcement in free car parks the terms of such enforcement and charging will be agreed with Transport NI and NSL prior to the enforcement commencing. ^x

This SLA does not apply to free car parks~~[SM1][d2]~~.

SECTION 3: DURATION OF THE AGREEMENT

This SLA takes effect from the 1st April 2015 and remains in force until 31st October 2016~~[sm3]~~, unless otherwise terminated:

- (a) by either party on the expiry of 6 months notice in writing; or
- (b) by the agreement of both parties.

~~Further, w~~where either party breaches the terms of this SLA the other party may give notice to that party requesting them to rectify the breach referred to within 14~~30~~ working days of the date of such notice being given failing which the party serving notice shall be entitled to terminate this SLA without notice².

Insert Dispute Resolution Process from NSL contract.

The SLA may be amended at any time by mutual consent, such amendments to be evidenced in writing. Agreed amendments will be incorporated into the SLA.

SECTION 4: ROLES AND RESPONSIBILITIES**4.1 DRD, Transport NI**

(a) DRD, Transport NI and it's agents will provide the Service on behalf of the Council and shall be responsible for:

- Engaging Parking Attendants and enforcing the civil provisions of the Act in relation to off-street parking places in the ownership of the Council and more particularly described at Appendix 1 hereto

² Provision to be confirmed by Council

X Legislation and signage must be correct and in place before enforcement can take place.

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- Transport NI will specify the uniform to be worn by the Traffic Attendants. The uniform will include the NSL corporate identity, Transport NI corporate identity and the following words “Working in partnership with local Councils”.
- Processing Penalty Charge Notices (PCNs)
- ~~Managing and supervising any sub-contracts relating to the discharge of their responsibilities under this agreement~~^[SM4]
- Collecting all payments of PCNs through a range of payment options including online, by post and automated telephone system
- Carrying out basic maintenance and cleaning off-street car parks (as described in Appendix 2 hereto)
- Maintaining and operating off-street car park Pay & Display machines
- Providing Pay by Phone cashless parking service
- Providing cash collection from off street car parks (excluding Park and Ride car parks)³
- Support councils in cash reconciliation.
- Managing and reporting on of SLA Key Performance Indicators (as set out in Appendix 8) and compliance with same
- Providing an independent Traffic Penalty Tribunal service ~~parking adjudication service~~
- Providing customer service as per the customer and service standards set out in Appendix 7
- Providing a clamping and removal service for outstanding PCN debt (including the recovery of charges associated with clamping and removing vehicles)
- Providing permit parking scheme – Season Tickets
- Processing any requests for personal data, general and environmental information including and Minister’s questions etc. in accordance with section 5.3 below
- Any claims relating to its discharge of these functions⁴ ~~[SM5]~~
- Investigating and responding to complaints~~[SM6]~~^[c7] relating to its discharge of its functions under this SLA e.g. customer service complaints etc.
- ~~Any other matters as deemed appropriate may be dealt with under this Section by agreement~~^[c8] ~~[SM9]~~

(b) The DRD, Transport NI and its agents shall perform the Service and its obligations under this SLA with all reasonable skill, care and diligence and in accordance with all legislative and statutory requirements. In particular the DRD, Transport NI must comply with the Health and Safety at Work (NI) Order 1978 and all related regulations, standards and codes of practice and is responsible for ensuring, so far as is reasonably practicable, that all work activities, equipment, procedures and systems of work employed under this SLA are safe for their employees, agents, contractors and members of the public^[10].

(c) The DRD, Transport NI shall perform the Service and its obligations under this SLA at all times in a professional manner when delivering and not undertake

³ Please provide more detail and ensure that all obligations are clearly and sufficiently detailed in the appendices etc referred to.

⁴ What is intended in this regard? What claims will the DRD be responsible for? What claims will the Council be responsible for?

any activity, or act in such a way as to bring the image of the Council into disrepute and to ensure that its employees, agents and contractors act at all times in a professional manner when delivering the Service and shall not undertake any activity, or act in such a way as to bring the image of the Council into disrepute.

(d)DRD Transport NI and its agents will not:

- DRD Transport NI will not be responsible for reconciliation of weekly off-street trading accounts.
- Commence debt collection using the services of the Enforcement of Judgements Office without prior agreement of Council regarding fees expended and the extent of process eg charges against property or seizure of goods or bankruptcy.
- Winter maintenance or salting of car parks
- Maintenance and upkeep of signs and lines in off street car parks.
- Carry out routine safety inspections on off-stret car parks.

4.2 The Council

The Council will be responsible for:

- Managing and operating car parks excluding the elements of management and operation of car parks detailed at paragraph 4.1
- ~~Specifying the uniforms^{SM11} to be worn by traffic attendants (as set out in appendix 3)~~
- Setting tariffs – Councils must provide Transport NI with a minimum of 3^{SM12} working days notice of tariff change
- Council will be responsible for reconciliation of off street parking income.
- Setting and restrictions⁵ - e.g. operating hours, vehicle types, use of car park
- Agreeing relevant enforcement days, relevant policies, service standards and procedures
- Maintaining Upgrading assets, including surfacing, tarmacing, line marking, signage and planting
- ~~Authorising Parking Attendant(s)~~
- Enforcing criminal offences under the Act
- Maintenance, cleaning and lighting of car parks including electricity costs (save as provided for in paragraph 4.1 and Appendix 2 hereto)
- Multi-storey car park, Ballymena^{SM13}
- Pay rent on leased car parks.
- Any claims against its discharge of these functions⁶
- Investigating and responding to complaints relating to its discharge of these functions through ~~BCC xxx Council~~ Corporate Complaints Procedures e.g. complaints regarding the condition of the car park, tariffs etc.
- Processing any requests for personal data, general and environmental information in accordance with section 5.3 below

⁵ More detail on what 'restrictions' the council can set

⁶ See footnote number 3

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- Any other matters as deemed appropriate may be dealt with under this Section by agreement

4.3 Contacts and their roles

DRD, Transport NI and the Council contacts and their roles are listed in Appendix 4.

SECTION 5: SPECIFICATION – SEE APPENDIX 10 FOR CONTRACT SPECIFICATION

5.1 Operational specification

The Council shall agree a Parking Enforcement Protocol and Cancellation Policy which shall be implemented by DRD, Transport NI. The Parking Enforcement Protocol is recorded at Appendix 5 hereto and the Cancellation Policy is recorded at Appendix 6. The Parking Enforcement Protocol will be available on NI Direct.

Civil Enforcement and cancellation decisions shall be delegated to the DRD, Transport NI, and shall be taken in accordance with the Traffic Management (Northern Ireland) Order 2005 Act and the Parking Enforcement Protocol and Council policies. Council officials and elected members shall not be involved in individual enforcement or cancellation decisions. To this end, all council officials and council elected members will commit to a code of conduct and sign a conflict of interest policy annually.^[SM14]

The Council shall agree with the DRD, Transport NI, customer and service standards to apply to the delivery of the Service by DRD, Transport NI. The customer and service standards are recorded at Appendix 7 hereto.

The Council shall agree deployment rotas for Parking Attendants on a quarterly basis and notify the DRD, Transport NI 10 days before commencement.^[SM15]

5.2 Inspection, testing and reporting of defects

Parking Attendants shall carry out periodical inspection and testing of apparatus (including but not limited to: Pay and Display Machines)⁸ in car parks, Traffic Parking attendants shall make a note of any defects to apparatus and any other aspect of the car park and report these to Transport NI the Council within 24 hours of discovery. Transport NI should notify the Council should be notified of any defects of a nature that could affect safety or cause damage to property within one hour of being made aware of the defect.

DRD, Transport NI or its agent shall immediately notify and make good, to the satisfaction of the Council, all damage caused to the Assets by the acts, omission or negligence of the DRD, Transport NI's employees, agents or contractors, within agreed timescales.

5.3 Record management and data protection

Access to Personal Data – see Appendix 7^[SM19]

⁸What other apparatus will Parking Attendants be responsible for inspecting

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In the discharge of this SLA, the processing of any personal data by DRD, Transport NI and the Council during this interim arrangement will rest with each other respectively.

DRD, Transport NI and the Council will therefore assume the role of joint Data Controllers for the personal and sensitive personal data they process. Each has full responsibility to meet their data protection obligations regarding the personal data they gather, use and retain during the interim arrangement and ensure the eight principles are applied.

Both organisations will exercise control over the purposes and the manner in which the personal data is processed. In this specific scenario, the activities performed by DRD, Transport NI and the Council, as listed within section 4 above, will involve the following:-

- Each organisation will apply a level of interpretation to the personal data they process;
- Each organisation has the responsibility to exercise professional judgement on that data;
- Each organisation will have significant decision-making tasks in relation to personal data processed; and
- Each organisation will apply its own technical expertise and professional judgement on how best to store the personal data in a safe and accessible way

The above points can be best achieved by joint data controller status.

Both organisations must ~~also~~ deal with requests submitted to them for access to:-

- Personal Data, received under the Data Protection Act, 1998 (DPA);
- ~~General Information received under the Freedom of Information Act 2000 (FOIA);~~
- and
- ~~Environmental Information received under the Environmental Information Regulations 2004 (EIR).~~

Access to General and Environmental Information

If any request is submitted to either organisation for access to General Information received under the Freedom of Information Act 2000 (FOIA) or Environmental Information received under the Environmental Information Regulations 2004 (EIR), relating to this overall function, the following procedure should apply:

~~If information held is identified as having originated from the other organisation, it will be the responsibility of the receiving organisation to contact the originator of the information to determine whether the originator wishes to claim an exemption or exception under the provisions of the DPA, FOIA and EIR.~~

Option 1

As the Council has the overall responsibility for this function from April 2015, it is essential that it is aware of any requests that would impact on it. Therefore, if DRD, Transport NI receive any request for information relating to this function and subsequently intend to process it under FOIA, EIR or treat as business as usual, they must inform the Council of the request within the third working day of receiving it.

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The Council will liaise with DRD, Transport NI throughout on the completion of the response and will have sight of the draft closure reply for comment by working day fifteen. This will enable the Council to submit any comments or provide input regarding the engagement of any exemptions to the provision of information. However, the final decision will rest with DRD, Transport NI as to the amount of information disclosed.

Option 2

As the Council has the overall responsibility for this function from April 2015, it will process all requests for access to information relevant to it. The requests may be submitted directly to the Council or to DRD, Transport NI. If the request is submitted to DRD, Transport NI, it must immediately forward the request to the Council for processing. The Council has the responsibility to review and respond under the FOIA, EIR or treat as business as usual. DRD, Transport NI must provide assistance in locating and making available any information (if held) relevant to the request within stipulated time frames listed by the Council.

~~The receiving organisation should be mindful that they must respond to requests within 40 calendar days under the Data Protection Act and 20 working days under the Freedom of Information Act and Environmental Information Regulations.~~

Information relating to procedures or service standards in relation to this interim arrangement will be held by the Council^[d20].

5.4 What Correspondence will look like

The PCN and processing correspondence shall include reference to Transport NI corporate identity and the following words "Working in partnership with local Councils".

5.5 PROVISION OF DATA ~~Future transfer of data~~

The Council shall be facilitated with access to any statistical information data gathered and retained by the DRD during the interim arrangement and through the discharge of this SLA.

Requests for data shall be processed within the FOI/EIR timescale of 20 working days and are subject to FOI/EIR regulations. Any other requests will have a 15 working day target for response. Data Subject Access request timeline is 40 working days.

Exit Management

DRD Transport NI shall develop exit management plans with their agent NSL and IT provider, Spur Information Solutions Ltd. to transfer Arrangements shall be agreed for the transfer of this data all relevant data to the Council upon termination of this SLA.

The ~~An~~ exit management plans shall be devised within 3 months of the commencement of the SLA. The exit management plans will be reviewed every 6 months.

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SECTION 6: MONITORING AND REPORTING ARRANGEMENTS

DRD, Transport NI and its agent and the Council will monitor the implementation of this SLA and provide monthly performance reports to the Council as per the template noted in Appendix 8.

DRD, Transport NI and its agent will be subject to a performance review after 36 months from the commencement of this SLA and every 36 months thereafter for the duration of this SLA⁹. The review will measure the performance of DRD, Transport NI and its agent against the KPIs outlined in Appendix 8. DRD, Transport NI and its agent agrees to maintain effective records demonstrating compliance with the KPIs outlined at Appendix 8.

Additional information may be provided as requested, where possible, and on a cost recovery basis¹⁰.

SECTION 7: BASIS OF CHARGES

7.1 Basis

The following charges will be payable to the DRD, Transport NI by the Council and shall apply for the term of this SLA:

- A. £10.49 ^[SM21] per PCN issued,
(This cost includes all processing charges, appeals, collection of income banking and administration charges)
- B. £18.79 ^[SM22] per traffic parking attendant hour deployed,
(This charge includes all associated charges relation to enforcement)
- C. £ 7.62 ^[SM23] per cash collection visit from pay and display machines.
(This includes associated banking and reconciliation of income from parking charges and ticket machine maintenance)

^[SM24]

~~D Need a form of words for extra costs –££xxx for planting, litter picking etc. Sean to draft.~~

~~— Need a form of words to cover cost of providing data to 11 councils. Sean to draft.~~

E £xx Unquantified Implementation costs (NSL & Spur, Streamline) associated with transfer of function among district councils

The following payments will be payable to the Council by the DRD, Transport NI and shall apply for the term of this SLA:

Please detail payments to be made to the Council

⁹ To be confirmed

¹⁰ What is the intention of this provision?

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- A. ~~All income in respect of from civil enforcement including payment of Parking Off street Penalty Charge Notices, recovery of debts, clamping charges etc~~
- B. ~~All income from off street parking payment of parking fees~~
- C. ~~See appendix 11 for detail of cash collection and bank reconciliation process and payover of PCN income.,~~

7.2 Mechanism

DRD, Transport NI shall produce a monthly financial report for the approval of the Council, as per the template in Appendix 9, clearly indicating:

- 1. Income from ~~Off street PCN enforcement (including PCN's)~~
- 2. Income from parking charges broken down by payment method and by car park;
- 3. Numbers of PCN's issued broken down by car park and cost of service;
- 4. Deployed (parking attendant) hours per car park and cost of service;
- 5. Numbers of cash collection visits and cost of service,
- 6. Cost of cleaning, ticket machine maintenance and other
- 7. Cancelled cases and associated reasons and costs~~[c25][H26]~~

DRD, Transport NI will at the end of each week ~~(or month[sm27]?)~~ transfer all payments due to the Council in accordance with this SLA (including all income) into the Councils bank account as directed.

DRD, Transport NI will invoice the Council monthly for the Services provided under this SLA as detailed at paragraph 7.1 hereto

The Council will set up and provide DRD, Transport NI with a standing order for the payment of invoices (subject to approval of the invoices by the Council) received from the DRD, Transport NI.

DRD, Transport NI agree to permit the Council, the local government auditor or auditor appointed on behalf of the Council access to all financial records in connection with this SLA.

DRD, Transport NI agree to supply to the Council, within a timeframe to be agreed with the Council, all original invoicing and supporting documentation (including quotes sought) and evidence of a clear audit trail in relation to payments due to the DRD and payments due to the Council under this SLA.

SECTION 8: REVIEW AND DISPUTE RESOLUTION

8.1 Review

DRD, Transport NI will meet with the Councils collectively on a quarterly basis to review implementation, performance and quality of the Service. This will also allow for the discussion ~~Of[c28][H29]~~ any issues that may have arisen and action to be agreed where necessary. The agenda for the quarterly regional review meetings between Councils and DRD could include:

- Enforcement SLA management
- Finance
- Reporting

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- Complaints
- Correspondence
- Representations/appeals
- Innovation

Both parties will also deal with issues arising outside of these quarterly meetings as soon as possible.

DRD, Transport NI on request shall attend meetings with council officers and elected member forums, as appropriate.

8.2 Resolution of Disputes

Should a dispute arise between the Council and DRD, Transport NI concerning any aspect of the Services rendered by DRD, Transport NI under this SLA, the Council representative and DRD, Transport NI representative will aim try to resolve the dispute within 310 working days. If the dispute remains unresolved, the Council Head of Service will then attempt to resolve the dispute with his counterpart in DRD, Transport NI within 430 working days. If the dispute remains unresolved then the resolution will lie with the Chief Executive of the Council and their counterpart in DRD, Transport NI, who will aim to resolve the dispute within 430 working days. These timescales may be extended by agreement by both parties. If the dispute remains unresolved the matter should be brought to an independent arbitrator for resolution. An independent arbitrator shall be agreed by both parties within 3 months of the commencement of the SLA.

SECTION 9: INDEMNITIES^[SM30]:

9.1 Each of the parties agree to indemnify and keep indemnified the other party from and against all losses, actions, proceedings, claims, demands, expenses or liabilities whatsoever suffered by the other party as a result directly or indirectly of any unlawful act or any act, omission or negligence of the other or any breach by the other of its obligations under this SLA (and this shall include any act, omission, negligence, or breach of this SLA by their sub-contractors, agents, appointees and such others engaged by them).

9.2 DRD, Transport NI shall be responsible for and shall indemnify the Council against all claims for injury or death to any person or persons or damage to or loss of property including the Assets however arising in connection with the Service being provided by DRD, Transport NI and shall enter into and maintain at all times during the continuance of this Agreement a policy of Public Liability Insurance for an amount of not less than £10m (£10,000,000.00) for any one incident with a reputable insurance company to cover the liability of DRD, Transport NI under this SLA and, upon demand therefore, shall produce evidence of such insurance duly paid up for the duration of this SLA to the Council¹¹.

SECTION 10: THIRD PARTY RIGHTS:

10.1 None of the provisions of this SLA are intended to or will operate to confer any benefit (pursuant to the Contracts / Rights of Third Parties Act 1999) on a person who is not named as a party to this Agreement.

¹¹ To be confirmed.

SECTION 11: LAW:

11.1 This SLA shall be governed by and interpreted in accordance with the law in Northern Ireland and subject to the jurisdiction of the Courts in Northern Ireland.

SECTION 12: SIGNATORIES

This Agreement is made on the between xxxx Council and DRD, Transport NI.

Signed: _____

Title: _____ on behalf of xxxx Council

Date: _____

Signed: _____

Title: _____ on behalf of Department of Regional

Date: _____ Development, Transport NI

APPENDICES^[c31]

| Appendix 1 – List of assets – not agreed yet – to be confirmed by DRD

| Appendix 2 – Schedule of maintenance and cleaning activities carried out by NSL – to be provided by DRD

| Appendix 3 – Schedule 2 – NSL Contract Document Specification
Uniforms to be worn by traffic attendants

| Appendix 4 – xxxx Council and DRD, Transport NI contact details

| Appendix 5 – Council Parking Enforcement Protocol^[H32]

| Appendix 6 – Council Cancellation Policy – DRD to draft

| Appendix 7 – Customer and service standards – need NSL contract to see what is there already

| Appendix 8 – Monthly performance report template
(to include 10 NSL KPIs and management indicators) – see Section 7.1 and 7.2 for KPIs.

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| Appendix 9 – Monthly financial report template

| Appendix 10 – Schedule 2 – NSL Contract Document Specification

| Appendix 1 – List of assets – not agreed yet – to be confirmed by DRD

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Appendix 2 – Schedule of maintenance and cleaning activities carried out by NSL – to be provided by DRD

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Appendix 3 – Schedule 2 – NSL Contract Document Specification

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Appendix 4 – xxxx Council and DRD, Transport NI contact details

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Appendix 5 – Council Parking Enforcement Protocol (H33)

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Appendix 6 – Council Cancellation Policy – DRD to draft

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Appendix 7 – Customer and service standards – extract from NSL contract

The following are direct extracts from the contract document between Transport NI and NSL for the provision of Parking Enforcement and Car Park Management Services.

Complaints

Prior to the Commencement Date, the Service Provider shall agree with xxxx Council a detailed complaints procedure in respect of the provision of the Service which enables xxxxxxxxx Council and/or the Service Provider to respond to complaints by members of the public.

As a minimum, the complaints procedure referred to above shall include the following requirements:

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- the detailed procedure will comply with and shall be based on the outline complaints procedure detailed in Schedule 2 Section 2;
- that the Service Provider shall assist xxxxxxxxx Council in responding to complaints from members of the public by providing all information requested by Transport NI in the timescales set out in the complaints procedure; and
- that the Service Provider shall keep a record in a form agreed between the Parties of any complaints received by it and of the action taken by the Service Provider to remedy or fully investigate each such complaint.
- If a complaint is deemed to be caused by any default in the actions or systems operated by the Service Provider, the Service Provider shall take appropriate measures to remedy the default.
- The Service Provider shall, at the request of XXXXXXXX Council's Representative, arrange for notices to be permanently displayed at the Locations giving information as to how complaints about the provision of the Service may be made.

WARRANTIES AND REPRESENTATIONS

The Parties each warrant and represent that they have full capacity and have taken all steps and obtained all approvals to enable them to lawfully enter into and to perform each of their obligations under this Contract.

The Service Provider warrants and represents that:

- in entering this contract it has not committed any Prohibited Act; and
- it has satisfied itself as the nature and extent of the risks assumed by it under this Contract.

Transport NI and XXXXXXXXX Council warrants and represents that it has provided full accurate and up to date information to the Service Provider in relation to the Service to be provided under this SLA

Except as expressly stated in this Contract, all warranties, terms and conditions, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

INDEMNITY

The Service Provider shall indemnify and keep indemnified Transport NI & xxxxx Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever arising out of, in respect of or in connection with this Contract during the Contract Term save to the extent that the same is caused by or arises from the negligence, breach of this Contract or any other contract, breach of

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statutory duty, breach of Legislation or other wrongful act or omission of Transport NI & xxxxx Council, its agents, sub-contractors or servants.

The aggregate liability of the Service Provider, whether for damages, payments or compensation or by way of indemnity or of any nature whatsoever arising under or in relation to this Contract or the Service (including as a result of negligence) shall in relation to:

any claim for which the Service Provider has insurance cover or should have insurance cover available under the policies of insurance which it is required to maintain pursuant to Clause 24 (Insurance), be limited to the maximum sum insured (or which should have been insured) under the relevant policy of insurance;

all breaches of this Contract resulting in direct loss of or damage to any kind of property, be limited to ten million pounds (£10,000,000); and

all other liability for all breaches or non-performance of this Contract whether in contract, tort or otherwise be limited to the percentage of the Remuneration payable during the twelve (12) months in which the breach occurs as set out in the Schedule of Variables.

In no event shall either Party be liable to the other for loss of profits, business revenue, goodwill or anticipated savings.

The Service Provider shall notify and keep Transport NI & xxxxx Council fully informed and consult with it about the conduct of any claim and shall have due regard to Transport NI & xxxxx Council interests.

INSURANCE

The Service Provider shall take out and maintain the following insurance policies:

employer's liability insurance of not less than ten million pounds (£10,000,000) in respect of any one claim or series of claims arising out of one incident;

public liability insurance to provide an indemnity of not less than ten million pounds (£10,000,000) in respect of any one claim or series of claims arising out of one incident;

third party liability motor insurance of not less than ten million pounds (£10,000,000) in respect of any one claim or series of claims arising out of one incident; and

any other insurance that may be required by law.

Transport NI & xxxxx Council may require the Service Provider to name Roads Service as co-insured (other than employer liability and professional indemnity insurance) with any other Party maintaining the insurance and any other matter that Transport NI & xxxxx Council considers reasonable in the circumstances.

The Service Provider shall on request provide to Transport NI & xxxxx Council evidence and copies of all insurance policies required under this Clause 24 within twenty one (21)

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Calendar Days of such request.

If the Service Provider is in breach of this Clause 24, Transport NI & xxxxx Council may pay any premia required to keep such insurance in force or itself procure such insurance and may in either case recover such amounts from the Service Provider on written demand.

The Service Provider shall give Transport NI & xxxxx Council notification within thirty (30) Calendar Days after any claim on any of the insurance policies referred to in this Clause 24 accompanied by full details of the incident giving rise to the claim.

The Service Provider shall inform Transport NI & xxxxx Council of any material changes in the insurances required under this Clause 24.

HEALTH AND SAFETY

The Service Provider shall comply with and shall procure that all staff, agents and sub-contractors engaged in the provision of the Service comply with the requirements of the Health and Safety at Work (Northern Ireland) Order 1978, and any other acts, regulations and approved codes of practice relating to the health and safety of staff and others who may be affected by the Service Provider's work activities.

The Service Provider shall provide to Transport NI & xxxxx Council's Representative any information relating the Service Provider's compliance with Clause 30.1 that Transport NI & xxxxx Council may reasonably request at any time from the Commencement Date.

Transport NI & xxxxx Council Representative shall be permitted to access at any reasonable time any site where the Service Provider is undertaking any Service under this Contract for the purposes of carrying out an inspection of health, safety and welfare standards.

The Service Provider shall fully co-operate with the reasonable requests of Transport NI & xxxxx Council health and safety adviser and shall provide access to all areas of the Service, health and safety documentation, welfare facilities, accident records, training records and certificates, equipment inspection records, statutory registers and notices, plan and equipment for the purposes of inspection.

The Service Provider shall provide to Transport NI & xxxxx Council's Representative, within seven (7) Calendar Days of receipt, copies of any communication concerning the health, safety, welfare, environmental or fire safety standards of the Service, which he receives from any statutory body.

DATA PROTECTION

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The Service Provider shall comply with its obligations under the Data Protection Act 1998 (the "1998 Act") and the Computer Misuse Act 1990 insofar as performance of this Contract gives rise to obligations under those Acts.

Notwithstanding the general obligation in Clause 32.1, where it is processing personal data (as defined by the 1998 Act) as a data processor for Transport NI & xxxxx Council (as defined by the 1998 Act) the Service Provider shall ensure that it has in place appropriate technical and organisational measure to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data including that obtained during the operation of Closed Circuit Television), as required under the Seventh Data Protection Principle in Schedule 1 to the 1998 Act;

provide Roads Service with such information as Transport NI & xxxxx Council may reasonably require to satisfy itself that the Service Provider is complying with its obligations under the 1998 Act;

promptly notify Transport NI & xxxxx Council of any breach of the security measures required to be put in place pursuant to clauses 32.1 and 32.2; and

ensure that it does nothing knowingly or negligently which places Transport NI & xxxxx Council in breach of Transport NI & xxxxx Council's obligations under the 1998 Act.

FREEDOM OF INFORMATION

The Contractor acknowledges that Transport NI & xxxxx Council is subject to the requirements of the Freedom of Information Act (2000) (FOIA) and the Environmental Information Regulations and shall assist and cooperate with Transport NI & xxxxx Council to enable Transport NI & xxxxx Council to comply with its Information disclosure obligations.

The Contractor shall and shall procure that any sub-Contractors shall transfer to Transport NI & xxxxx Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

- a. provide Transport NI & xxxxx Council with a copy of all Information in its possession, or power in the form that Roads Service requires within five Working Days (or such other period as Roads Service may specify) of the request; and
- b. provide all necessary assistance as reasonably requested by Roads Service to enable Transport NI & xxxxx Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

Transport NI & xxxxx Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental

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Information Regulations but undertakes to seek from the Contractor its opinion on the status of the information requested and to take that into account when coming to any determination under this Clause.

In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by Transport NI & xxxxx Council.

The Contractor acknowledges that (notwithstanding the provisions of Clause 33) Transport NI & xxxxx Council may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services in certain circumstances:

- a. without consulting the Contractor; or
- b. following consultation with the Contractor and having taken their views into account;

provided always that where 33.5(a) applies Transport NI & xxxxx Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

The Contractor shall ensure that all Information is retained for no longer than six (6) years for disclosure and shall permit Transport NI & xxxxx Council to inspect such records as requested from time to time.

The Contractor acknowledges that the Commercially Sensitive Information listed in the Commercially Sensitive Information Schedule is of indicative value only and that Transport NI & xxxxx Council may be obliged to disclose it in accordance with this clause 7 33.

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Appendix 8 – Monthly performance report template
(to include 10 NSL KPIs and management indicators) – see Section 7.1 and 7.2 for KPIs.

Appendix 9 – Monthly financial report template

Schedule 2 – NSL Contract Document Specification

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Departmental Letter re Committee Queries - 22 October 2014

CENTRAL MANAGEMENT BRANCH



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO 6A/4/2014
Our reference: SUB/819/2014

22 October 2014

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX

Dear Paul

CONSULTATION ON OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Following officials' presentation to the Committee on 8 October, on the responses received to the consultation on the above Bill, you wrote to me with a number of queries. Please see below Transport NI's responses to those queries;

The Committee was advised that the Department had provided a disaggregation of costs to car park level, including the costs of providing enforcement and processing of PCNs. Can these be forwarded to the Committee?

The attached spreadsheets detail the initial draft figures provided to councils on 31 July 2014. DRD officials are in liaison with council staff to validate these figures and resolve any issues or queries raised by councils (note: some of the car parks listed on the spreadsheets may still drop off because of title issues, that is, the car park is leased from a third party and therefore the Department would come out of that lease/rental arrangement on 31 March 2015, leaving the council free to enter a new lease/rental arrangement if it so wishes). Initial figures are resource costs only and will be augmented by those capital costs agreed with councils prior to finalisation. The agreed Review of Public Administration timetable provides for final figures by end of October 2014.

Can the Department forward their full responses to Council queries raised during the consultation process?

In total, 17 responses were received to the consultation, 13 of which were from existing or shadow councils. For ease of reference these responses are summarised on the attached spreadsheet together with the Department's comments/responses to each. The Department's comments/responses were discussed with the individual shadow councils during a series of meetings over recent weeks.

Can the Department detail the legislative processes it would be expected to take should the 1st April 2015 deadline not be met?

The 11 new local government districts and new councils will be established under sections 1 and 3(1) of the Local Government (Boundaries) Act (Northern Ireland) 2008, and under the Local Government Act (Northern Ireland) 1972, with the operative date of 1 April 2015. There is a presumption that all necessary arrangements will have been made by Local Government. If the Local Government commencement dates are confirmed, there is an imperative for the Bill to be commenced on the same date, if possible, in terms of budget and administration. If the Act does not receive Royal Assent and is not operative by 1 April 2015, the conferral of the particular functions on new councils will be delayed. This may not necessarily cause any legal difficulties but it will create significant administrative and logistical difficulties both for councils and the Department.

Have you taken legal advice to gauge whether final stage would be sufficient to hand over the Off-Street Car Parking to Councils (i.e. is Royal assent necessary in this case)?

Yes, our legal advice is that Royal Assent of the Bill is required in order to transfer the car parks to the new councils.

Describe to your understanding of the transfers being "rates neutral"?

Minister Attwood, in his statement to the Assembly on 22 April 2013 stated: *"functions that are to transfer from central to local government should be fit for purpose, sufficiently funded and cost-neutral to the ratepayer at the point of transfer"*.

Deloitte, in its final Due Diligence Review (2 May 2014), commissioned by councils, outline that the transfer of functions and powers must be rates neutral to the rate payer

at the point of transfer. It also states DFP has stated that the transfer of functions will be rates neutral to Local Government as a whole and also on an individual council basis.

Deloitte detail the implications as:

- Funding will include the total cost of discharging the responsibility, providing the service and/or maintaining the asset. Councils must be provided with the resource to fund this expenditure, even in some cases where there is no budget for the expenditure.
- This funding will include amounts in respect of costs which are 'notional' in government, such as IT, Finance, Procurement, Accommodation, HR and Legal costs.
- Where the cost of administering a function is less than the income received, no budget for expenditure should transfer. Local government will fund the costs of service delivery from income received.
- Income received, which exceeds the costs of service delivery, will be netted against the funding provided for other transferring functions.

For off-street car parks, the income exceeds the running costs for all councils. Therefore, to ensure that the transfer of all functions is 'cost neutral' overall, this surplus will reduce the total budget for all functions that will transfer to that council from the Department of Finance and Personnel.

The Deloitte due diligence report states "An average of 15 claims was made per year with an average of six being successful. The average annual cost of claims was £38k. The DRD has indicated that it will be responsible for all claims where the incident occurred prior to 1 April 2015. All claims where the incident occurred on or after this date will be the responsibility of the relevant Council". How is this "rates neutral"?

The Deloitte Due Diligence Review (2 May 2014) was commissioned by the Transfer of Functions Working Group on behalf of councils. The report notes that the annual average cost of all claims was £38k, this equates to £3,454 per council. This quantum of expenditure would have little or no impact on council rates.

In relation to the final sentence of the above paragraph, Deloitte notes that *“the average annual cost has been included within the miscellaneous costs to transfer”*. Councils will therefore be funded for the costs of claims based on expenditure to date. The point was made to establish the cut-off point for liability for claims post transfer, not that funding was being withheld.

The Deloitte report refers, on a number of occasions, to the total budget to be transferred to local government. Can you describe this in detail?

The Deloitte Due Diligence Review (2 May 2014) was commissioned by the Transfer of Functions Working Group on behalf of councils. Respectfully, the Committee should therefore refer to Deloitte if clarification is required on its Review.

However, officials did carry out a search of the document and found only one reference to ‘total budget’, on page 9 of the report:

“This means that off-street car parking is profit-making and therefore the surplus will be netted against the funding required for other transferring functions as part of the total budget to transfer to Local Government.” (Deloitte 2/5/2014)

In its ‘guiding principles’ in the report, Deloitte set out the funding which should transfer to Local Government as follows:

- *Funding will include the total cost of discharging the responsibility, providing the service and/or maintaining the asset. Councils must be provided with the resource to fund this expenditure, even in some cases where there is no budget for the expenditure; and*
- *This funding will include amounts in respect of costs which are ‘notional’ in government, such as IT, Finance, Procurement, Accommodation, HR and Legal costs.*

The Department is grateful to the Committee for agreeing to commence its consultation on the Bill in advance of its Introduction in order to meet the Bill passage timetable. The Department will endeavour to provide any further information and papers requested by the Committee as soon as practicably possible.

You will wish to draw this to the attention of the Committee.

This letter and enclosures are fully disclosable under FOI.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Doherty'.

ALAN DOHERTY
Departmental Assembly Liaison Officer

Mid Ulster Costs - 22 October 2014

Mid Ulster

	2015/16 Councils	£000s
Receipts		
Off Street		358
Penalty Charge Notice		82
Total Revenue		440
Rent		-
Rates		53
Maintenance and other		27
Total Direct Costs		81
Enforcement [includes P&D machine charge, and TA charge (1,794 hrs) @£18.79 per hr]		45
Processing [PCN charge (1,546 PCNs @ £10.49)]		16
Cash collection [1,352 visits @£7.62 per visit]		10
Payment on foot		0
Total Enforcement Costs		71
Total Costs		152
Surplus/(Deficit)		288

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.

East Antrim Costs - 22 October 2014

Asset Description and Location	Town	DIVISION	Council Area	Net Book Value	Off Street Revenue 2015/16	Est. Op. Revenue 2015/16	Water Charges	Sanitation Buildings	Rates	Electric	Telephone Rental	Minor Maintenance	Contract Road	TOTAL Dues MTA Costs Premises, MTA 2015/16	Planted Area	Est. Cleaning Hours	Est. Mechanical Sweep	Number of P4D Machines	Est. P4D Maintenance Charge	Number of Hours	Est. TA Charge	Number of P4D Issued	Est. PCN 2015/16	Number of Cash Collections weekly 2015/16	Number of Cash Collections annually 2015/16	Est. Cash Collection Charge	Payment on Foot	Total Enforcement Costs	Net-ly Income
Balmoral Rd	Ballymena	NORTH	MID AND EAST ANTRIM	483,845	-26,883	-17,384	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
...
TOTAL				7,210,181	-1,132,664	-143,789	134	7,479	159,992	31,244	645	35,247	18,378	29,213	204	3,005	880	29	14,803	2,179	40,936	2,713	28,608	45	2,140	17,831	34,006	421,705	-601,443

Enforcement
Processing
Cash collection
67,413
29,659
421,705

Lisburn Costs - 22 October 2014

Lisburn and Castlereagh

	2015/16 Councils	£000s
Receipts		
Off Street		707
Penalty Charge Notice		164
Total Revenue		870
Rent		2
Rates		91
Maintenance and other		3
Total Direct Costs		96
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (2,051hrs) @£18.79 per hr]		78
Processing [PCN charge (3,089 PCNs @ £10.49)]		32
Cash collection [2,184 visits @£7.62 per visit]		17
Payment on foot		0
Total Enforcement Costs		127
Total Costs		224
Surplus/(Deficit)		647

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.

Fermanagh Costs - 22 October 2014

Fermanagh and Omagh

	2015/16 Councils	£000s
Receipts		
Off Street		829
Penalty Charge Notice		276
Total Revenue		1,105
Rent		7
Rates		128
Maintenance and other		9
Total Direct Costs		144
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (2,666 hrs) @£18.79 per hr]		75
Processing [PCN charge (5,214 PCNs @ £10.49)]		55
Cash collection [3,328 visits @£7.62 per visit]		25
Payment on foot		0
Total Enforcement Costs		155
Total Costs		299
Surplus/(Deficit)		806

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.

Derry Costs - 22 October 2014

Derry and Strabane

	2015/16 Councils	£000s
Receipts		
Off Street		857
Penalty Charge Notice		244
Total Revenue		1,101
Rent		55
Rates		92
Maintenance and other		23
Total Direct Costs		169
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (2,983 hrs) @£18.79 per hr]		72
Processing [PCN charge (4,599 PCNs @ £10.49)]		48
Cash collection [2,496 visits @£7.62 per visit]		19
Payment on foot		0
Total Enforcement Costs		140
Total Costs		309
Surplus/(Deficit)		792

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.

Belfast Costs - 22 October 2014

Asset Description and Location	DIVISION	Council Area	Net Book Value	Off Street Receipts Revenue 2013/14	Est PCN Income 2013/14	Rent Non PFI Buildings	Electric	TOTAL Direct MTA Costs Maintenance & Repairs 2013/14	TOTAL Expenses MTA Costs Maintenance & Repairs 2013/14	TOTAL Expenses MTA Costs Maintenance & Repairs Specific 2013/14	Planted Area £	Cleaning Hours	Est Cleaning Charge £	Mechanical Sweeps	Number of P4D Machines	Est P4D Maintenance Charge £	Number of TA hours 2013/14	Est TA Charge £	Number of PCN Issued 2013/14	Est PCN Charge £	Number of Cash Collections weekly 2013/14	Number of Cash Collections annually 2013/14	Est Cash Collection Charge £	Total Enforcement Costs £	Net Effect (Surplus)/Deficit £		
BEAUFORT STREET (100%)	EAST	BELFAST	1,828	1,828	1,828	0	1,828	1,828	1,828	0	0	0	47	707	83	1	1,510	34	194	2,213	4	208	1,555	519	-666		
BEAUFORT STREET (100%)	EAST	BELFAST	368	1,828	1,828	0	1,828	1,828	1,828	0	0	0	0	0	83	4	1,042	183	230	2,213	12	624	4,755	14,759	-153,806		
CORPORATION SQUARE	EAST	BELFAST	508,232	-178,688	-12,160	-4,860	15,611	0	20,421	0	20,421	0	126	1,886	83	4	2,042	183	3,620	2,413	12	624	4,755	14,759	-153,806		
CROMAC STREET (100%)	EAST	BELFAST	2,537	-297,861	-16,112	41,100	0	19,684	0	81,624	0	0	63	943	83	3	1,021	153	2,873	174	1,625	6	312	2,377	11,951	-220,792	
DUNBAR ST	EAST	BELFAST	603,418	-79,612	-12,826	0	8,406	0	8,406	0	8,406	0	63	943	83	2	1,021	118	2,215	242	2,539	2	104	792	7,950	-76,439	
EXCHANGE ST	EAST	BELFAST	695,126	-71,927	-7,791	0	18,013	0	18,013	0	18,013	0	63	943	83	2	1,021	127	2,378	147	1,542	2	104	792	6,760	-54,945	
HOPE STREET	EAST	BELFAST	625,524	-11,844	-5,724	0	13,510	0	13,510	0	13,510	0	63	943	83	1	510	90	1,684	108	1,133	5	200	1,981	6,355	-97,723	
LEWIS STREET	EAST	BELFAST	1,128,624	-228,328	-8,215	0	30,262	0	30,262	0	30,262	0	129	2,803	83	2	1,021	146	2,744	155	1,626	4	312	3,327	10,965	-104,445	
SMITHFIELD (100%)	EAST	BELFAST	2,271	-103,702	-8,768	69,107	31,223	0	100,600	913	101,603	0	187	2,368	83	3	1,021	248	4,664	166	1,741	6	468	3,606	13,643	-86,954	
STATION ST	EAST	BELFAST	467	-159,853	-8,109	0	15,251	0	15,251	0	15,251	0	63	943	83	2	1,021	138	2,563	153	1,605	6	312	2,377	9,143	-142,266	
YORK ST (NO 1) York Street	EAST	BELFAST	185,417	-25,680	0	0	2,582	0	2,582	0	2,582	0	63	943	83	2	1,021	71	1,327	24	1,327	0	104	792	5,139	-17,266	
ASHDALE STREET	EAST	BELFAST	238,914	-13,622	-1,219	0	7,015	0	7,015	0	-7,015	0	472	63	83	3	1,021	24	453	23	241	3	156	1,189	4,912	-10,844	
MARLBOROUGH AVE	EAST	BELFAST	179,459	-17,181	-4,240	0	5,513	0	5,513	0	5,513	0	539	31	83	2	1,021	68	1,272	80	639	2	104	792	5,919	-10,859	
GRANVILLE STREET	EAST	BELFAST	60,000	0	0	0	0	0	303	0	303	0	0	0	0	0	0	0	0	0	0	0	0	0	0	303	
GRANVILLE STREET	EAST	BELFAST	60,000	0	0	0	0	0	303	0	303	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	303
NORTHBERNARD ST	EAST	BELFAST	181,787	0	0	0	0	0	651	0	651	0	0	0	0	0	0	0	0	0	0	0	0	0	0	651	
RAVENSROFF AVE	EAST	BELFAST	152,050	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
SANDOWN ROAD	EAST	BELFAST	252,166	0	0	0	0	0	1,151	1,151	1,151	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
WANDSWORTH ROAD	EAST	BELFAST	190,000	0	0	0	0	0	606	606	606	0	0	0	0	0	0	0	0	0	0	0	0	0	0	606	
WESTMINSTER AVE NORTH	EAST	BELFAST	293,075	0	0	0	0	0	389	389	389	0	0	0	0	0	0	0	0	0	0	0	0	0	0	389	
WESTMINSTER AVE EAST	EAST	BELFAST	0	0	0	0	0	0	197	197	197	0	0	0	0	0	0	0	0	0	0	0	0	0	0	197	
WESTMINSTER AVE (WEST)	EAST	BELFAST	128,025	0	0	0	0	0	1,212	1,212	1,212	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
WENTWORTH ROAD	EAST	BELFAST	153,263	0	0	0	0	0	1,631	1,631	1,631	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
GLENBURN ROAD	EAST	BELFAST	6,453,363	-1,720,534	-114,480	144,407	255,485	2,429	402,221	7,177	3,643	3,699	1,068	16,632	1,246	33	16,845	1,934	36,333	2,160	22,658	75	3,900	29,718	126,531	-1,255,342	

Enforcement 74,135
Processing 29,738
Cash Collections 126,531

Armagh Costs - 22 October 2014

Armagh, Banbridge, and Craigavon

2015/16 Councils		£000s
Receipts		
Off Street		729
Penalty Charge Notice		215
Total Revenue		944
Rent		19
Rates		168
Maintenance and other		3.99
Total Direct Costs		191
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (3,503 hrs) @£18.79 per hr]		110
Processing [PCN charge (4,270 PCNs @ £10.49)]		43
Cash collection [3,432 visits @£7.62 per visit]		26
Payment on foot		0
Total Enforcement Costs		179
Total Costs		370
Surplus/(Deficit)		574

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.

Antrim Costs - 22 October 2014

Antrim and Newtownabbey

	2015/16 Councils	£000s
Receipts		
Off Street		258
Penalty Charge Notice		57
Total Revenue		315
Rent		10
Rates		60
Maintenance and other		0
Total Direct Costs		69
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (745 hrs) @£18.79 per hr]		23
Processing [PCN charge (1,076 PCNs @ £10.49)]		11
Cash collection [520 visits @£7.62 per visit]		4
Payment on foot		96
Total Enforcement Costs		134
Total Costs		203
Surplus/(Deficit)		112

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Payment on foot costs are based on hours charged for supervision and attendant for Central car park, Antrim.
5. Park and ride and Park and share sites are excluded.

Causeway Costs - 22 October 2014

Causeway Coast and Glens

	2015/16	
	Councils	
		£000s
Receipts		
Off Street		872
Penalty Charge Notice		226
Total Revenue		1,098
Rent		51
Rates		112
Maintenance and other		20
Total Direct Costs		183
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (3,503 hrs) @£18.79 per hr]		88
Processing [PCN charge (4,270 PCNs @ £10.49]		45
Cash collection [3,796 visits @£7.62 per visit]		29
Payment on foot		0
Total Enforcement Costs		161
Total Costs		344
Surplus/(Deficit)		755

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.

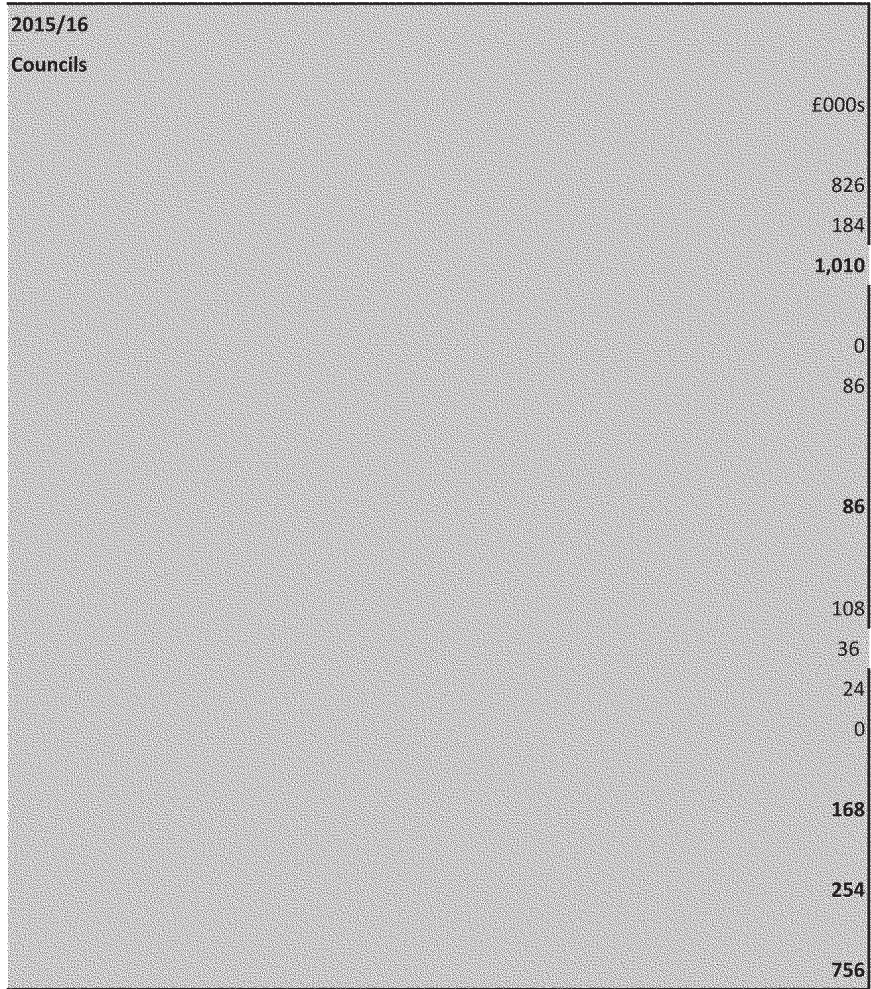
North Down Costs - 22 October 2014

North Down and Ards

Receipts
Off Street
Penalty Charge Notice
Total Revenue
Rent
Rates
Maintenance and other
Total Direct Costs
Enforcement [includes Cleaning charge, P&D machine charge, and TA charge (2,499 hrs) @£18.79 per hr]
Processing [PCN charge (3,467 PCNs @ £10.49)]
Cash collection [3,172 visits @£7.62 per visit]
Payment on foot
Total Enforcement Costs
Total Costs
Surplus/(Deficit)

Assumptions

1. All revenue and costs stated are as at 1st April 2015.
2. Enforcement, processing and cash collection costs are based on current levels of service.
3. Additional costs in relation to enforcement, processing and cash collection may be incurred through disaggregation of service. This will involve additional recharges to councils.
4. Park and ride and Park and share sites are excluded.



Newry Costs - 22 October 2014

No.	Asset Description and Location	Town	DIVISION	Council Area	Net Book Value	Off Street Receipts Revenue 2015/16	Est PCN Income 2015/16	Rates	TOTAL Direct MTR Costs, P&D & Maintenance 2015/16	MTR Costs, Premises, Misc & Maintenance 2015/16	Planted Area £	Cleaning Hours	Est Cleaning Charge £	Mechanical Sweep £	Number of P+D Machines	Est P&D Maintenance Charge £	Number of TA hours 2015/16	Est TA Charge £	Number of PCN issued 2015/16	Est PCN Charge £	Number of Cash Collections weekly 2015/16	Number of Cash Collections annually 2015/16	Est Cash Collection on Foot £	Payment on Foot £	Total Enforcement Costs £	Net Effect (Surplus)/Deficit £		
246	LISBURN ST	Ballynahinch	SOUTH	NEVRVY	84,000	-9,213	-2,332	5,956	2,978	2,978	2,978	0	31	472	213	3	1,531	1,886	44	482	2	156	1,189	0	6,743	1,154		
247	WINDMILL ST	Ballynahinch	SOUTH	NEVRVY	66,046	-10,002	-1,484	2,978	2,978	2,978	2,978	0	31	472	213	2	1,021	24	447	28	294	2	104	792	0	3,239	-5,269	
248	IRISH ST	Downpatrick	SOUTH	NEVRVY	98,054	-69,599	-16,642	7,147	7,147	7,147	7,147	0	31	472	168	2	1,021	245	4,602	314	3,294	4	208	1,585	0	11,142	-67,952	
254	SCOTCH STREET	Downpatrick	SOUTH	NEVRVY	55,922	-9,817	-3,445	2,680	2,680	2,680	2,680	0	31	472	168	1	510	100	1,886	65	682	1	52	396	0	5,107	-5,475	
255	CHURCH STREET	Downpatrick	SOUTH	NEVRVY	39,797	-9,004	-3,286	2,412	2,412	2,412	2,412	0	31	472	168	1	510	104	1,945	62	690	1	52	396	0	5,132	-4,745	
259	CANAL BANK 2	Downpatrick	SOUTH	NEVRVY	428,349	-60,120	-33,973	12,698	12,698	12,698	12,698	0	157	2,358	163	3	1,531	227	4,272	641	6,724	6	312	3,377	0	19,259	-49,229	
260	CANAL BANK 1	Newry	SOUTH	NEVRVY	458,600	-58,679	-26,384	13,951	13,951	13,951	13,951	0	157	2,358	163	4	2,062	216	3,961	489	3,224	2	410	3,170	0	17,647	-54,979	
261	WINDMILL STREET	Newry	SOUTH	NEVRVY	374,110	-87,226	-42,665	24,369	24,369	24,369	24,369	0	157	2,358	163	6	4,934	322	6,045	605	8,444	16	934	7,132	0	29,268	-76,324	
264	MONGAHAN ST	Newry	SOUTH	NEVRVY	109,508	-70,383	-36,146	13,609	13,609	13,609	13,609	0	377	2,358	163	3	1,531	223	4,182	602	7,154	6	312	2,377	0	21,897	-80,024	
264	NEW STREET	Newry	SOUTH	NEVRVY	46,136	-21,437	-12,697	2,669	2,669	2,669	2,669	0	107	2,358	163	1	510	78	1,461	239	2,507	1	52	396	0	7,365	-23,749	
281	QUAY ST	Andjass	SOUTH	NEVRVY	84,146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
289	ANTRIM RD	Ballynahinch	SOUTH	NEVRVY	44,036	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
288	LISBURN ST	Ballynahinch	SOUTH	NEVRVY	184,745	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
294	CLOUGH RYABOUT	Newry	SOUTH	NEVRVY	14,799	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
299	THE SQUARE	Crossgar	SOUTH	NEVRVY	46,135	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
300	MARKET ST	Downpatrick	SOUTH	NEVRVY	441,696	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
309	MEADOWLANDS	Downpatrick	SOUTH	NEVRVY	23,102	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
310	ROCK CREST	Downpatrick	SOUTH	NEVRVY	25,976	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
311	ROCK CREST	Downpatrick	SOUTH	NEVRVY	25,976	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
314	BEN CROM PLACE	Kilkeel	SOUTH	NEVRVY	20,126	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
314	NEVRVY ST	Kilkeel	SOUTH	NEVRVY	37,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
319	HAROUR ROAD	Kilkeel	SOUTH	NEVRVY	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
332	CAUSEWAY ROAD	Newcastle	SOUTH	NEVRVY	67,571	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
334	SHIMNA RD	Newcastle	SOUTH	NEVRVY	76,398	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
334	BRIDGE STREET	Newry	SOUTH	NEVRVY	94,646	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
336	CANAL BANK 3	Newry	SOUTH	NEVRVY	21,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
336	DOWNSHIRE ROAD	Newry	SOUTH	NEVRVY	117,698	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
337	EDWARD STREET	Newry	SOUTH	NEVRVY	10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
338	CLUMPSY STREET EAST	Newry	SOUTH	NEVRVY	13,075	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
338	CLUMPSY STREET WEST	Newry	SOUTH	NEVRVY	14,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
339	THE SQUARE 1 AND 2 (O&P)	Newry	SOUTH	NEVRVY	14,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
339	DOWNPATRICK ST	Sandfield	SOUTH	NEVRVY	57,201	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
355	EAST STREET	Warrenpoint	SOUTH	NEVRVY	32,613	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4	KINGS LANE (18 Summer)	Warrenpoint	SOUTH	NEVRVY	18,588	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
357	MARY ST (28 Thomas She)	Warrenpoint	SOUTH	NEVRVY	30,638	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
358	NEVRVY ST	Warrenpoint	SOUTH	NEVRVY	54,613	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
359	THE SQUARE	Warrenpoint	SOUTH	NEVRVY	175,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
					3,587,013	-458,737	-200,870	96,149	96,149	96,149	4,633	1,351	20,275	1,909	31	15,824	1,800	33,813	3,790	39,787	52	2,704	20,694	0	136,616	-426,643		

Enforcement 76,424
 Processing 39,757
 Cash collect 20,694
 136,815

Departmental Letter re Committee Queries - 7 November 2014

CENTRAL MANAGEMENT BRANCH



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO 8/4/2014
Our reference: SUB/854/2014

07 November 2014

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX

Dear Paul

COMMITTEE STAGE QUERIES - OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Thank you for your letter dated 21 October 2014, in which you asked for information regarding the Department's off-street car parks that have been identified for use as part of proposed regeneration schemes.

By way of background, in 2003, Government Ministers acknowledged that surface car parks were generally not an efficient use of space in town centres and the Department for Regional Development agreed to adopt a positive attitude to any development proposals that might come forward that would improve the built environment. It was agreed the Department for Social Development, with its responsibilities and legislative powers for regeneration, was best placed to take the lead in progressing any town centre regeneration schemes.

In cases where a car park can be declared surplus to requirements, Government Disposal Procedures permit the direct transfer of a surplus car park to the Department for Social Development (or a developer) at Market Value, to allow them to progress their regeneration scheme. Recent examples of the disposal of surplus car parks are: Station Street Car Park, Belfast, which was transferred to the Department for Social Development for £600k in 2013 for a regeneration scheme; Frederick Street Car Park, Belfast, which was sold to the University of Ulster for £550k in 2013 to facilitate their Belfast Campus Project; there are also ongoing discussions with Translink in respect of Kenlis Street Car Park, Banbridge (value as at 31/3/2014 - £113,331), most of which they need for a new bus terminal to serve the town.

Where the Department for Social Development identified the need to use a non-surplus car park as part of the land portfolio they need to gather together to progress a local regeneration scheme, then it was agreed that conditions around alternative car parking provision as required by the Department for Regional Development would have to be included in any development brief for a site (a non-surplus car park is one where the Department has considered that the permanent loss of the car parking spaces would have a negative impact on the commercial centre in which they are situated and therefore could not declare the car park surplus to requirements).

Over recent years the Department for Social Development has been testing the market and trying to progress a number of regeneration schemes in local towns and cities which will involve car parks considered non-surplus by the Department. However, in most cases the Department for Social Development has been unable as yet to attract developers/preferred bidders to take forward these regeneration projects. The car parks involved were:

Car Park	Value as at 31 March 2014
Hibernia Street North, Holywood	£72,221
Hibernia Street South, Holywood	£284,271
Abbey Street, Coleraine	£338,191
Castle Lane, Lurgan	£132,579
Antrim Street, Lisburn	£365,428
Smithfield East, Lisburn	£118,684
Dock Street, Canal Basin South/North, Strabane	£101,875
Church Street 3 (Coach Entry) Ballymena	£212,150
Central, Antrim	£1,288,443

The Department for Social Development has been able to progress one scheme involving the Mall West car park in Armagh (no value held) and hopes to sign the Development Agreement with Drumragh Property Investments by the end of this year. In this case the Department's car park will transfer, through the Department for Social Development, to the developer at nominal cost, with the Department getting back into its ownership from the developer the same area/number of car parking spaces within the proposed new multi storey car park and a guaranteed income from same. This arrangement will transfer to Armagh, Banbridge and Craigavon District Council as part of the transfer of the off-street parking function to councils in 2015.

Please note the values given for car parks not yet brought to market are current Net Book Values. A current market value would be established at the point of disposal.

You will wish to draw this information to the attention of the Committee.

This letter is fully disclosable under FOI.

Yours sincerely

A handwritten signature in black ink, appearing to read "A. Doherty". The signature is written in a cursive style with a prominent initial "A" and a trailing flourish.

ALAN DOHERTY
Departmental Assembly Liaison Officer

Departmental Letter re Briefing - 20 November 2014

CENTRAL MANAGEMENT BRANCH

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO 10D/4/2014
Our reference: SUB/910/2014

20 November 2014

Dear Paul

COMMITTEE STAGE EVIDENCE: OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL

Thank you for your letter of 6 November 2014, in which you asked for officials to attend the Committee on 26 November in relation to the Off-Street Parking (Functions of District Council) Bill.

I can confirm that Mr Terry Deehan, acting Head of Corporate Services, Transport NI, Davy Millar, Head of Lands and Gerry Anketell, Transport Legislation Branch, will attend the Committee. These officials will answer any questions the Committee may have following presentations to the Committee from a number of councils and other bodies.

You will wish to draw this information to the attention of the Committee.

This letter is fully disclosable under FOI.

Yours sincerely

SIGNED
ALAN DOHERTY
Departmental Assembly Liaison Officer

Departmental Letter re Committee Queries - 1 December 2014

CENTRAL MANAGEMENT BRANCH

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALOs
Our reference:

01 December 2014

Dear Paul

I refer to the following DALO letters

DALO Number and Subject	Date received in DRD
DALO 12/4/14 – Coleraine to Londonderry Rail Track	13/11/14
DALO 12A/4/2014 – Committee Inquiry into the Coleraine to Londonderry Track Phase 2 Project	17/11/14
DALO 13A/4/2014 – Off Street Car Parking (Functions of District Councils) Bill	20/11/14

Unfortunately the Department is not yet in a position to respond to your queries. We will issue responses as soon as we are in a position to do so.

This letter is fully disclosable under FOI.

Yours sincerely

[SIGNED]

ALAN DOHERTY
Departmental Assembly Liaison Officer

Departmental Letter re Committee Queries - 4 December 2014

CENTRAL MANAGEMENT BRANCH



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO 13A/4/2014
Our reference: SUB/929/2014

04 December 2014

Dear Paul

OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL – COMMITTEE STAGE QUERIES

Following a number of presentations to the Committee on 19 November 2014, on the above Bill, you wrote to me with details of some concerns expressed by the Committee and a number of other queries. The response to your letter has been overtaken by events. In your DALO letter dated 27 November you advised that the Committee had decided not to move the motion to extend the statutory period for scrutiny of the Bill by the Committee. The Minister has asked me to record his thanks. You will also have received my reply dated 2 December 2014 to DALO 14/4/2014 advising that Belfast City Council is now satisfied that its area of concern is adequately covered by the Bill and that their suggested amendment is considered unnecessary.

Responses to your specific queries are provided below;

Can the Department provide a current list of the car parks to be transferred by new council area?

In total 336 car parks will transfer to the new councils. These are listed by council area below.

Can the Department indicate what position negotiations with each Council are at and when they might reasonably be expected to conclude?

All 11 councils have indicated they are fully supportive of the aims of the Bill. All 11 councils have agreed in principle to enter into Agency Agreements to take up the Department's offer to operate enforcement on their behalf through its existing contracts up to 2016. Work is ongoing on the transfer schemes with the aim that draft schemes will be provided to the councils for consideration by the end of December and signed off by 31 March 2015.

Can the Department provide the Committee with details of current areas and/or queries being discussed by each of the new Council areas and a timeline for completion of each of these?

As part of the information to be included in the transfer schemes, the councils are being provided with boundary maps, copy title, copies of way leaves/easements, copies of licences etc. The Department will work with the councils to address any queries that may arise. Sixteen of the car parks that the councils will assume responsibility for are leased from other parties. These leases will need to be terminated on 31 March 2015 and new leases entered into by the councils.

Armagh, Banbridge and Craigavon Council has been advised that two car parks in its area are in the process of being developed.

Can the Department provide a schedule for future maintenance of car parks within each council area, the estimated cost of these and the timeline for completion of any of these works?

The Department does not maintain a schedule of future maintenance works planned for car parks, rather it reacts to any defects reported and carries out repairs according to the priority. An average of £150,000 was spent annually over the last five years on repairs/maintenance of car parks and this is the level of funding that will transfer to the new councils.

Can the Department indicate what financial information, including revenue and claims histories, have yet to be provided to the councils?

On 31 July the Councils received Memorandum of Trading Accounts providing initial financial information, including revenue, on all the car parks transferring. This information was also provided to the Committee. This information has been updated and issued again to the Councils on 24 November. Copies of this updated information are attached. A five-year history of public liability claims relating to each car park was prepared and issued to the relevant Council on 10 November – copies of these are also attached.

You will wish to draw this to the attention of the Committee.












This letter and enclosures are fully disclosable under FOI.

Yours sincerely



ALAN DOHERTY
Departmental Assembly Liaison Officer

5 Year History of Public Liability Claims

- | | | | | | |
|--|---|--|---|--|---|
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Fermanagh and Omagh.docx | 
North Down and Ards.docx | 
Newry & Mourne and Down.docx | 
Mid Ulster.docx | 
mid and east antrim.docx | 
Lisburn and castlereagh.docx |
| 
causeway coast and glens.docx | 
Belfast and Dunmurray.docx | 
Armagh Banbridge and Craigavon.docx | 
Antrim and Newtownabbey.docx | 
Derry and Strabane.docx | |

List of Car parks by Council

Council Area - Antrim & Newtownabbey						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Castle St, Antrim	2012/2013	1		1	7,155.40	
Harrier Way, Ballyclare	2012/2013	2	2			
	Totals	3	2	1	£7,155.40	

Council Area - Armagh, Banbridge & Craigavon						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Dobbin Street Lane (St Malachy's Church), Armagh	2010/2011	1	1			
Commercial Road, Banbridge	2010/2011 *	1		1	£5,789.11	
Kinelowen Street, Keady	2012/2013	1		1	£3,138.60	
Magowan Buildings 1 & 2 (West Street), Portadown	2010/2011	1		1	£3,258.60	
	2011/2012	1	1			
Meadow Lane, Portadown	2011/2012 *	1	1			
William Street, Portadown	2010/2011	1	1			
	Totals	7	4	3	£12,186.31	

* Commercial Road, Banbridge
This claim is for Jingle's Court

* Meadow Lane, Portadown
Do not know if this is for Meadow Lane East or West

Council Area - Belfast & Dunmurry						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Ashdale Street, Belfast	2013/2014	1	1			
Corporation Street, Belfast	2009/2010	2		2	£1,059.92	
	2011/2012	1	1			
	2012/2013	1	1			
Cromac Street, Belfast	2009/2010	2	1	1	£250.00	
	2010/2011	1	1			
	2012/2013	1	1			
Hope Street North, Belfast	2009/2010	1	1			
Little Donegall Street, Belfast	2013/2014	1	1			
Sandown Road, Belfast	2012/2013	1		1	£315.04	
Totals		12	8	4	£1,624.96	

Council Area - Causeway Coast & Glens						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Mall, Coleraine	2013/2014	1	1			
Railway Place, Coleraine	2013/2014	1	1			
Railway Road, Coleraine	2013/2014	1	1			
Harbour Road, Portrush	2014/2015	1 Ongoing				
	Totals	4	3	0	£0.00	

Council Area - Derry & Strabane						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Bishop Street, Londonderry	2010/2011	1		1	£5,158.59	
Foyle Street, Londonderry	2013/2014	1	1 Ongoing			
Queens Quay South, Londonderry	2011/2012	1		1	£5,842.61	
Strand Road, Londonderry	2011/2012 *	1	1			
	2013/2014 *	1	1			
William Street, Londonderry	2011/2012	1	1			
	Totals	7	5	2	£11,001.20	

* Strand Road, Londonderry
 2011/2012 Claim is for Victoria Car Park
 2013/2014 Claim is for Victoria Square

Council Area - Fermanagh & Omagh						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Hollyhill Link, Enniskillen	2013/2014	1	1			
	2014/2015	1		1	£682.40	
Wellington Place, Enniskillen	2012/2013	1		1	£8,064.80	
Drumragh Avenue, Omagh	2013/2014	1	1			
Foundry Lane, Omagh	2009/2010	1	1			
The Diamond, Tempo	2011/2012 *	1		1	£6,306.40	
	Totals	6	3	3	£15,053.60	

* The Diamond, Tempo
This claim is for Mill Lane/Mill Street

Council Area - Lisburn & Castlereagh						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Antrim Street, Lisburn	2011/2012	1	1			
Benson Street, Lisburn	2010/2011	1		1	£6,668.60	
Smithfield Square, Lisburn	2009/2010	1		1	£11,584.41	
	Totals	3	1	2	£18,253.01	

Council Area - Mid & East Antrim						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Broughshane Street 1(Garfield Place), Ballymena	2009/2010	1	1			
Mount Street, Ballymena	2014/2015	1	1			
Springwell Street, Ballymena	2009/2010	1	1			
	2010/2011	2		2	£4,832.19	
Lancastrian Street, Carrickfergus	2012/2013	1	1			
Balmoral Avenue, Whitehead	2012/2013	1	1			
	Totals	7	5	2	£4,832.19	

Council Area - Mid-Ulster						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Union Place, Cookstown	2013/2014	1	1			
Castle Hill, Dungannon	2012/2013	1		1	£2,885.00	
Scotch Street, Dungannon	2012/2013 *	1		1	£4,452.39	
	2013/2014 *	1	1			
St Lurach's Road, Maghera	2012/2013	1		1	£504.00	
Rainey Street, Magherafelt (Meadowlane ShoppingCentre)	2011/2012	1	1			
	Totals	6	3	3	£7,841.39	

* Scotch Street, Dungannon
Do not know if these claims are for Scotch Street North or South

Council Area - Newry & Mourne and Down						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Quay Street, Ardglass	2014/2015	1		1	£229.20	
Irish Street, Downpatrick	2009/2010	1	1		£103.81	
Market Street, Downpatrick	2013/2014	1		1	£54.00	
Abbey Way/Mill Street, Newry	2013/2014	1 Ongoing				
Basin Walk, Newry	2009/2010	1	1			
	2010/2011	1		1	£2,713.60	
	2012/2013	1	1			
	2013/2014	1	1			
Canal Bank 2, Newry	2012/2013	1	1			
Canal Bank 3, Newry	2012/2013	1	1			
Mary Street, Warrenpoint	2009/2010	1		1	£38.89	
The Square, Warrenpoint	2009/2010	1	1			
	Totals	12	7	4	£3,139.50	

Council Area - North Down & Ards						
	Financial Year	No of Claims	Rejected/Lapsed/Withdrawn	Settled	Total Paid	
Ballywalter Road, Millisle	2009/2010	1		1	£474,75	
South Street, Newtownards (Court Street)	2009/2010	1	1			
Mill Street Gasworks, Newtownards (Mill St)	2011/2012	1		1	£5,526.59	
West Street, Newtownards	2010/2011	1		1	£16,088.20	
	Totals	4	1	3	£22,089.54	

Antrim & Newtownabbey

Car Park Name	Town	Leased/ Owned
Castle Street	Antrim	owned
Central (Castleway)	Antrim	owned
Dublin Road	Antrim	owned
Railway Street	Antrim	owned
Harrier Way	Ballyclare	owned
Market Square	Ballyclare	owned
Farmley Road	Glengormley	owned
John Street	Randalstown	owned
Portglenone Road	Randalstown	owned
Shore Road (487-489)	Whiteabbey	owned
Shore Road (606-612)	Whiteabbey	owned

Total Owned	11
Total Leased	0

Armagh, Banbridge & Craigavon

Car Park	Town	Leased/ Owned
Court House	Armagh	owned
Dobbin Street Lane (excepting St Malachy's Church)	Armagh	owned
Dobbin Street Lane (St Malachy's Church)	Armagh	leased
Friary Road East	Armagh	owned
Friary Road West (4 Dobbin Street)	Armagh	owned
Linenhall Street	Armagh	owned
Lonsdale Street	Armagh	owned
Mall West (159 Mall View Terrace)	Armagh	owned
Dobbin Street Lane (ex surgery) (split)	Armagh	owned
Bridge Street East	Banbridge	owned
Church Square	Banbridge	owned
Commercial Road	Banbridge	owned
Downshire Place South / North (Split Valuation)	Banbridge	owned
Downshire Road	Banbridge	owned
Kenlis Court	Banbridge	owned
Kenlis Street	Banbridge	owned
Townsend Street	Banbridge	owned
Gospel Lane	Banbridge	owned
Cross Lane 1 & 2	Dromore	owned
Gallows Street	Dromore	owned
Meeting Street	Dromore	owned
Castle Hill	Gilford	owned
Cow fair	Keady	leased
Glen Road	Keady	leased
Kinelowen Street	Keady	owned
Alexander Square 1 & 2	Lurgan	owned
Blacks Court	Lurgan	owned
Castle Lane	Lurgan	owned
Foster Place	Lurgan	owned
High Street	Lurgan	owned
Moore's Lane 1	Lurgan	owned
Moore's Lane 2	Lurgan	owned
Moore's Lane 3	Lurgan	owned
Robert Street	Lurgan	owned
Waring Street 1	Lurgan	owned
Waring Street 2	Lurgan	owned
Waring Street 3	Lurgan	owned
Fair Green (7 Duke Street)	Portadown	leased
Foundry Street	Portadown	leased
Magowan Buildings 1 & 2 (West Street)	Portadown	owned
Marley Street	Portadown	owned
Meadow Lane East	Portadown	owned
Meadow Lane West	Portadown	owned
River Bank	Portadown	owned
West Street	Portadown	owned
William Street	Portadown	owned
Castle Street	Rathfriland	owned
Sinton Park	Tandragee	owned

Total Owned	43
Total Leased	5

Belfast

Car Park	Town	Leased/ Owned
Ashdale Street	Belfast	owned
Bankmore Street	Belfast	leased
Charlotte Street	Belfast	owned
Corporation Square	Belfast	owned
Cromac Street	Belfast	leased
Dunbar Street	Belfast	owned
Dundela Crescent	Belfast	owned
Exchange Street	Belfast	owned
Grampian Avenue	Belfast	owned
Hope Street North	Belfast	owned
Little Donegall Street	Belfast	owned
Little Victoria Street	Belfast	owned
Marlborough Avenue	Belfast	owned
Eastside	Belfast	owned
Northumberland Street	Belfast	owned
Ravenscroft Avenue	Belfast	owned
Sandown Road	Belfast	owned
Smithfield Market	Belfast	leased
Station Street	Belfast	leased
Wandsworth Road	Belfast	owned
Westminster Avenue East	Belfast	owned
Westminster Avenue West	Belfast	owned
Westminster Avenue North	Belfast	owned
Whitla Street	Belfast	owned
York Street (No1) 60 York Street	Belfast	owned
Parkgate Avenue	Belfast	owned
Shaws Bridge	Belfast	owned
Glenburn Road	Dunmurry	owned
Kent Street (17 Upper Library St)	Belfast	leased
	Total Owned	24
	Total Leased	5

Causeway Coast & Glens

Car Park	Town	Leased/ Owned
Ann Street	Ballycastle	owned
Castle Street	Ballycastle	owned
Fairhill Street	Ballycastle	owned
Glenhead Road	Ballykelly	owned
Castle Street	Ballymoney	owned
Church Street	Ballymoney	owned
Cockpit Brae East	Ballymoney	owned
Cockpit Brae West	Ballymoney	owned
Dervock Road	Ballymoney	owned
Gate End	Ballymoney	owned
Seymour Street	Ballymoney	owned
Townhead Street North	Ballymoney	owned
Townhead Street South	Ballymoney	leased
Main Street	Bushmills	owned
Abbey Street	Coleraine	owned
Long Commons	Coleraine	owned
Mall	Coleraine	owned
Millburn Road	Coleraine	owned
Railway Place	Coleraine	owned
Railway Road	Coleraine	owned
Terrace Row	Coleraine	leased
Waterside	Coleraine	owned
Bridge Street	Garvagh	leased
Bridge Street	Kilrea	owned
Ballyclose Street	Limavady	owned
Central	Limavady	owned
Connell Street	Limavady	owned
Main Street	Limavady	owned
Protestant Street	Limavady	owned
Railway Street	Limavady	owned
Dunluce Avenue	Portrush	owned
Harbour Road	Portrush	owned
Landsdowne Road	Portrush	owned
Convention Avenue	Portstewart	leased
The Diamond	Portstewart	owned
Lever Road	Portstewart	owned
Main Street	Dungiven	owned

Total Owned	33
Total Leased	4

Derry & Strabane

Car Park	Town	Leased/ Owned
Albert Street (15 Lower Strabane)	Castledearg	owned
Meeting House Lane	Castledearg	owned
William Street	Castledearg	owned
Priests Lane (100%)	Castledearg	owned
Market Square	Claudy	owned
258A Berryhill Road	Dunnamanagh	owned
Bishop Street	Londonderry	leased
Carlisle Road	Londonderry	owned
Foyle Road	Londonderry	owned
Foyle Street	Londonderry	owned
Queens Quay North	Londonderry	owned
Queens Quay South	Londonderry	owned
Shantallow HC	Londonderry	owned
Simpsons Brae	Londonderry	owned
Society Street	Londonderry	owned
Spencer Road	Londonderry	owned
Strand Road	Londonderry	owned
Victoria Market	Londonderry	owned
Waterside (Railway Stat)	Londonderry	owned
William Street	Londonderry	owned
Townhall Street West	Newtownstewart	owned
Bowling Green	Strabane	owned
Butcher Street	Strabane	owned
Canal Basin South(30 Dock Street)	Strabane	owned
Lower Main Street North	Strabane	owned
Lower Main Street South	Strabane	owned
Mill Street	Strabane	owned
Railway Street	Strabane	owned
Upper Main Street West & East	Strabane	owned
Canal Basin North	Strabane	owned
	Total Owned	29
	Total Leased	1

Fermanagh & Omagh

Asset Description and Location	Town	Leased/ Owned
Main Street	Ballinamallard	owned
Drumquin Road	Dromore	owned
Main Street	Dromore	owned
Castle Park	Enniskillen	owned
Derrychara Road	Enniskillen	owned
Down / Market / Cross Street	Enniskillen	owned
Eden Street	Enniskillen	owned
Head Street	Enniskillen	owned
Hollyhill Link	Enniskillen	owned
Quay Lane North	Enniskillen	owned
Quay Lane South	Enniskillen	owned
Queen Street	Enniskillen	owned
Shore Road East	Enniskillen	owned
Shore Road West	Enniskillen	owned
Wellington Place	Enniskillen	owned
Main Street	Fintona	owned
Town Centre	Fintona	owned
Pound Street (Brownhill)	Irvinestown	owned
Kesh Road	Irvinestown	owned
Railway Street	Kesh	owned
Fair Green	Lisnaskea	owned
New Bridge Road	Lisnaskea	owned
Old Quarry	Lisnaskea	owned
Tattinderry Road	Maguiresbridge	owned
Brook Street	Omagh	owned
Campsie Road	Omagh	owned
Castle Street	Omagh	owned
Church Street North	Omagh	owned
Church Street South	Omagh	owned
Cunningham Terrace	Omagh	owned
Drumragh Avenue	Omagh	owned
Foundry Lane	Omagh	owned
Johnston Park	Omagh	owned
Market Place	Omagh	owned
Market Street	Omagh	owned
New Brighton Terrace	Omagh	owned
Old Mountfield Road	Omagh	owned
The Diamond	Tempo	owned
Main Street	Carrickmore	owned
	Total Owned	39
	Total Leased	0

Lisburn & Castlereagh

Car Park	Town	Leased/ Owned
Ballynahinch Street (30% leased)	Hillsborough	owned
Antrim Street	Lisburn	owned
Barrack Street	Lisburn	owned
Governors Road	Lisburn	owned
Laganbank Road	Lisburn	owned
Longstone Street Roundabout	Lisburn	owned
Queens Road	Lisburn	owned
Smithfield Square East	Lisburn	owned
Benson Street	Lisburn	owned
Quay Street	Lisburn	owned
Union Bridge	Lisburn	owned
Main Street	Moira	owned

Total Owned	12
Total Leased	0

Mid & East Antrim

Car Park	Town	Leased/ Owned
Ahoghill	Ahoghill	owned
Ballymoney Road	Ballymena	owned
Church Street 1	Ballymena	owned
Church Street 3 (Coach Entry)	Ballymena	owned
Galgorm Village	Ballymena	owned
Broughshane Street 1(Garfield Place)	Ballymena	owned
Harryville (Henry Street)	Ballymena	owned
Church Street (Meeting House Lane)	Ballymena	owned
Mount Street 1	Ballymena	owned
Mount Street 2 (Park Street)	Ballymena	owned
Springwell Street (Multi Storey)	Ballymena	owned
Broughshane Street 2 (Summerfield)	Ballymena	owned
High Street	Carrickfergus	owned
Joymount	Carrickfergus	owned
Lancasterian Street	Carrickfergus	owned
Agnew Street	Larne	owned
Bridge Street	Larne	owned
Circular Road East	Larne	owned
Circular Road West	Larne	owned
Exchange Road	Larne	owned
Fairhill	Larne	owned
High Street	Larne	owned
Inver	Larne	owned
Narrow Gauge Road	Larne	owned
Ramp	Larne	owned
Riverdale West / East	Larne	owned
Balmoral Avenue	Whitehead	owned
	Total Owned	27
	Total Leased	0

Mid Ulster

Car Park	Town	Leased/ Owned
Hillhead Road	Castledawson	owned
Main Street	Clogher	owned
Cornmill	Coalisland	owned
Lineside	Coalisland	owned
Burn Road	Cookstown	owned
Loy Street	Cookstown	owned
Orritor Road	Cookstown	owned
Union Place	Cookstown	owned
Anne Street East	Dungannon	owned
Anne Street West (17 Anne Street)	Dungannon	owned
Castle Hill (31 Market Square)	Dungannon	owned
Perry Street East	Dungannon	owned
Perry Street West	Dungannon	owned
Scotch Street North (Split valuation)	Dungannon	owned
Scotch Street South	Dungannon	owned
Edfield Road	Fivemiletown	owned
The Commons	Fivemiletown	owned
Fairhill	Maghera	owned
ST. Lurach's Road	Maghera	owned
Central South & North	Magherafelt	owned
King Street	Magherafelt	owned
Rainey Street	Magherafelt	owned
Union Road East & West	Magherafelt	owned

Total Owned	23
Total Leased	0

Newry, Mourne & Down

Car Park	Town	Leased/ Owned
Quay Street	Ardglass	owned
Antrim Road	Ballynahinch	owned
Lisburn Street (North)	Ballynahinch	owned
Lisburn Street (South)	Ballynahinch	owned
Windmill Street	Ballynahinch	owned
The Square	Crossgar	owned
Church Street	Downpatrick	owned
Irish Street	Downpatrick	owned
Market Street North / South	Downpatrick	owned
Meadowlands	Downpatrick	owned
Mount Crescent	Downpatrick	owned
Scotch Street	Downpatrick	owned
Ben Crom Place	Kilkeel	owned
Bridge Street	Kilkeel	owned
Harbour Road	Kilkeel	owned
Newry Street	Kilkeel	owned
Causeway Road	Newcastle	owned
Shimna Road	Newcastle	owned
Basin Walk	Newry	owned
Bridge Street	Newry	owned
Canal Bank 1	Newry	owned
Canal Bank 2	Newry	owned
Canal Bank 3	Newry	owned
Downshire Road	Newry	owned
Edward Street	Newry	owned
Kilmorey Street East	Newry	owned
Abbey Way / Mill Street (Multi Storey)	Newry	owned
Monaghan Street	Newry	owned
New Street	Newry	owned
River Street	Newry	owned
Downpatrick Street	Saintfield	owned
East Street	Warrenpoint	owned
Kings Lane	Warrenpoint	owned
Mary Street	Warrenpoint	owned
Newry Street	Warrenpoint	owned
The Square	Warrenpoint	owned
The Square 1 & 2	Rostrevor	owned

Total Owned	37
Total Leased	0

North Down & Ards

Car Park	Town	Leased/ Owned
Harbour Road	Ballyhalbert	owned
Portavogie Road	Ballyhalbert	owned
Springvale Road	Ballywalter	owned
Abbey Street East	Bangor	owned
Abbey Street West	Bangor	owned
Bingham Lane	Bangor	owned
Castle Street	Bangor	owned
Central Avenue	Bangor	owned
Clifton Road	Bangor	owned
Holborn Avenue	Bangor	owned
Mills Road	Bangor	owned
Newtownards Road \ Church Street	Bangor	owned
The Vennel	Bangor	Leased
Main Road	Cloughey	owned
Castle / Bridge Street North / South	Comber	owned
Glen Link	Comber	owned
Killinchy Street	Comber	owned
Newtownards Road (Copeland Road)	Comber	owned
Railway Street	Donaghadee	owned
Templepatrick Car Park (231 Millisle Road)	Donaghadee	owned
Springwell Drive	Groomsport	owned
Church Road	Holywood	owned
Hibernia Street North	Holywood	owned
Hibernia Street South	Holywood	owned
Shore Road	Kircubbin	owned
The Green (25 Main Street)	Kircubbin	owned
Ballywalter Road	Millisle	owned
Ballywhiskin (179 Ballywalter Road)	Millisle	owned
Moss Road	Millisle	owned
Ann Street	Newtownards	owned
Kennel Lane	Newtownards	owned
Mill Street Gas Works North	Newtownards	owned
Mill Street	Newtownards	owned
Old Cross Street East	Newtownards	owned
Old Cross Street West	Newtownards	owned
South Street / Court Street	Newtownards	owned
4 South Street (7 Court Street)	Newtownards	owned
Talbot Street	Newtownards	owned
Upper Court Street	Newtownards	owned
West Street	Newtownards	owned
Mill Street Gas Works South (Split Valuation)	Newtownards	owned
Meeting House Street	Portaferry	owned
The Square	Portaferry	owned
	Total Owned	42
	Total Leased	1

Departmental Letter re Committee Queries - 10 December 2014

CENTRAL MANAGEMENT BRANCH



Room 413c
Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

Telephone: (028 905) 41140
Facsimile: (028 905) 40064
Email: alan.doherty@drdni.gov.uk

Your reference: DALO 15B/4/2014
Our reference: SUB/960/2014

10 December 2014

Paul Carlisle
Clerk to the Committee for Regional Development
Committee Office
Room 254
Parliament Buildings
BELFAST
BT4 3XX

Dear Paul

OFF-STREET PARKING (TRANSFER OF FUNCTIONS TO DISTRICT COUNCILS) BILL – COMMITTEE STAGE QUERIES

Thank you for your letter of 3 December 2014, concerning the Off-Street Parking (Transfer of Functions to District Councils) Bill. The Committee's conclusion in respect of a possible amendment to the Bill is noted.

You asked the Department to identify who is responsible for the compilation of the scheme of transfer relating to the transfer of assets and the timeline for the production of it.

The exercise is being coordinated by a number of officials in TransportNI Headquarters, under the direction of Mr Terry Deehan, Acting Director of Corporate Services, with information on each of the 336 car parks transferring being provided by local divisional staff. The aim is that first drafts of the transfer schemes will be issued to councils for consideration by 31 December 2014 and be agreed and in place by 31 March 2015.

You will wish to draw this to the attention of the Committee.

This letter is fully disclosable under FOI.

Yours sincerely,

[SIGNED]

ALAN DOHERTY
Assembly Liaison Officer



Northern Ireland
Assembly

Appendix 5

Other Documents Relevant to the Bill

The Road Traffic Regulation (Northern Ireland) Order 1997

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STATUTORY INSTRUMENTS

1997 No. 276 (N.I. 2)

The Road Traffic Regulation (Northern Ireland) Order 1997 ^{F1}

^{F2}
- - - - - 12th February 1997

Annotations:

- F1** functions transf.by SR 1999/481
F2 mod. (retrosp.) by 2005 NI 14

Modifications etc. (not altering text)

- C1** Order modified (16.12.2008) by Cycle Tracks (Westlink) Order (Northern Ireland) 2008 (S.R. 2008/464), art. 2

PART I

INTRODUCTORY

Title and commencement

1. (1) This Order may be cited as the Road Traffic Regulation (Northern Ireland) Order 1997.
(2) Subject to paragraph (3), this Order shall come into operation on the expiration of two months from the day on which it is made.
(3) Articles 55 and 56 and Article 75(2) so far as it relates to—
(a) the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;
(b) the provisions of the Order of 1981 and Article 4 of the Disabled Persons (Northern Ireland) Order 1982 relating to Article 174A of the Order of 1981;
(c) paragraph 22 of Schedule 3 to the Order of 1995; and
(d) Article 61(1), (2) and (4),

shall come into operation on such day or days as the Department may by order appoint^{F3}.

Annotations:

- F3** fully exercised by SR 1997/410; SR 1998/296

Interpretation

2. (1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

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(2) In this Order—

“carriageway” means a way constituted or comprised in a road being a way over which the public have a right of way for the passage of vehicles;

“constable” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve;

“the Department” means the Department of the Environment;

“designated parking place” means a parking place designated by order under Article 15;

“disabled person's vehicle” means a vehicle lawfully displaying a badge of a form prescribed under section 14(1) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;

“driver”, where a separate person acts as a steersman of a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle;

“enactment” includes any order, regulation, rule, bye-law or other instrument made under a statutory provision;

^{F4}

“experimental traffic control scheme” means a scheme under Article 5;

“the Highway Code” has the meaning assigned to it by Article 51(7) of the Order of 1995;

^{F5}

“motor vehicle” means, subject to Article 6 of the Order of 1995, a mechanically propelled vehicle (not being a tramcar or other vehicle running on permanent rails, or a trolley vehicle) which is intended or adapted for use on roads;

“off-street parking accommodation” means parking accommodation for vehicles otherwise than on roads;

“off-street parking place” means a parking place other than a parking place on a road;

“the Order of 1981” means the Road Traffic (Northern Ireland) Order 1981;

“the Order of 1995” means the Road Traffic (Northern Ireland) Order 1995;

“parking attendant” has the meaning assigned to it by Article 25;

“parking place” means a place where vehicles or vehicles of any particular class may wait;

“parking meter” has the meaning assigned to it by Article 16(2)(a);

Definition rep. by 2000 c. 32

“prescribed” means prescribed by regulations;

“public road” means a road which is maintainable by the Department, and includes any part of such a road and any bridge or tunnel over or through which such a road passes;

“road” includes a public road and any street, carriageway, highway or roadway to which the public has access;

“the Road Traffic Orders” means the Order of 1981, the Order of 1995 ^{F6} . . . this Order [^{F7F8} . . . the Road Traffic (Northern Ireland) Order 2007 [^{F9} and the Taxis Act (Northern Ireland) 2008].];

“special road” has the meaning assigned to it by Article 2(2) of the Roads (Northern Ireland) Order 1993;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“traffic” includes the passage of animals on a road;

“traffic regulation order” means an order under Article 4;

“traffic sign” has the meaning assigned to it by Article 28;

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“trailer” means a vehicle drawn by a motor vehicle;

“trolley vehicle” means a mechanically propelled vehicle adapted for use without rails under power transmitted to the vehicle from some external source (whether or not there is in addition a source of power on board the vehicle);

“vehicle” includes a cycle and a trailer.

Annotations:

- F4** Definition of "excess charge" in art. 2(2) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(a), 47, Sch. 3; S.R. 2006/347, **art. 2**, Sch.
- F5** Definition of "initial charge" in art. 2(2) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(a), 47, Sch. 3; S.R. 2006/347, **art. 2**, Sch.
- F6** Art. 2(2): word in definition of "the Road Traffic Orders" omitted (27.6.2007) by virtue of Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 22(a)**; S.R. 2007/302, **art. 2**, Sch.
- F7** Art. 2(2): words in definition of "the Road Traffic Orders" inserted (27.6.2007) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3), 86(1), **Sch. 7 para. 22(b)**; S.R. 2007/302, **art. 2**, Sch.
- F8** Art. 2(2): word in the definition of "the Road Traffic Orders" omitted (23.11.2009) by virtue of Taxis Act (Northern Ireland) 2008 (c. 4), ss. 58(1), 59, **Sch. 2 para. 12(a)**; S.R. 2009/352, **art. 2**, Sch.
- F9** Art. 2(2): words in the definition of "the Road Traffic Orders" added (23.11.2009) by Taxis Act (Northern Ireland) 2008 (c. 4), ss. 58(1), 59, **Sch. 2 para. 12(b)**; S.R. 2009/352, **art. 2**, Sch.

PART II

RULES OF THE ROAD

Rule of the road

3. (1) A person driving or riding a vehicle or animal on a road shall, except where it is unreasonable in the circumstances to do so and except where otherwise provided by paragraph (2) or indicated by a traffic sign or the Highway Code, drive or ride the vehicle or animal on the left or near side of the carriageway, having regard to the direction in which he is proceeding.

(2) A person driving or riding a vehicle on a road and overtaking a vehicle on that road shall, except where the Highway Code indicates that he may overtake on the left or near side, overtake on the right or off side of that other vehicle.

(3) A person who contravenes paragraph (1) or (2) is guilty of an offence.

PART III

GENERAL PROVISIONS AS TO REGULATION OF TRAFFIC

Traffic regulation orders

4^{F10}. (1) The Department may by order (a “traffic regulation order”) make provision in respect of any public road for all or any of the following purposes—

- (a) for avoiding danger to persons or other traffic using that or any other road or for preventing the likelihood of any such danger arising;
- (b) for preventing damage to the road or to any building on or near the road;

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- (c) for facilitating the movement of traffic (including pedestrians) on that road or any other road;
 - (d) for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property;
 - (e) for preserving or improving the amenities of the area through which the road runs; or
 - (f) for conserving or enhancing the natural beauty and amenity of the countryside (including its flora, fauna and geological and physiographical features) or for affording better opportunities for the public to enjoy the amenities of the countryside, or recreation or the study of nature in the countryside.^[F11] or]
 - [^{F11}(g) for any of the purposes specified in sub-paragraphs (a) to (c) of paragraph (1) of Article 15 of the Environment (Northern Ireland) Order 2002.]
- (2) A traffic regulation order may make any provision prohibiting, restricting or regulating the use of a public road by traffic (including pedestrians)—
- (a) either generally or subject to such exceptions as may be specified in the order or determined in a manner provided for by it; and
 - (b) subject to such exceptions as may be so specified or determined, either at all times or at times, on days or during periods so specified.
- (3) The provision that may be made by a traffic regulation order includes any provision—
- (a) requiring vehicles to proceed in a specified direction or prohibiting their so proceeding;
 - (b) specifying the part of the public road to be used by vehicles proceeding in a specified direction;
 - (c) prohibiting or restricting the waiting of vehicles in any public road or in any area or the loading or unloading of vehicles;
 - (d) prohibiting the use of public roads by through traffic; or
 - (e) prohibiting or restricting overtaking.
- (4) A traffic regulation order may make provision for identifying any part of any public road to which, or any time at which or any period during which, any provision contained in the order is, for the time being to apply by means of a traffic sign of a type or character specified in the order; and for the purposes of any such order any such traffic sign placed on or near a road shall be deemed to be lawfully in place unless the contrary is proved.
- [^{F12}(4A) A traffic regulation order may—
- (a) specify any public road or any area by reference to a map prepared under Article 36 of the Traffic Management (Northern Ireland) Order 2005 which is not part of the order; and
 - (b) provide that the order shall have effect as if the map were part of the order.]
- (5) Any person who contravenes a traffic regulation order is guilty of an offence.
- (6) Schedule 1 (which makes further provision in relation to traffic regulation orders) shall have effect.

Annotations:

- F10** mod. (retrosp.) by 2005 NI 14
- F11** 2002 NI 7
- F12** 2005 NI 14

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Experimental traffic control schemes

5. (1) For the purpose of carrying out the experimental control of traffic, the Department may, subject to this Article, make and implement schemes (“experimental traffic control schemes”).

(2) An experimental traffic control scheme may make the like provision as may be made by a traffic regulation order.

(3) Where it appears to the Department that it is essential in the interests of the expeditious, convenient and safe movement of traffic or for preserving or improving the amenities of the area through which any road affected by an experimental traffic control scheme runs, the Department may, after giving such public notice as it considers appropriate, modify or suspend an experimental traffic control scheme.

(4) Subject to paragraph (5), an experimental traffic control scheme shall, unless previously revoked, cease to be in force on the expiration of six months from the date on which it came into force.

(5) Subject to paragraph (6), where an experimental traffic control scheme has not ceased to be in force, the Department may direct that the scheme shall continue in force for a further period not exceeding six months from the date when it would otherwise cease to be in force.

(6) Subject to paragraph (7), nothing in paragraph (5) shall authorise the continuance in force of an experimental traffic control scheme for a period exceeding 18 months from the date when it first came into force.

(7) Paragraph (6) shall not apply in relation to an experimental traffic control scheme where the Department proposes to make a traffic regulation order the sole effect of which is to reproduce and continue indefinitely the provisions of the scheme but, in consequence of causing a public inquiry to be held under paragraph 4 of Schedule 1, the Department is unable to make the traffic regulation order so that it comes into operation before the scheme ceases to be in force.

(8) The Department may direct (in an experimental traffic control scheme or otherwise) that while the scheme is in force, any provision previously made by or under an enactment, being a provision that could have been made by the scheme, is suspended or modified to such extent, and in such manner as the Department considers necessary in consequence of the scheme.

(9) Any person who contravenes an experimental traffic control scheme is guilty of an offence.

(10) Schedule 2 (which makes further provision in relation to experimental traffic control schemes) shall have effect.

Temporary suspension of traffic regulation orders or experimental traffic control schemes

6. (1) The Chief Constable may suspend temporarily the operation of any provision of a traffic regulation order or an experimental traffic control scheme in order to prevent or mitigate congestion or obstruction of traffic, or danger to or from traffic in consequence of extraordinary circumstances.

(2) Subject to paragraph (3), the period of suspension under paragraph (1) shall not continue for more than seven days.

(3) If the Department gives its consent to the period of suspension being continued for more than seven days, the suspension shall continue until the end of such period as may be specified by the Department in giving its consent.

Temporary traffic regulation

7. (1) If the Department is satisfied that traffic on a public road should be restricted or prohibited

(a) because works are being or are proposed to be executed on or near the road; or

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- (b) because of the likelihood of danger to the public, or of serious damage to the road, which is not attributable to such works; or
- (c) for the purpose of enabling the duty imposed by Article 7(1)(a) or (2) of the Litter (Northern Ireland) Order 1994 (litter clearing and cleaning by district councils) to be discharged,

the Department may restrict or prohibit temporarily the use of that road by traffic (including pedestrians) to such extent and subject to such conditions or exceptions as the Department considers necessary.

(2) When considering the exercise of its powers under this Article the Department shall have regard to the existence of alternative routes, where appropriate.

(3) The provision that may be made under paragraph (1) is—

- (a) any provision which may be made by a traffic regulation ,
- (b) any provision restricting the speed of vehicles; and
- (c) any provision restricting or prohibiting temporarily the use of a road by reference to traffic signs placed on or near a road;

and Article 50 of the Order of 1995 (contravention of traffic signs) shall apply to signs placed on or near a road for the purposes of this Article.

(4) Where the Department exercises its powers under paragraph (1), the Department may make as respects any alternative route any such provision as is authorised by paragraph (3).

(5) Subject to paragraph (6), any provision made under paragraph (1) or (4) shall, unless previously revoked, cease to have effect at the end of the period of 18 months from the date on which the provision comes into force.

(6) Any provision made under paragraph (1) or (4) for the reason mentioned in sub-paragraph (a) of paragraph (1) shall, if not previously revoked, cease to have effect on the completion of the works mentioned in that sub-paragraph.

(7) Whether or not it exercises its powers under paragraph (1), the Department may direct that any provision to which this paragraph applies is suspended or modified to such extent, and in such manner, as the Department considers necessary for any reason or purpose mentioned in paragraph (1).

(8) Paragraph (7) applies to—

- (a) any provision previously made by or under an enactment, being a provision that could have been made under this Article;
- (b) any order under Article I O(4), 13 or 15.

(9) Any person who contravenes a restriction or prohibition under this Article is guilty of an offence.

(10) Schedule 3 (which makes further provision in relation to temporary traffic regulation) shall have effect.

Annotations:

Modifications etc. (not altering text)

- C2** Art. 7 applied (with modifications) (22.6.2007) by Road Tunnel Safety Regulations 2007 (S.I. 2007/1520), reg. 7(4)(8)

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General traffic regulations

- 8.** (1) The Department may make regulations for the control of traffic on roads (including pedestrian traffic).
- (2) The Department may make regulations with respect to the use of vehicles of any kind whatsoever on roads.
- (3) Any person who contravenes any regulations under this Article is guilty of an offence.

PROSPECTIVE

[^{F13}Prohibition or restriction of use of public roads: special events

Annotations:

F13 Art. 8A inserted (prosp.) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 6(2), 9(2)(a)

8A. Schedule 3A (which makes provision for prohibiting or restricting the use of public roads in connection with the holding of special events) shall have effect.]

Supplementary

- 9.** (1) Where under this Part the Department imposes restrictions or prohibitions on the use of any road, the Department shall place or cause to be placed on or near the road such traffic signs as are necessary—
- to warn traffic that the use of the road is subject to those restrictions or prohibitions; and
 - to indicate the nature and extent of those restrictions or prohibitions.
- (2) Where under this Part the Department imposes restrictions or prohibitions on the use of any road, the Department—
- may place or cause to be placed on or near the road such bollards or other obstructions as it considers necessary for the purposes of those restrictions or prohibitions; and
 - shall take all such steps as are reasonably necessary to secure that any such obstruction is not a danger to traffic.
- (3) This Part shall apply to animals as it applies to vehicles, subject to such modifications or exemptions (including provisions in respect of the number, weight or kinds of animals using a road) as the Department may provide under this Part.
- (4) The powers conferred by Article 7 shall be in addition to and not in derogation of any powers conferred on the Department by any other enactment.
- (5) Without prejudice to the generality of Article 8, regulations under that Article may prescribe the lights to be carried by persons in charge of animals on roads.

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PART IV PARKING PLACES

Power of Department to provide parking places

10. (1) Where it appears to the Department to be necessary to do so, the Department may provide suitable parking places for vehicles in accordance with the provisions of this Article and Article 11.

(2) The Department may utilise any land which may be appropriated for the provision of parking places.

(3) The Department may take all such steps as may be necessary to adapt for use as a parking place any land, not being part of a road, which the Department may utilise under paragraph (2) or acquire under Article 110(2)(b)(iii) of the Roads (Northern Ireland) Order 1993.

(4) The Department may, subject to paragraphs (5) and (6), by order authorise the use as a parking place of any part of a road.

(5) An order under paragraph (4) shall not authorise the use of any part of a road—

- (a) so as unreasonably to prevent—
 - (i) access to any premises adjoining the road; or
 - (ii) the use of the road by any person entitled to its use; or
- (b) so as to be a nuisance.

(6) An order under paragraph (4) shall not be made in respect of any part of a road not maintainable by the Department without the consent of the person responsible for the maintenance of the road.

[^{F14}(6A) An order under paragraph (4) may—

- (a) specify any road by reference to a map prepared under Article 36 of the Traffic Management (Northern Ireland) Order 2005 which is not part of the order; and
- (b) provide that the order shall have effect as if the map were part of the order.]

(7) Schedule 4 (which makes further provision relating to orders under this Article and Articles 13 and 15) shall have effect.

(8) For the purposes of this Part an underground parking place shall not be deemed to be part of a road by reason only of its being situated under a road.

(9) The powers of the Department to provide parking places under this Part include power to provide, on roads or elsewhere, cycle stands or racks.

Annotations:

F14 2005 NI 14

Additional powers in respect of off-street parking places

11. (1) The powers of the Department under Article 10 to provide off-street parking places for vehicles shall include power—

- (a) provide such parking places below ground or in buildings, including buildings used also for other purposes, together with means of access to them;
- (b) to provide at such parking places buildings, facilities and apparatus for the storage and sale of fuel and lubricants and the supply of air and water for vehicles;

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- (c) to provide toilets, rest rooms or other conveniences for use in connection with such parking places;
- (d) to erect or adapt, and to maintain, equip and manage buildings accordingly.
- (2) Where the Department provides a parking place in a building, it may—
 - (a) let on such terms as it thinks fit parts of the building which are not used for the purposes of the parking place; and
 - (b) provide services for the benefit of persons occupying or using those parts; and
 - (c) make such reasonable charges for those services as it thinks fit.
- (3) The Department may enter into arrangements with any person under which, in consideration of the payment by him to the Department of a lump sum, or series of lump sums, he is authorised to collect and retain the charges made in respect of the parking of vehicles in an off-street parking place provided by the Department.
- (4) The Department may let for use as a parking place any off-street parking place provided by it and, where the parking place is provided in a building, let it for such use separately from the rest of the building or let the whole or any part of the building with the parking place.
- (5) The Department may—
 - (a) let on such terms as it thinks fit land on which it has power under Article 10 and this Article to erect or adapt a building for the purpose of providing a parking place, with a view to some other person erecting or adapting a building on such land and providing, maintaining and operating a parking place in that building or in that part of that building;
 - (b) arrange with any person for him to provide a parking place on any land of which he is the owner or in which he has an interest.
- (6) The Department may let or hire out on such terms as it thinks fit such buildings, facilities or apparatus as are mentioned in paragraph (1)(b).
- (7) The Department may erect barriers at any off-street parking place for the purpose of preventing or restricting the access of unauthorised vehicles to that parking place.

Provision of access to premises through off-street parking places

12. (1) Where it appears to the Department that an off-street parking place may be used to provide a means of access from a road to any premises, the Department may adapt for use as, or for providing, such a means of access—
- (a) the off-street parking place;
 - (b) any land to which Article 10(3) applies;
 - (c) any road, with the consent of the person responsible for the maintenance of the road if it is not a public road.
- (2) The Department may—
- (a) enter into an agreement with the occupier of the premises with respect to the use of the means of access and for the making by him of contributions towards the expenses incurred by the Department in providing the means of access;
 - (b) grant, for such consideration and on such terms and conditions as may be agreed, to the occupier of the premises, or any other person having an interest in them, a right of way over any part of the parking place as is to be used as the means of access, and such other rights (if any) incidental to, or connected with, the use of the means of access as the Department thinks it necessary or expedient to grant.
- (3) Subject to the provisions of any agreement made under sub-paragraph (a) of paragraph (2) and to any rights granted under sub-paragraph (b) of that paragraph, the Department may by order

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under Article 13 make provision as to the use of any parking place as a means of access and in particular as to—

- (a) the persons who or vehicles which may use the means of access; and
- (b) the conditions on which the means of access may be used.

(4) Subject to the provisions of any agreement made under sub-paragraph (a) of paragraph (2) and to any rights granted under sub-paragraph (b) of that paragraph, the Department may stop up any means of access provided under this Article.

(5) In this Article references to a parking place include references to the means of access to the parking place and references to the use of a means of access include references to such use by pedestrians.

Provisions as to use of parking places

13. (1) The Department may by order make provision as to—

- (a) the use of any parking place provided under Article 10 or 11, and in particular the persons who, or vehicles which, may be entitled to use it; and
- (b) the conditions on which it may be used.

(2) An order under paragraph (1) may make provision as to the charges to be paid in connection with the use of an off-street parking place, including provision requiring those charges, or any part of them, to be paid by means of the hire or purchase in advance, or the use, of parking devices in accordance with the order.

(3) ^{F15}.....

(4)

(5) An order under paragraph (1) may make provision as to—

- (a) the issue, display and operation of a specified apparatus or device for indicating the time at which a vehicle arrived at, and the time at which it ought to leave, a parking place, or one or other of those times;
- (b) the use of a specified apparatus or device for indicating the charges paid or payable in respect of a vehicle left in an off-street parking place or for collecting any such charges.

(6) An order under paragraph (1) may make provision—

- (a) for regulating the issue, use and surrender of parking devices;
- (b) for requiring vehicles to display parking devices when left in any parking place in respect of which the parking devices may be used;
- (c) without prejudice to the generality of sub-paragraph (b), for regulating the manner in which parking devices are to be displayed or operated;
- (d) for regulating the use, and the manner of use, of any specified apparatus designed to be used in connection with parking devices;
- (e) for treating—
 - (i) the indications given by a parking device, or
 - (ii) the display or failure to display a parking device on or in any vehicle left in a parking place,

as evidence of such facts and for such purposes as may be provided by the order;

- (f) for the refund, in such circumstances and in such manner as may be specified in the order, of the whole or part of the amount of any charge paid in advance in respect of a parking device;

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- (g) for the payment of a deposit in respect of the issue of a parking device and for the repayment of the whole or any part of such a deposit.
- (7) In this Article and in Article 14 “parking device” means either a card, disc, token, meter, permit, stamp or other similar device, whether used in a vehicle or not, which, being used either by itself, or in conjunction with any such apparatus as is referred to in paragraph (6)(d)—
- (a) indicates, or causes to be indicated, the payment of a charge, and—
- (i) the period in respect of which it has been paid and the time of the beginning or end of the period, or
- (ii) whether or not the period for which it has been paid or any further period has elapsed, or
- (iii) the period for which the vehicle in relation to which the parking device is used is permitted to park in the parking place, and the time of the beginning or end of the period, or
- (iv) whether or not the period for which the vehicle in relation to which the parking device is used is permitted to park in the parking place or any further period has elapsed; or
- (b) operates apparatus controlling the entry of vehicles to or their exit from the parking place, or enables that apparatus to be operated;
- or any other device of such description as may be prescribed for the purposes of this Article and Article 14.
- (8) Regulations under paragraph (7) which revoke or amend previous regulations under that paragraph may make such saving and transitional provision as appears to the Department to be necessary or expedient.
- (9) An order under paragraph (1) may restrict the use (either at all times or at times specified in the order) of a specified parking place authorised under Article 10(4)—
- (a) only to such persons or vehicles as may be authorised for the purpose by a permit issued by the Department under paragraph (10); or
- (b) both to such persons or vehicles and, subject to specified conditions as to duration of parking or times at which parking is authorised, to such other persons or vehicles as may be specified in the order.
- (10) The Department may issue permits for the purposes of paragraph (9) and, in the case of any particular parking place and any particular vehicle or class of vehicle, issue a permit for that vehicle or class of vehicle to be left in the parking place while the permit remains in force, either at all times or at times specified in the permit.
- (11) The Department may make such charge in connection with the issue of permits under paragraph (10), of such amount and payable in such manner, as the Department may determine.
- (12) An order under paragraph (1) may make provision—
- (a) for regulating the issue, revocation and surrender of any permit such as is mentioned in paragraph (10) and the issue, use and surrender of tokens indicating the holding of such a permit, or the payment of any charge in connection with the issue of the permit;
- (b) for requiring a vehicle to which such a permit applies to display the permit or such a token when left in a parking place to which the permit applies, and for treating the display of or failure to display the permit or such a token on any vehicle left at a parking place as evidence of such facts and for such purposes as may be provided by the order;
- (c) for the refund, in such circumstances and in such manner as may be provided by the order, of the amount of any charge paid in advance by virtue of paragraph (11).
- (13) An order under paragraph (1) may make provision as to—

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- (a) the removal of any vehicle left in a parking place in contravention of such an order;
- (b) the removal in an emergency of any vehicle left in a parking place;
- (c) prohibiting the leaving of any thing, other than a vehicle, in an off-street parking place;
- (d) the removal from an off-street parking place of any thing, other than a vehicle, left there in contravention of an order ? under paragraph (1);
- (e) the safe custody of any thing (including a vehicle) removed under sub-paragraph (a), (b) or (d);
- (f) the disposal of any thing, other than a vehicle, removed under sub-paragraph (d);
- (g) the recovery of any costs reasonably incurred in connection with the removal, custody or disposal of any thing, other than a vehicle, removed under sub-paragraph (d).

(14) An order under paragraph (1) may make provision authorising the use of part of an off-street parking place—

- (a) for the collection of recyclable materials; or
- (b) for advertising; or
- (c) for displaying information to the public,

in accordance with a licence issued by the Department.

(15) For the purposes of paragraph (14) the Department may issue licences for such consideration and on such terms and conditions as the Department thinks fit and an order under paragraph (1) may make provision regulating the issue, revocation and surrender of such licences.

(16) An order under paragraph (1) may make provision for the suspension of the use of a parking place or any part of it on such occasions or in such circumstances as may be specified in the order.

(17) A copy of any order under paragraph (1) relating to an off-street parking place shall be exhibited on or near that parking place.

(18) Schedule 4 makes further provision relating to orders under this Article.

Annotations:

F15 Art. 13(3)(4) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(b), 47, Sch. 3; S.R. 2006/347, art. 2, Sch.

Offences and proceedings in connection with parking places provided under Article 10 or 11

14. (1) In the event of any contravention of a provision of an order under Article 13, the person responsible is guilty of an offence.

(2) A person who, with intent to defraud—

- (a) interferes with any such apparatus or device mentioned in Article 13(5) as is by an order under Article 13(1) to be used for the collection of charges at an off-street parking place, or operates or attempts to operate it by the insertion of objects other than current coins or bank notes of the appropriate denomination, or the appropriate credit or debit cards; or
- (b) interferes with any such apparatus as is mentioned in Article 13(6) or with a parking device, or operates or attempts to operate any such apparatus or any parking device otherwise than in accordance with an order under Article 13(1), or
- (c) displays a parking device otherwise than in accordance with an order under Article 13(1),

is guilty of an offence.

(3) An order under Article 13(1) may include provision—

- (a) for determining the person responsible for any contravention of the order;

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- (b) ^{F16}
- (c) for treating—
- (i) the indications given by any such apparatus or device as is mentioned in Article 13(5) used in pursuance of the order or the absence of any such device from a vehicle left in a parking place, or
- (ii) the indications given by any such apparatus as is mentioned in Article 13(6) used in pursuance of the order, or any tickets issued by it, or the absence of any ticket from a vehicle left in a parking place,
- as evidence of such facts and for such purposes as may be provided by the order;
- (d) for applying with any appropriate adaptations any of the provisions of Article 19(5) to (7).
- (4) In this Article—
- “credit card” means a card or similar thing issued by any person, use of which enables the holder to defer the payment by him of the charge for parking a vehicle; and
- “debit card” means a card or similar thing issued by any person, use of which by the holder causes the charge for parking a vehicle to be paid by the electronic transfer of funds from a current account at a bank or other institution providing banking services.
- (5) A person authorised by the Department in that behalf or a constable may secure the observance of orders under Article 13 and, where he has reasonable cause to believe that the driver of a vehicle has contravened a provision of an order under that Article, may require the driver to stop the vehicle and provide his name and address.
- (6) A person (other than a constable) exercising powers conferred under paragraph (5) shall, on request, produce some document showing that he is authorised by the Department to exercise those powers.
- (7) For the purposes of paragraph (5), section 7 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (assault on, and obstruction of, constables, etc.) shall have effect in relation to a person authorised as mentioned in that paragraph as if he were a constable.
- (8) Where the driver of a vehicle is alleged to be guilty of an offence under paragraph (1) in relation to an off-street parking place—
- (a) the person keeping the vehicle shall, within 14 days of service on him of a notice by or on behalf of the Department, give to the Department such information as to the identity of the driver as may be required by the notice;
- (b) any other person shall, if required as mentioned in sub-paragraph (a), give within the period there specified any information which it is in his power to give and which may lead to the identification of the driver.
- (9) If a person fails to comply with paragraph (8), he is guilty of an offence unless he shows to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who was the driver of the vehicle.

Annotations:

F16 Art. 14(3)(b) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(c), 47, Sch. 3; S.R. 2006/347, art. 2, Sch.

Designation of parking places on roads for which charges may be made

15. (1) The Department may by order—
- (a) designate parking places on public roads;

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- (b) specify the vehicles or classes of vehicles by which places so designated may be used; and
 - (c) impose charges for vehicles left in any parking place so designated.
- (2) In determining what parking places are to be designated under paragraph (1), the Department shall consider both the interests of traffic and those of the owners and occupiers of adjoining property.
- (3) In particular the Department shall have regard to—
- (a) the need for maintaining the safe and free movement of traffic;
 - (b) the need for maintaining reasonable access to premises; and
 - (c) the extent to which off-street parking accommodation is available in the neighbourhood or the provision of such parking accommodation is likely to be encouraged there by the designation of parking places under this Article,
- (4) An order under paragraph (1) may designate a parking place for use (either at all times or at times specified in the order)—
- (a) only by such persons or vehicles as may be authorised for the purpose by a permit issued by the Department under paragraph (5); or
 - (b) both by such persons or vehicles with or without charge and, subject to specified conditions as to duration of parking or times at which parking is authorised, by such other persons or vehicles as may be specified in the order.
- [^{F17}(4A) An order under paragraph (1) may—
- (a) designate a parking place or specify a public road by reference to a map prepared under Article 36 of the Traffic Management (Northern Ireland) Order 2005 which is not part of the order; and
 - (b) provide that the order shall have effect as if the map were part of the order.]
- (5) The Department may issue permits for the purposes of paragraph (4) and, in the case of any particular parking place and any particular vehicle or class of vehicle, issue a permit for that vehicle or class of vehicle to be left in the parking place while the permit remains in force, either at all times or at times specified in the permit.
- (6) The Department may make such charge in connection with the issue or use of permits under paragraph (5), of such amount and payable in such manner, as the Department may determine.
- (7) Schedule 4 makes further provision relating to orders under this Article.

Annotations:

F17 2005 NI 14

Charges for parking in designated parking places

- 16.** (1) ^{F18}.....
- (2) Provision may be made by order under Article 15 for—
- (a) regulating the time at which and the method by which any charge is to be paid and requiring the use of an apparatus or device (a “parking meter”) being an apparatus or device designed—
 - (i) to indicate whether any charge has been paid and whether the period for which it has been paid or any further period has elapsed, or
 - (ii) to indicate the time and to issue tickets indicating the payment of a charge and the period in respect of which it has been paid, or

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- (iii) in any other way to control or regulate the parking of vehicles or to measure or record the duration of such parking or to receive or acknowledge the receipt of a charge for such parking according to an amount or scale fixed by such an order and as measured or recorded by the apparatus or device;
 - (b) prohibiting the parking of vehicles on any road or part of a road either generally or specially or subject to such conditions as may be specified in the order including conditions prohibiting parking except by persons who use such parking meters and pay such charges as are referred to in sub-paragraph (a);
 - (c) requiring a vehicle to display a ticket issued by a parking meter when left in a parking place and treating the indications given by a parking meter or any ticket issued by it, or the display or failure to display such a ticket on any vehicle at a parking place, as evidence of such facts and for such purposes as may be provided by the order;
 - (d) prohibiting the insertion in a parking meter of coins or bank notes additional to those inserted by way of payment of any charge or prohibiting the insertion or re-insertion in a parking meter of a credit or debit card additional to the original insertion of such a card;
 - (e) exempting from the payment of any charge any vehicle left in a parking place in such circumstances as may be specified in the order and treating any vehicle so exempted as having been left there, and the charge from which it is exempted as having been paid, at such time as may be so specified.
- (3) Provision may be made by order under Article 15 for—
- (a) regulating the issue, revocation and surrender of any permit such as is mentioned in Article 15(5) and the issue, use and surrender of tokens indicating the holding of such a permit, or the payment of any charge in connection with the issue or use of the permit;
 - (b) requiring a vehicle to which such a permit applies to display the permit or such a token when left in a parking place to which the permit applies, and treating the display of or failure to display the permit or such a token on any vehicle left at a parking place as evidence of such facts and for such purposes as may be provided by the order;
 - (c) refunding, in such circumstances and in such manner as may be provided by the order of all or part of any charge paid in advance by virtue of Article 15(6).
- (4) In this Article “credit card” and “debit card” have the same meanings as in Article 14.

Annotations:

F18 Art. 16(1) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(d), 47, Sch. 3; S.R. 2006/347, art. 2, Sch.

Regulation of designated parking places

17. (1) An order under Article 15 may provide for regulating or restricting the use of a designated parking place, or otherwise for or in connection with the operation of such a parking place, and in particular, but without prejudice to the generality of the foregoing, may—

- (a) make provision for determining the manner in which vehicles shall be driven into or out of the parking place, the number and dimensions of spaces in which vehicles may be left in the parking place and the position in which vehicles may be left in those spaces;
- (b) authorise the alteration of the position of vehicles in a parking place;
- (c) provide for the suspension of the use of a parking place or any part of it on such occasions or in such circumstances as may be specified in the order, and for the temporary removal of any parking meters installed at a parking place;

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- (d) prohibit or restrict the carrying on of trade or other activities or the doing of any other thing at a parking place;
 - (e) specify the functions of parking attendants in relation to a designated parking place;
 - (f) provide for the illumination of a parking place and the erection or display of notices or traffic signs, and the carrying out of works on or in the vicinity of a parking place.
- (2) An order under Article 15 may make provision as to—
- (a) the removal from a parking place of any vehicle left there in contravention of such an order;
 - (b) the removal in an emergency of any vehicle left in a parking place; and
 - (c) the safe custody of any vehicle removed under sub-paragraph (a) or (b).

Supplementary provisions relating to designation orders

18. (1) Where under an order under Article 15 vehicles may not be left at all times in a designated parking place—

- (a) the parking place shall for the purposes of Articles 16, 17 and 19 be treated, as respects any time during which vehicles may not be left there in pursuance of the order, as if it were not designated by the order;
- (b) any vehicle left in the parking place which remains there at the beginning of a period during which vehicles may be left there in pursuance of the order shall for the purposes of those Articles be treated as if it had been left there at the beginning of that period, but without prejudice to any rights or liabilities in respect of anything done or omitted to be done at any time before the beginning or after the end of that period.

(2) An order under Article 15 may vary or revoke—

- (a) any traffic regulation order prohibiting or restricting the waiting of vehicles in any road; or
 - (b) any order under Article 10(4) authorising the use of any part of a road as a parking place,
- and any such order as is mentioned in sub-paragraph (a) or (b) may provide that the order shall not have effect as respects any time as respects which provision is made by an order under Article 15 for the leaving of vehicles in that part of the road.

(3) A constable may suspend the use of a designated parking place for not more than seven days in order to prevent or mitigate congestion or obstruction of traffic, or danger to or from traffic, in consequence of extraordinary circumstances.

Offences relating to parking places on roads where charges may be made

19. (1) If the driver of a vehicle—

- (a) otherwise than as authorised under Article 15—
 - (i) leaves the vehicle in a parking place designated under that Article; or
 - (ii) leaves the vehicle there for longer^{F19} . . . than the time so authorised; or
- (b) fails duly to pay any charge payable in respect of the vehicle; or
- (c) contravenes any provision of an order under that Article as to—
 - (i) the manner in which vehicles shall be driven into or out of a parking place; or
 - (ii) the position in which vehicles shall be left in a parking place,

he is guilty of an offence.

(2) In relation to an offence under paragraph (1)(b) the reference to the driver of a vehicle shall be construed as a reference to the person driving the vehicle at the time it was left in the parking place.

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(3) If any person, whether the driver of a vehicle or not, contravenes any provision of an order under Article 15 otherwise than as mentioned in paragraph (1), he is guilty of an offence.

(4) A person who, with intent to defraud, interferes with a parking meter or operates or attempts to operate a parking meter by the insertion of objects other than current coins or bank notes of the appropriate denomination or the appropriate credit or debit cards is guilty of an offence.

(5) Where, in any proceedings for an offence under this Article of failing to pay any charge, it is proved that the amount which has become due, or any part of that amount, has not been duly paid, the court shall order the payment of the sum not paid and any such order may be enforced in like manner as an order for the payment of a sum adjudged to be paid on a conviction.

(6) Any sum ordered under paragraph (5) to be paid shall, for the purposes of any enactment providing for imprisonment in default of payment of a sum adjudged to be paid on a conviction, be aggregated with the amount of the fine, if any, ordered to be paid in respect of the offence.

(7) ^{F20}

(8) Without prejudice to the right of any other person to institute proceedings the Department may institute proceedings for an offence under this Article.

(9) Any apparatus (within the meaning of Article 26) and any notice or traffic sign erected by the Department for the purposes of a designated parking place shall, unless the contrary is proved, be deemed to have been lawfully so erected.

Annotations:

F19 Words in art. 19(1)(a)(ii) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(e)(i), 47, Sch. 3; S.R. 2006/347, art. 2, Sch.

F20 Art. 19(7) repealed (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 39(e)(ii), 47, Sch. 3; S.R. 2006/347, art. 2, Sch.

Acceptance of payment as bar to proceedings under Article 19

20. Where in the case of any vehicle—

- (a) an authorisation by way of such a permit or token as is referred to in Article 16(3) has been issued with respect to the vehicle; and
- (b) the Department is satisfied that, in accordance with the terms on which the authorisation was issued, a charge has become payable and has not been paid in respect of any period for which the vehicle has been left in a parking place,

acceptance by the Department of payment of the amount of that charge shall be a bar to proceedings for an offence under Article 19(1)(b) of failing duly to pay the charge.

Parking devices for designated parking places

21. (1) Any power of the Department under Article 15(1) to impose charges for vehicles left in a designated parking place shall include power to require those charges, or any part of them, to be paid by means of the hire or purchase in advance, or the use, of parking devices in accordance with any relevant provision of an order under that Article.

(2) The provision which may be made by virtue of Article 16(3) includes provision—

- (a) for regulating the issue, use and surrender of parking devices;
- (b) for requiring vehicles to display parking devices when left in any parking place in respect of which parking devices may be used;
- (c) without prejudice to the generality of sub-paragraph (b), for regulating the manner in which parking devices are to be displayed or operated;

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- (d) for regulating the use, and the manner of use, of apparatus designed to be used in connection with parking devices;
 - (e) for treating—
 - (i) the indications given by a parking device; or
 - (ii) the display or the failure to display a parking device on or in any vehicle left in any parking place,
 as evidence of such facts and for such purposes as may be provided by the order;
 - (f) for the refund, in such circumstances and in such manner as may be specified in the order, of the whole or part of the amount of any charge paid in advance in respect of a parking device;—
 - (g) for the payment of a deposit in respect of the issue of a parking device and for the repayment of the whole or part of any such deposit.
- (3) For the purposes of paragraph (2)—
- (a) the reference to parking meters in Article 16(2)(c) and (d) shall include references to the apparatus referred to in paragraph (2)(d); and
 - (b) the reference in Article 16(2)(d) to the insertion in a parking meter of coins or bank notes additional to those inserted by way of payment of any charge or to the insertion or re-insertion in a parking meter of a credit or debit card additional to the original insertion of such a card shall include (so far as is appropriate) a reference to insertions or re-insertions in any such apparatus of parking devices additional to the original insertion of those devices.
- (4) In this Article and Article 22 (offences in connection with parking devices) “parking device” means either a card, disc, token, meter, permit, stamp or other similar device, whether used in a vehicle or not, which, being used either by itself or in conjunction with any such apparatus as is referred to in paragraph (2)(d), indicates or causes to be indicated the payment of a charge, and—
- (a) the period in respect of which it has been paid and the time of the beginning or end of the period; or
 - (b) whether or not the period for which it has been paid or any further period has elapsed; or
 - (c) the period for which the vehicle in relation to which the parking device is used is permitted to park in the parking place, and the time of the beginning or end of that period; or
 - (d) whether or not the period for which the vehicle in relation to which the device is used is permitted to park in the parking place or any further period has elapsed;
- or any other device of such description as may be prescribed for the purposes of this Article and Article 22.
- (5) Regulations under paragraph (4) which revoke or amend previous regulations under that paragraph may make such saving and transitional provision as appears to the Department to be necessary or expedient.

Offences in connection with parking devices

- 22.** A person who, with intent to defraud—
- (a) interferes with any apparatus referred to in Article 21(2)(d) or with a parking device, or operates or attempts to operate any such apparatus or any parking device otherwise than in accordance with an order under Article 15; or
 - (b) displays a parking device otherwise than in accordance with an order under Article 15,
- is guilty of an offence.

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Mishandling of parking devices, etc.

23. (1) A person who, with intent to deceive—
- (a) uses, or lends to, or allows to be used by, any other person—
 - (i) any parking device or apparatus designed to be used in connection with parking devices;
 - (ii) any ticket issued by a parking meter, parking device or apparatus designed to be used in connection with parking devices; or
 - (iii) any such permit or token as is referred to in Article 16(3)(a); or
 - (b) makes or has in his possession anything so closely resembling any such thing as is mentioned in sub-paragraph (a) as to be calculated to deceive,

is guilty of an offence.

(2) In this Article “parking device” has the same meaning as in Article 13 or, as the case may be, Article 21.

Public service vehicle plying for hire in parking place

24. While a vehicle is within a designated parking place or a parking place provided under Article 10 or 11, the driver or conductor of the vehicle, and any person employed in connection with the vehicle, shall not ply for hire or accept passengers for hire, and any person acting in contravention of this Article is guilty of an offence.

Parking attendants

25. (1) The Department may appoint such persons as may be necessary for the superintendence of parking places.

(2) Persons appointed under paragraph (1) shall be known as parking attendants.

Acquisition and inspection, etc., of apparatus

26. (1) The Department may acquire, whether by purchase or hiring, such apparatus as appears to the Department to be required for the purposes of its functions under this Part.

(2) The Department may erect, maintain and operate any such apparatus—

- (a) in any off-street parking place provided under Article 10 or 11 or adjacent to such a parking place; or
- (b) in any parking place authorised under Article 10(4) or designated under Article 15 or in, on or near any road adjacent to such a parking place.

(3) The Department shall make periodical inspections and tests of apparatus provided by it and in use and shall deal with any found to be out of order.

(4) In this Article “apparatus” includes a parking meter and any device.

Protection of Department from liability

27. The exercise by the Department of its functions under this Part shall not render the Department subject to any liability in respect of the loss of or damage to any vehicle in a parking place or the fittings or contents of any such vehicle, unless such loss or damage is directly attributable to a negligent act of the Department or its servant or agent.

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[^{F21}PART 4A

TAXIS

Annotations:

F21 Pt. 4A (art. 27A) inserted (23.11.2009) by Taxis Act (Northern Ireland) 2008 (c. 4), ss. 21(1), 59; S.R. 2009/352, art. 2, Sch.

Taxi regulation orders

27A. (1) The Department may by order (a “taxi regulation order”) make provision for all or any of the following purposes—

- (a) for preventing taxis from standing or plying for hire or reward on, or preventing taxis from using except in accordance with the order, specified roads or lengths of roads;
- (b) for providing which length of roads may be used as stands for taxis;
- (c) for regulating the number of taxis which may stand at each stand and fixing the charges to be made and the time during which taxis may remain there;
- (d) for regulating the times and intervals at, and the order in which, taxis may enter or leave such stands;
- (e) for reserving particular stands for the use of taxis or of taxis plying on particular routes and excluding from those stands all other vehicles and generally regulating access to and the use of those stands.

(2) Any person who contravenes a taxi regulation order is guilty of an offence

(3) Schedule 4A (which makes further provision in relation to taxi regulation orders) shall have effect.

(4) In this Article (and in Schedule 4A) “taxi” means a taxi within the meaning of the Taxis Act (Northern Ireland) 2008.]

PART V

TRAFFIC SIGNS

Traffic signs

28. (1) In this Order “traffic sign” means any object or device (whether fixed or portable or attached to a vehicle) for conveying to traffic on roads warnings, information, requirements, restrictions or prohibitions of any description prescribed or authorised by the Department and any line or mark on a road for so conveying such warnings, information, requirements, restrictions or prohibitions.

(2) Traffic signs shall be of the prescribed size, colour and type except where the Department authorises the erection or retention of a sign of another character; and for the purposes of this paragraph, illumination, whether by lighting or by the use of reflectors or reflecting material, or the absence of such illumination, shall be part of the type or character of a sign.

(3) Regulations may require equipment used in connection with traffic signs to be of a type approved by the Department.

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(4) Regulations or any authorisation under paragraph (2) may provide that Article 50 of the Order of 1995 shall apply to signs of a type specified in that behalf by the regulations or, as the case may be, to the sign to which the authorisation relates.

(5) Regulations may provide for this Part to apply to traffic mirrors as it applies to traffic signs, subject to such modifications as the Department considers necessary or expedient.

Power to provide signs

29. (1) The Department may provide traffic signs on or near any public road.

(2) The Department may provide on or near any road in the vicinity of a public road such traffic signs as appear to the Department to be necessary for the control of traffic entering or leaving that public road.

(3) The Department may, subject to such conditions as it thinks fit, authorise the provision of traffic signs on or near a public road by a person other than the Department.

(4) The Department may enter into an agreement with any person for the provision of traffic signs on or near a public road by the Department on terms that that person pays the whole or part of the expenses incurred by the Department.

(5) Where a road is maintainable by a person other than the Department, that person or the Department with the consent of that person may provide traffic signs on or near that road.

(6) The Department may alter or remove any traffic sign provided under this Article.

(7) The Department may enter on any land for the purposes of this Article.

(8) The Department shall pay compensation in respect of any damage done in the exercise of its powers under this Article and any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(9) In this Article “provide” includes provide on a vehicle, erect and maintain.

Warning devices for indicating temporary obstructions

30. (1) The Department may by regulations under this Article—

(a) prescribe a type or types of object or device for warning traffic of temporary obstructions on roads (in this Article referred to as a “prescribed warning device”); and

(b) authorise, subject to such conditions as may be prescribed, persons not otherwise authorised to do so to place a prescribed warning device on a road or any prescribed description of road in such circumstances, in such manner and for such periods as may be prescribed.

(2) The Department may by regulations require, subject to such exceptions as may be prescribed,

(a) any person owning, driving or having charge or control of a vehicle of any prescribed class or description, to carry, or cause to be carried, a prescribed warning device in or on that vehicle while it is being driven or used on a road; and

(b) the person driving or in charge of a vehicle mentioned in sub-paragraph (a) to place that warning device on a road in the vicinity of that vehicle in such circumstances, in such manner and for such periods as may be prescribed.

(3) Any constable in uniform may stop and inspect any vehicle for the purpose of ascertaining that any regulations made pursuant to paragraph (2)(a) have been or are being complied with in respect of that vehicle.

(4) Any person who contravenes any requirement imposed under paragraph (2) is guilty of an offence.

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Warning of danger to traffic

31. (1) Where works to, on or near any road cause, or are likely to cause, danger to traffic,—
- (a) the person who has entered into a contract or otherwise undertaken to carry out those works shall make available to the person present at and for the time being in charge of carrying out those works such signs or other devices as would, if properly placed, provide adequate warning to traffic of that danger;
 - (b) the person present at and for the time being in charge of carrying out those works shall—
 - (i) place and maintain those signs or devices, or cause those signs or devices to be placed and maintained in such manner as to give traffic sufficient warning of that danger; and
 - (ii) remove or cause to be removed those signs or devices as soon as the works have been completed.
- (2) For the purposes of paragraph (1), signs or devices which comply with, and are placed in accordance with, such general or other directions as may be given by an authorised officer of the Department shall be deemed to provide adequate warning to traffic.
- (3) The works referred to in paragraph (1) do not include street works within the meaning of the Street Works (Northern Ireland) Order 1995.
- (4) Any person who without reasonable excuse fails to comply with any requirement of paragraph (1) is guilty of an offence.

Power of constable, etc., to place traffic signs

32. (1) A constable or a person acting under the instructions or directions (whether general or specific) of the Chief Constable may place traffic signs on or near a road for any of the following purposes—
- (a) preventing or mitigating congestion or obstruction of traffic, or danger to or from traffic;
 - (b) warning traffic of a temporary obstruction;
 - (c) requiring persons to stop under Article 180(1) of the Order of 1981.
- (2) The power to place traffic signs conferred by paragraph (1) includes power to cause them to be placed and power to place them on a vehicle used for police purposes.
- (3) Article 50 of the Order of 1995 (contravention of traffic signs) shall apply to signs placed in the exercise of the power conferred by this Article.

Annotations:

Modifications etc. (not altering text)

- C3** Art. 32 extended by Police (Northern Ireland) Act 2003 (c. 6), Sch. 2A para. 13(4) (as inserted (22.4.2007) by Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), arts. 1(3), 7(8), Sch. 5)

Interference with, or damage to, traffic signs

33. Any person who, not being a person authorised by law to do so, intentionally interferes with or causes damage to a traffic sign is guilty of an offence.

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Unauthorised signs

34. (1) Any person who, not being a person authorised to do so by a member of the Royal Ulster Constabulary or otherwise, places or causes to be placed on or near a road—

- (a) any traffic sign; or
- (b) any sign purporting to be, or intended to simulate, a traffic sign,

is guilty of an offence.

(2) A constable who has reasonable cause to believe that a person has committed an offence under paragraph (1) may require that person to remove the sign in respect of which the offence was committed and, if that person refuses or fails to do so, the constable may himself remove it or authorise any other person to remove it.

(3) Any expenses reasonably incurred by a constable in connection with the removal of any sign under paragraph (2) shall be recoverable summarily as a civil debt due to the Police Authority by the person required to remove the sign under that paragraph.

(4) Any person who intentionally obstructs or impedes, or assists another person to obstruct or impede, the removal of a sign under this Article or Article 35 is guilty of an offence.

Powers of Department relating to the removal of signs

35. (1) Where the Department has reasonable cause to believe that a person has committed an offence under Article 34(1), the Department may require that person to remove the sign in respect of which the offence was committed and if he fails or refuses to do so, the Department may remove the sign.

(2) The Department may by notice in writing require the owner or occupier of any land on which there is any object or device (whether fixed or portable) purporting to be for the guidance or direction of persons using a public road to remove it within such period as is specified in the notice.

(3) The period specified in the notice under paragraph (2) shall be—

- (a) five days where the Department considers that the object or device may prejudice the safety of persons using the road;
- (b) not less than 14 days in any other case.

(4) A person on whom a notice under paragraph (2) is served may make representations to the Department in writing within the period specified in accordance with paragraph (3) and the Department may extend the period specified in the notice to enable it to consider his representations.

(5) If the Department is satisfied that the removal of the object or device would cause serious hardship, the Department may authorise its retention on the land subject to any conditions the Department thinks fit to impose.

(6) If the Department is satisfied that the object or device should be removed but that its removal within the period specified in the notice under paragraph (2) would cause serious hardship the Department may extend that period subject to any conditions the Department thinks just.

(7) Where under paragraph (2) a person is required to remove an object or device and fails to do so within the period specified in a notice under paragraph (2) or within any extended period allowed by the Department under paragraph (4) or (6), the Department may enter on the land and remove the object or device.

(8) Any expenses reasonably incurred by the Department in removing a sign under paragraph (1) or (7) shall be recoverable summarily as a civil debt due to the Department by the person required to remove the sign under paragraph (1) or (2).

(9) This Article shall not apply to any object or device—

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- (a) in respect of which planning permission under the Planning (Northern Ireland) Order 1991 is, or is deemed to be, granted; or
- (b) which constitutes development within the meaning of the Planning (Interim Development) Act (Northern Ireland) 1944 and was erected with the permission of a planning (N.I.) authority under the Planning Acts (Northern Ireland) 1931 and 1944,

except where the Department considers that the object or device may prejudice the safety of persons using a public road.

PART VI SPEED LIMITS

General speed limit on restricted roads

36. (1) Subject to the provisions of this Part, it shall not be lawful for any person to drive a motor vehicle on a restricted road at a speed exceeding 30 miles per hour.

(2) The Department may by order subject to affirmative resolution increase or reduce the speed fixed by paragraph (1) either as originally enacted or as varied under this paragraph.

(3) The Department may by order provide that at times, on days or during periods specified in the order, paragraph (1) shall not apply—

- (a) as respects any length of road specified in the order; or
- (b) generally.

(4) Schedule 5 (which makes further provision relating to orders under paragraph (3)(a) and Articles 37 and 38) shall have effect.

Restricted roads

37. (1) Subject to the provisions of this Article and Article 38(3), a length of road shall for the purposes of this Order be a restricted road—

- (a) if a system of street lighting furnished by means of lamps placed not more than 185 metres apart is provided on that length of road (not being a special road); or
- (b) if there is in force in relation to that length of road an order under paragraph (3)(a).

(2) The points at which any length of road begins and ceases to be a restricted road—

- (a) as respects such a restricted road as is referred to in paragraph (1)(a), shall be such points, distant not more than 185 metres from the first and last respectively of the lamps by means of which the system of lighting is furnished, as may be indicated by traffic signs;
- (b) as respects such a restricted road as is referred to in paragraph (1)(b), shall be such points as shall be designated in the relevant order.

(3) The Department may by order direct that any length of road specified in the order—

- (a) shall be a restricted road; or
- (b) shall, notwithstanding paragraph (1)(a), not be a restricted road.

(4) The powers conferred by sub-paragraphs (a) and (b) of paragraph (3) are exercisable in respect of any length of road which is already a restricted road by virtue of sub-paragraph (a) or (b) of paragraph (1).

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Speed limits on roads other than restricted roads

- 38.** (1) The Department may by order as respects any road specified in the order prohibit—
- (a) the driving of motor vehicles on that road at a speed exceeding that specified in the order;
 - (b) the driving of motor vehicles on that road at a speed exceeding that specified in the order during periods specified in the order; or
 - (c) the driving of motor vehicles on that road at a speed exceeding the speed for the time being indicated by traffic signs in accordance with the order.
- (2) An order under paragraph (1)(c) may—
- (a) make provision restricting the speeds that may be indicated by traffic signs or the periods during which the indications may be given; and
 - (b) provide for the indications to be given only in such circumstances as may be determined by or under the order.
- (3) While an order under paragraph (1)(a) is in operation as respects any road, that road shall not be a restricted road for the purposes of this Order.

Speed limits for particular classes of vehicles

- 39.** (1) The Department may make regulations with respect to the maximum speed of motor vehicles of any class specified in the regulations on any class, length or part of road so specified.
- (2) The powers conferred by this Article are in addition to and not in derogation of the powers conferred on the Department by Article 8.

Temporary or experimental speed limits

- 40.** (1) If the Department is satisfied that it is desirable to do so—
- (a) in the interests of safety; or
 - (b) for the purpose of facilitating the movement of traffic,
- the Department may, subject to paragraph (8), make an order under paragraph (2) or (3).
- (2) The Department may by order prohibit the driving of motor vehicles at a speed greater than that specified in the order on—
- (a) any particular road so specified;
 - (b) all roads in any area so specified;
 - (c) all roads;
 - (d) roads of any class so specified whether in a particular area or generally; or
 - (e) all roads other than roads of a class so specified.
- (3) The Department may by order prohibit the driving of motor vehicles at a speed less than that specified in the order on any road so specified, subject to such exceptions as may be so specified.
- (4) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, any prohibition imposed by an order under paragraph (2) or (3) may be imposed—
- (a) either generally or at times, on days or during periods specified in the order;
 - (b) on the speed of vehicles generally or of any class or description of vehicles specified in the order on any length or portion of the carriageway so specified.
- (5) Subject to paragraphs (6) and (7), an order under paragraph (2) or (3) shall, unless previously revoked, cease to be in force on the expiration of 18 months from the date on which it came into operation.

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(6) The Department may by order continue in force for a period specified in the order or indefinitely the provisions of any order under paragraph (2) or (3).

(7) Where the Department proposes to make an order under paragraph (6), it may by order under this paragraph continue in force the provisions of any order under paragraph (2) or (3) for a period not exceeding two years from the date on which those provisions first came into operation (whether as provisions of that or a previous order under paragraph (2) or (3)).

(8) Before making an order under paragraph (2) or (3) or (7), the Department shall give public notice of its intention to do so (including publication of a notice in at least one newspaper circulating in the area to which the order applies).

(9) An order under paragraph (2) or (3) shall not operate to increase any maximum or minimum speed limit imposed under any other enactment (including any other provision of this Order) with respect to roads, motor vehicles or the drivers of motor vehicles.

Traffic signs for indicating speed restrictions

41. (1) For the purpose of securing that adequate guidance is given to drivers of motor vehicles as to whether any, and if so what, limit of speed is to be observed on any road, the Department shall erect and maintain traffic signs in such positions as may be requisite for that purpose.

(2) For the purpose mentioned in paragraph (1), the Department may enter and erect and maintain traffic signs on a road which is not a public road; and the Department shall pay compensation in respect of any damage done in the exercise of its functions under this paragraph.

(3) Any question of disputed compensation under paragraph (2) shall be referred to and determined by the Lands Tribunal.

Exemption for fire engines, etc.

42. (1) No enactment imposing a speed limit on motor vehicles shall apply to any vehicle on an occasion when it is being used for [^{F22}fire and rescue,] ambulance, police, military or customs purposes, if compliance with that provision would be likely to hinder the use of the vehicle on that occasion for any of those purposes.

(2) In paragraph (1) the reference to ambulance purposes includes a reference to the purposes of a mobile coronary care unit.

(3) Nothing in this Article shall affect any civil claim for injury or damage to person or property.

Annotations:

F22 Words in art. 42(1) substituted (1.7.2006) by Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(1), Sch. 3 para. 23 (with arts. 49, 62); S.R. 2006/257, art. 2(b) (d)

Contravening speed limit

43. (1) Subject to paragraphs (2) and (3), any person who contravenes a speed limit fixed by or under any enactment (including this Part) is guilty of an offence.

(2) Where a restricted road leads directly into or out of an unrestricted road which is a public road, it shall be a good defence for any person charged with an offence under this Article for exceeding the speed limit applicable to the restricted road to prove that he entered on the restricted road from the unrestricted road and that at the time when he did so adequate guidance was not given by means of traffic signs required to be erected under Article 41 as to the place where the restriction began.

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(3) It shall be a good defence for a person charged with an offence under this Article for contravening an order under Article 38 or 40 to prove that he entered on the road on which the offence is alleged to have been committed from a road on which no speed limit was in force or in respect of which a different speed limit was in force and that at the time of his entry he did not know and had no reasonable means of knowing that a speed limit was in force in respect of the road on which he entered.

(4) In any proceedings for an offence committed in contravention of Article 36 a certificate of an officer of the Department stating that a system of street lighting furnished by means of lamps placed not more than 185 metres apart was at the time when the offence is alleged to have been committed provided on any length of road specified in the certificate shall be evidence of the facts certified, and a document purporting to be such a certificate and to be signed by such an officer shall be deemed to be such a certificate unless the contrary is shown.

(5) If—

- (a) a person who employs another person to drive a motor vehicle gives any direction under which any journey is to be completed within some specified time; and
- (b) it is not practicable in the circumstances of the case at the time of the giving of the direction for that journey to be completed in the specified time without contravening a speed limit as mentioned in paragraph (1),

the giving of the direction shall be received as prima facie evidence that the employer procured or, as the case may be, incited the person employed by him to drive the vehicle to contravene that speed limit.

PART VII

TRAFFIC WARDENS

Employment of traffic wardens

44. (1) Subject to the provisions of this Part and Article 90(1) of the Road Traffic Offenders (Northern Ireland) Order 1996, the Chief Constable may authorise^[F23] traffic wardens appointed] by the^[F24] Policing Board] to discharge, in aid of the Royal Ulster Constabulary—

- (a) such functions normally undertaken by the Royal Ulster Constabulary in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including pedestrians) or vehicles on roads or other public places; and
- (b) such other functions in connection with the functions described in sub-paragraph (a),

as the Department may by order specify; and persons so appointed or deemed to have been so appointed shall be known as traffic wardens.

(2) Subject to paragraph (3), an order made under this Article may provide that, for the purposes of any functions which traffic wardens are authorised to discharge by the order, references to a constable in any of the following provisions shall include references to a traffic warden—

- (a) Articles 177 to 179 and 180(1) to (3A), (4AB) and (7) of the Order of 1981;
- (b) Articles 49 and 50 of the Order of 1995;
- (c) Article 47 and, so far as it applies to vehicles to which Article 47(1) applies, Article 48;
- ^[F25](d) sections 14(4BA) and 14A(5) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.]

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(3) Any power of a constable for the purposes of the provisions specified in sub-paragraph (a) or (d) of paragraph (2) shall be exercisable by a traffic warden under an order made by virtue of that paragraph only where—

- (a) the traffic warden is assisting a constable; or
- (b) the traffic warden has reasonable cause to believe that an offence has been committed of a description specified in relation to the Article in question for the purposes of this sub-paragraph by the order and, in the case of a power for the purposes of Article 177 of the Order of 1981, the order authorises the use of that power in relation to that offence; or
- (c) in the case of a power for the purposes of Article 180(1) of the Order of 1981, the traffic warden is exercising functions in connection with the control and regulation of traffic (including pedestrians) or vehicles.

Annotations:

- F23** 1998 c. 32
- F24** 2000 c.32
- F25** 2005 NI 14

Employment of traffic wardens as parking attendants

45. The Chief Constable may, with the approval of the^{[F26} Policing Board], make arrangements with the Department for the employment of traffic wardens—

- (a) as parking attendants under Article 25 at any parking place provided or controlled by the Department;
- (b) to enforce limited waiting restrictions imposed by traffic regulation orders,

and for the payment to the^{[F26} Policing Board] of such sums as will make good to the^{[F26} Policing Board] any expenditure incurred or likely to be incurred by the^{[F26} Policing Board] in relation to traffic wardens while so employed.

Annotations:

- F26** 2000 c.32

Uniform of traffic wardens

46. Traffic wardens shall wear such uniform as the Chief Constable, with the approval of the Police Authority, may determine and shall not act as traffic wardens when not in uniform.

PART VIII

REMOVAL AND DISPOSAL OF VEHICLES

Power of constable to require removal of vehicles

47. (1) This paragraph applies to a vehicle which—

- (a) has broken down, or been permitted to remain at rest, on a road in such a position or in such condition or in such circumstances as to cause obstruction to persons using the road or as to be likely to cause danger to such persons; or

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- (b) has been permitted to remain at rest or has broken down and remained at rest on a road in contravention of any statutory prohibition or restriction.
- (2) A constable may require the owner, driver or other person in control or in charge of any vehicle to which paragraph (1) applies to remove the vehicle as soon as practicable to another position on that or another road or to a place which is not on a road.
- (3) For the purposes of this Article the suspension under Article 6 or 18(3) of the use of a parking place is a restriction imposed under this Order.
- (4) In this Part—
 - “remove” includes arrange for removal; and
 - “vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

Power of constable to remove vehicles

- 48.** (1) This paragraph applies to a vehicle—
- (a) to which Article 47(1) applies;
 - (b) which appears to a constable to have broken down on a road and to have been abandoned; or
 - (c) which has been permitted to remain at rest on a road in such a position or in such condition or in such circumstances as to appear to a constable to have been abandoned.
- (2) A constable may remove a vehicle to which paragraph (1) applies to another position on that or another road or to a place which is not on a road.
- (3) A constable may remove a vehicle under paragraph (2) by towing or driving it or in such other manner as he thinks necessary and may take such measures in relation to the vehicle as he thinks necessary to enable the vehicle to be removed.
- (4) Where—
- (a) a constable proposes to remove a vehicle to which paragraph (1)(b) or (c) applies; and
 - (b) he considers that the vehicle is in such a condition that it ought to be destroyed,
- he shall affix to the vehicle a notice stating that he proposes to remove the vehicle after a period of seven days for destruction.
- (5) Any vehicle removed by a constable under paragraph (2) and appearing to him to have been abandoned may be delivered to a district council with its consent.
- (6) While a vehicle is in the custody of a constable under this Article, not being a vehicle which in the opinion of the constable is in such a condition that it ought to be destroyed, he shall take such steps as are reasonably necessary for its safe custody.

Power of Department to remove vehicles

- 49.** (1) This paragraph applies to a vehicle (other than a vehicle which a district council is under a duty to remove under Article 30 of the Pollution Control and Local Government (Northern Ireland) Order 1978) which—
- (a) appears to the Department to have broken down on a public road and to have been abandoned; or
 - (b) has been permitted to remain at rest on a public road in such a position or in such condition or in such circumstances as to appear to the Department to have been abandoned.

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(2) The Department may remove a vehicle to which paragraph (1) applies to a place which is not on any road.

(3) The Department may remove a vehicle under paragraph (2) in such manner as it thinks necessary and may take such measures in relation to the vehicle as it thinks necessary to enable the vehicle to be removed.

(4) Where—

- (a) the Department proposes to remove a vehicle under paragraph (2); and
- (b) the Department considers that the vehicle is in such a condition that it ought to be destroyed,

the Department shall affix to the vehicle a notice stating that the Department proposes to remove the vehicle after a period of seven days for destruction.

(5) Any vehicle removed by the Department under paragraph (2) and appearing to the Department to have been abandoned may be delivered to a district council with its consent.

(6) While a vehicle is in the custody of the Department under this Article, not being a vehicle which in the opinion of the Department is in such a condition that it ought to be destroyed, the Department shall take such steps as are reasonably necessary for the safe custody of the vehicle.

Obstructing removal of vehicles

50. A person who intentionally obstructs or impedes, or assists another person to obstruct or impede, the removal of a vehicle under Article 47, 48 or 49, is guilty of an offence.

Disposal of vehicles by a police officer

51. (1) Subject to paragraphs (2) to (4), a police officer may, in such manner as he thinks fit, dispose of a vehicle which appears to him to be abandoned and which has been, or could at any time be, removed in pursuance of Article 48 or an order under Article 13 or 15.

(2) The time at which a vehicle may be disposed of by a police officer under paragraph (1) is as follows—

- (a) in the case of a vehicle which in his opinion is in such condition that it ought to be destroyed and on which no current licence was displayed at the time of its removal, any time in the course of or after its removal;
- (b) in the case of a vehicle which in his opinion is in such condition that it ought to be destroyed and on which a current licence was displayed at the time of its removal, any time after the licence expires;
- (c) in any other case, any time after the police officer has taken reasonable steps to find the owner of the vehicle and either—
 - (i) the police officer has failed to find such a person; or
 - (ii) he has failed to comply with a notice served on him requiring him to remove the vehicle from the custody of a constable within 21 days from the day on which the notice was served,

but, in a case where it appears to the police officer that a licence is in force in respect of the vehicle, not a time earlier than the expiration of the licence.

(3) In paragraph (2)—

- (a) any reference in sub-paragraphs (a) and (b) to a current licence includes a reference to a licence which was current during any part of the period of 14 days ending with the day preceding that on which the removal of the vehicle in question took place;

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- (b) for the purposes of sub-paragraphs (b) and (c) a licence shall be treated as still in force for a period of 14 days beginning with the day following that on which it expired, and references to the expiration of the licence shall be construed accordingly.
- (4) If, before a vehicle is disposed of under paragraph (1), the vehicle is claimed by a person who—
- (a) satisfies the police officer that he is the owner of the vehicle; and
 - (b) pays the^{F27} Policing Board] such sums as may reasonably have been incurred in respect of the removal and storage of the vehicle,
- the police officer shall permit him to remove the vehicle from the custody of a constable.
- (5) If, before the expiration of one year from the date on which a vehicle is sold in pursuance of this Article, any person satisfies the^{F27} Policing Board] that at the time of the sale he was the owner of the vehicle, the^{F27} Policing Board] shall pay him any sum by which the proceeds of sale exceed the reasonable costs of the removal, storage and disposal of the vehicle.
- (6) If in the case of any vehicle it appears to the^{F27} Policing Board] that more than one person is or was the owner of the vehicle at the relevant time, such one of them as the^{F27} Policing Board] thinks fit shall be treated as the owner of the vehicle for the purposes of paragraphs (4) and (5).
- (7) In this Article and Article 52—
- “licence”, in relation to a vehicle, means a licence issued in respect of the vehicle under the Vehicle Excise and Registration Act 1994 or anything which appears to the Department or a police officer to be a corresponding licence in a country outside Northern Ireland;
- “owner”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;
- “police officer” means a member of the Royal Ulster Constabulary not below the rank of Inspector.

Annotations:

F27 2000 c.32

Disposal of vehicles by the Department

52. (1) Subject to paragraphs (2) to (4), the Department may, in such manner as it thinks fit, dispose of a vehicle which appears to the Department to be abandoned and which has been, or could at any time be, removed in pursuance of Article 49 or an order under Article 13 or 15^{F28} or of Article 21 of the Traffic Management (Northern Ireland) Order 2005].

(2) The time at which a vehicle may be disposed of by the Department under paragraph (1) is as follows—

- (a) in the case of a vehicle which in the opinion of the Department is in such condition that it ought to be destroyed and on which no current licence was displayed at the time of its removal, any time in the course of or after its removal;
- (b) in the case of a vehicle which in the opinion of the Department is in such condition that it ought to be destroyed and on which a current licence was displayed at the time of its removal, any time after the licence expires;
- (c) in any other case, any time after the Department has taken reasonable steps to find the owner of the vehicle and either—
 - (i) the Department has failed to find such a person; or

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(ii) he has failed to comply with a notice served on him requiring him to remove the vehicle from the custody of the Department within 21 days from the day on which the notice was served,

but, in a case where it appears to the Department that a licence is in force in respect of the vehicle, not a time earlier than the expiration of the licence.

(3) In paragraph (2)—

(a) any reference in sub-paragraphs (a) and (b) to a current licence includes a reference to a licence which was current during any part of the period of 14 days ending with the day preceding that on which the removal of the vehicle in question took place;

(b) for the purposes of sub-paragraphs (b) and (c) a licence shall be treated as still in force for a period of 14 days beginning with the day following that on which it expired, and references to the expiration of the licence shall be construed accordingly.

(4) If, before a vehicle is disposed of under paragraph (1), the vehicle is claimed by a person who—

(a) satisfies the Department that he is the owner of the vehicle; and

(b) pays the Department^{F29} the relevant charges],

the Department shall permit him to remove the vehicle from its custody.

(5) If, before the expiration of one year from the date on which a vehicle is sold in pursuance of this Article, any person satisfies the Department that at the time of the sale he was the owner of the vehicle, the Department shall pay him any sum by which the proceeds of sale exceed the^{F30} relevant charges].

(6) If in the case of any vehicle it appears to the Department that more than one person is or was the owner of the vehicle at the relevant time, such one of them as the Department thinks fit shall be treated as the owner of the vehicle for the purposes of paragraphs (4) and (5).

^{F31}(7) In paragraphs (4) and (5) “relevant charges” means—

(a) any penalty charge payable in respect of the vehicle;

(b) any sum recoverable from the owner of the vehicle;

(c) the reasonable costs of the removal and storage of the vehicle; and

(d) in paragraph (5) the reasonable costs of the disposal of the vehicle.]

Annotations:

F28 Words in art. 52(1) added (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 40(2); S.R. 2006/347, art. 2, Sch.

F29 Words in art. 52(4)(b) substituted (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 40(3); S.R. 2006/347, art. 2, Sch.

F30 Words in art. 52(5) substituted (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 40(4); S.R. 2006/347, art. 2, Sch.

F31 Art. 52(7) added (30.10.2006) by Traffic Management (Northern Ireland) Order 2005 (S.I. 2005/1964 (N.I. 14)), arts. 1(3), 40(5); S.R. 2006/347, art. 2, Sch.

Disposal of vehicles by district council

53. Where a vehicle is delivered to a district council under Article 48(5) or 49(5), Article 31 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (disposal of removed vehicles) shall apply to that vehicle as it applies to a vehicle in the custody of the district council in pursuance of Article 30 of that Order with the substitution in paragraph (1)(a) of Article 31 of

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that Order for the reference to a notice affixed under paragraph (3) of Article 30 of a reference to a notice affixed under paragraph (4) of Article 48 or 49.

Recovery of expenses connected with removed vehicles

54. (1) Where a vehicle is removed by the Department from a parking place in pursuance of an order under Article 13 or 15 or from a road under Article 49, the Department may recover from any person responsible any expenses reasonably incurred—

- (a) in respect of the removal of the vehicle;
- (b) in respect of any period during which the vehicle is in its custody; and
- (c) where the vehicle is disposed of under Article 52.

(2) Where a vehicle is removed by a constable from a road under Article 48, the^{F32} Policing Board] may recover from any person responsible any expenses reasonably incurred—

- (a) in respect of the removal of the vehicle;
- (b) in respect of any period during which the vehicle is in the custody of a constable; and
- (c) where the vehicle is disposed of under Article 51.

(3) Where a vehicle is in the custody of a district council under Article 48(5) or 49(5), the district council may recover from any person responsible any expenses reasonably incurred by it—

- (a) in respect of any period during which, the vehicle is in its custody; and
- (b) where the vehicle is disposed of under Article 31 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (as applied by Article 53).

(4) In this Article “person responsible” in relation to a vehicle means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed as mentioned in paragraph (1) or (2), unless he shows that he was not concerned in, and did not know of, its being put there;
- (b) the person by whom it was put in that place; or
- (c) any person convicted of an offence under Article 29(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978 in consequence of the putting of the vehicle in that place.

(5) Any sum recoverable by virtue of this Article shall be a civil debt recoverable summarily.

(6) Without prejudice to paragraph (5), where any sum is recoverable in respect of a vehicle under paragraph (1)(a) or (b), the Department shall be entitled to retain custody of the vehicle until that sum has been paid.

(7) Without prejudice to paragraph (5), where any sum is recoverable in respect of a vehicle under paragraph (2)(a) or (b), a constable shall be entitled to retain custody of the vehicle until that sum has been paid.

Annotations:

F32 2000 c.32

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PART IX MISCELLANEOUS

Disabled persons

Disabled persons' badges

55. (1) Section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (badges for display on motor vehicles used by disabled persons) shall be amended in accordance with paragraphs (2) to (7).

(2) For subsections (2) and (3) substitute the following subsection—

“(2) A badge may be issued to a disabled person of any prescribed description for one or more vehicles driven by him or used by him as a passenger.”.

(3) In subsection (4) the words from “and any badge” to the end shall cease to have effect.

(4) After subsection (4) there shall be inserted the following subsections—

“(4A) A badge issued under this section may be displayed only in such circumstances and in such manner as may be prescribed.

(4B) A person who drives a motor vehicle on a road (within the meaning of the Road Traffic Regulation (Northern Ireland) Order 1997) at a time when a badge of a form prescribed under this section is displayed on the vehicle is guilty of an offence unless the badge is issued under this section and displayed in accordance with regulations made under it.

(4C) A person guilty of an offence under subsection (4B) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

(5) In subsection (5) the words from “and in the case” to the end shall cease to have effect.

(6) After subsection (7) there shall be inserted the following subsections—

“(7A) Where the prescribed conditions are met in the case of any person, then—

(a) if he applies to the Department for the issue of a badge T under this section, the Department may by notice refuse the application; and

(b) if he holds a badge issued under this section, the Department may by notice require him to return the badge P to the Department.

(7B) The conditions that may be prescribed for the purposes of subsection (7A) are conditions relating to the misuse of badges issued under this section.

(7C) A person whose application is refused under subsection (7A) or who is required to return his badge under that subsection may appeal to a court of summary jurisdiction which may confirm or reverse the decision of the Department; and if the court reverses it, the Department shall issue a badge accordingly or, as the case may be, the requirement to return the badge shall cease to have effect.

(7D) A badge which is required to be returned to the Department by virtue of subsection (6) may not be displayed on any vehicle; and a badge which is required to be returned to the Department by virtue of a notice under subsection (7A) shall be returned within the prescribed time and may not be displayed on any vehicle after that time.

(7E) Except in prescribed circumstances, a person who, without reasonable excuse, fails within the prescribed time to return a badge which is required to be returned to the Department by virtue of subsection (6) or a notice under subsection (7A) is guilty of an

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offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.” .

(7) For subsection (8) there shall be substituted the following subsections—

“(8) In this section “badge” includes duplicate badge and “motor vehicle” has the same meaning as in the Road Traffic (Northern Ireland) Order 1995.

(9) Section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to a notice under subsection (7A) as if in subsection (1) of that section the word “registering” were omitted.” .

Arts. 56 & 57 rep. by 2005 NI 14

Road safety

Provisions for safety of pedestrians, etc.

58. (1) The Department may erect and maintain on or near any public road rails and other barriers for—

- (a) protecting pedestrians from traffic passing along the road, or
- (b) preventing pedestrians from crossing the road at particular places.

(2) For the purpose of rendering the crossing of any public road less dangerous to pedestrians or for the purpose of facilitating the movement of, or protecting from danger, traffic passing along any such road, the Department may—

- (a) erect, light and maintain raised islands or places of refuge on the road, or
- (b) construct, light, maintain and temporarily close subways under, or footbridges over, the road for the use of pedestrians.

(3) Where a road is maintainable by a person other than the Department, the Department may, if that person so consents, erect and maintain on or near that road rails and other barriers as mentioned in paragraph (1).

(4) The Department may alter, remove or close anything erected or constructed under this Article.

(5) The Department shall pay compensation in respect of any damage done in the exercise of its functions under paragraph (3).

(6) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

Pedestrian crossings

59. (1) The Department may establish crossings for pedestrians on public roads (in this Order referred to as “pedestrian crossings”), and may alter or remove any such crossings.

(2) The Department may execute any works (including the placing, erection, maintenance, alteration and removal of marks and traffic signs) required in connection with the establishment, alteration or removal of pedestrian crossings.

(3) The Department may by regulations make such provision in connection with pedestrian crossings as it considers necessary or expedient.

(4) Any person who contravenes any regulations under paragraph (3) shall be guilty of an offence.

(5) The Department may by regulations provide that this Article shall apply in relation to other classes of traffic as it applies to pedestrians.

(6) This Article is without prejudice to the powers of the Department under Article 8 to make provision in respect of crossings for any class of traffic (including pedestrians).

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School crossings

60. (1) Where between the hours of eight in the morning and half-past five in the afternoon a vehicle is approaching a place in a road where children on their way to or from school, or from one part of a school to another, are crossing or seeking to cross a road, a school crossing patrol wearing a uniform approved by the Department for the purposes of this Article may, by exhibiting a prescribed sign require the person driving or propelling the vehicle to stop it.

(2) Where a person has been required under paragraph (1) to stop a vehicle—

- (a) he shall cause the vehicle to stop before reaching the place where the children are crossing or seeking to cross and so as not to stop or impede their crossing; and
- (b) the vehicle shall not be put in motion again so as to reach the place in question so long as the sign continues to be exhibited.

(3) A person who contravenes sub-paragraph (a) of paragraph (2) or who causes a vehicle to be put in motion in contravention of sub-paragraph (b) of that paragraph shall be guilty of an offence.

(4) In this Article “prescribed sign” means a traffic sign prescribed or authorised by the Department for the purposes of this Article.

(5) For the purposes of this Article—

- (a) where it is proved that a sign was exhibited by a school crossing patrol, it shall be presumed, unless the contrary is proved, to be a prescribed sign and, if it was exhibited in circumstances in which it was required to be illuminated, to have been illuminated in the prescribed manner;
- (b) where it is proved that a person was wearing a uniform, the person shall be presumed, unless the contrary is proved, to be a person wearing a uniform approved by the Department for the purposes of this Article;
- (c) where it is proved that a prescribed sign was exhibited by a school crossing patrol at a place in a road where children were crossing or seeking to cross the road, it shall be presumed, unless the contrary is proved, that those children were on their way to or from school or from one part of a school to another.

Offences

Offences

Paras. (1), (2) rep. by 1997 NI 2

(3) Where a person is convicted of an offence under Article 14(1) and after conviction the contravention continues, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one-tenth of the amount applicable under sub-paragraph (a) or (b) of paragraph (2) for each day on which the contravention continues.

Para. (4) rep. by 1997 NI 2

Para. (5)—Amendments

Other miscellaneous provisions

Permits authorising carriage of greater weights

62. (1) The Department or a bridge authority may, as respects any road or bridge for the maintenance of which it is responsible issue (subject to such conditions, if any, as it thinks fit) a permit authorising any specified vehicle to carry on the road or bridge specified weights

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notwithstanding that when conveying such weights the vehicle does not comply with any regulations as to—

- (a) the laden weight of vehicles; or
 - (b) the maximum weight which may be transmitted to the road or any part of it by vehicles.
- (2) It shall not be an offence against the regulations referred to in paragraph (1), so long as the conditions, if any, attached to the permit are complied with, to use or to cause or permit the specified vehicle to be used for the carriage on that road or bridge of weights authorised by the permit.
- (3) It shall be a condition of any permit issued under this Article that the permit shall be produced for examination at the request of a constable or any specified person.
- (4) In this Article—
- “bridge authority” means the authority or person responsible for the maintenance of a bridge;
 - “permit” means permit in writing;
 - “road” means a road to which the public has access;
 - “specified” means specified in the permit.

Repayment of charges

63. (1) A provision in this Order conferring power to make provision for payment of a charge shall be treated as also conferring power to make provision about repayment of sums paid, or purported to be paid, in pursuance of provision made in exercise of that power.

(2) Without prejudice to the generality of the power conferred by paragraph (1), the provision which may be made by virtue of that paragraph includes provision—

- (a) that repayment shall be made only if a specified person is satisfied that specified conditions are met or in other specified circumstances;
 - (b) that repayment shall be made in part only;
 - (c) that, in the case of partial repayment, the amount shall be a specified sum or determined in a specified manner; and
 - (d) for repayment of different amounts in different circumstances.
- (3) In this Article “specified” means specified in the instrument exercising the power.

Power to install equipment for detection of traffic offences

64. After Article 65 of the Roads (Northern Ireland) Order 1993 (road humps and other traffic calming works) there shall be inserted the following Article—

“Equipment for detection of traffic offences

65A. The Department may install and maintain on or near a road structures and equipment for the detection of traffic offences.”.

[^{F33}Inquiries

Annotations:

F33 Art. 65 substituted (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 7, 9(1)

65. (1) Subject to paragraph (2), the Department may cause a public inquiry to be held in connection with the exercise of any of its functions under this Order.

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(2) Paragraph (1) does not apply to the making of an order under Article 10, 13 or 15 if the sole effect of the order is to vary charges.

(3) For the purposes of any inquiry under paragraph (1), Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (which applies in relation to such inquiries by virtue of section 23 of that Act) shall have effect as if the words “ or may, if the Department so determines, be wholly or partly defrayed by the Department ” were added at the end of paragraph 7(1) of that Schedule.

(4) Schedule 6 shall have effect in relation to any inquiry under paragraph (1) which is held in connection with the making by the Department of an order or a scheme under this Order.]

Power to prohibit or restrict use of vehicles on certain bridges

66. (1) Where the bridge authority of any bridge carrying a road used by the public is satisfied that the bridge is insufficient to bear vehicles of which the weight exceeds certain limits, the authority may by a conspicuous notice in the prescribed form placed in a proper position at each end of the bridge prohibit the use of the bridge by any vehicle of which the weight exceeds a maximum weight specified in the notice and any such notice may specify different maximum weights in relation to a vehicle travelling at a speed less than a speed specified in the notice, and in relation to a vehicle travelling at that speed or any greater speed.

(2) The Department shall, in respect of any public road leading to a bridge, give to the bridge authority reasonable facilities for placing on the road any notice under paragraph (1) and, if the Department so requires, the bridge authority shall erect warning notices in the prescribed form at the principal junctions of roads leading to the bridge.

(3) Before placing a restriction or prohibition or varying or revoking a restriction or prohibition under this Article on the use of a bridge the bridge authority (where it is not the Department) shall give the Department 28 days' notice of its intention to do so with particulars of the restriction or prohibition or the variation or revocation of the restriction or prohibition (or such shorter notice as may be agreed with the Department).

(4) The Department shall cause a list to be kept of all restrictions or prohibitions which have been placed on the use of bridges under this Article and the list shall be open to inspection by any person.

(5) If, without the consent of the bridge authority, a vehicle is driven across a bridge in contravention of a notice placed in accordance with paragraph (1), any person who so drives the vehicle, or causes or permits it to be so driven, shall be liable to make good to the bridge authority any damage caused to the bridge and, in addition and without prejudice to such liability, is guilty of an offence.

(6) If on any prosecution or proceedings under paragraph (5) the court is satisfied that there are reasonable grounds for believing that the weight of the vehicle exceeded any maximum weight specified in the notice, it shall lie on the defendant to prove the contrary.

(7) Any person or body of persons aggrieved by a restriction or prohibition placed on the use of a bridge under this Article may at any time apply to the Department, where it is not the bridge authority, for an order modifying or removing the restriction or prohibition.

(8) On receiving an application under paragraph (7), the Department may cause the bridge to be inspected, and may require the bridge authority to give to the inspector such information as to its structure and condition, and such other facilities for his investigation of the circumstances, as the bridge authority may be able to give; and may, if it thinks proper, after considering the report of the inspector and any representations made to it by the bridge authority, make an order modifying or removing the restriction or prohibition, or imposing different restrictions; and the bridge authority shall, within such time as may be specified in the order, cause notices to be erected in compliance with the order.

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(9) The Department may at any time on an application made to it by the bridge authority, or without such an application, vary or revoke any order made by it under paragraph (8), if it is satisfied that it is proper so to do.

(10) Where the Department is the bridge authority, any person or body of persons aggrieved by a restriction or prohibition placed on the use of a bridge under this Article may at any time apply to the Department for the modification or removal of the restriction or prohibition and the Department after considering the application may, if it thinks fit, modify or remove the restriction or prohibition.

(11) In this Article—

“bridge authority” means the authority or person responsible for the maintenance of a bridge;

“placed in a proper position” means placed in such a position either on or near the bridge, or on or near the road leading to the bridge, as to be visible at a reasonable distance from the bridge to the drivers of vehicles approaching it;

“weight” means any prescribed description of weight.

(12) Regulations under paragraph (11) may provide that Article 20 of the Road Traffic Offenders (Northern Ireland) Order 1996 shall have effect in relation to any proceedings for an offence under this Article as it has effect in relation to proceedings for an offence under Article 54, 56, 57 or 58 of the Order of 1995.

(13) The reference in paragraph (12) to Article 20 of the Road Traffic Offenders (Northern Ireland) Order 1996 includes a reference to Article 186 of the Order of 1981.

Prospective exercise of powers

67. (1) Any power under this Order to make an order or give a direction relating to a road may be exercised before the road is open for public use, so as to take effect immediately on the road's becoming open for public use.

(2) The procedure for making an order or giving a direction applies in such a case with such modifications as may be prescribed.

Hovercraft

68. (1) For the purposes of this Order and the Road Traffic Offenders (Northern Ireland) Order 1996, a hovercraft (in this Article referred to as a hover vehicle)—

(a) is a motor vehicle, whether or not it is intended or adapted for use on roads; but

(b) apart from that is to be treated, subject to paragraph (2), as not being a vehicle of any of the classes defined in Article 3 of the Order of 1995.

(2) The Department may by regulations provide—

(a) that any provision of this Order which would otherwise apply to hover vehicles shall not apply to them or shall apply to them subject to such modifications as may be specified in the regulations; or

(b) that any such provision which would not otherwise apply to hover vehicles shall apply to them subject to such modifications (if any) as may be specified in the regulations.

Trolley vehicles

69. Articles 7, 39 and 43, together with so much of the other provisions of this Order as relates to those provisions shall, without prejudice to Article 8 of the Order of 1995, apply in relation to trolley vehicles and the drivers of trolley vehicles as they apply in relation to heavy motor cars and the drivers of heavy motor cars.

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The Crown

70. (1) Subject to paragraph (2), the provisions of this Order apply to vehicles and persons in the public service of the Crown.

(2) The Department may make regulations exempting from the provisions of this Order, or of any regulation or order made under this Order, vehicles and persons in the public service of the Crown.

Application of Order in relation to harbour commissioners

71. (1) Except to the extent provided by this Article and Article 72 the provisions of this Order shall not have effect in relation to the Belfast Harbour Commissioners or other harbour commissioners having in relation to their harbour area powers similar to those of the Belfast Harbour Commissioners for restricting access to, and regulating motor traffic on, roads, and no road vested in, or under the control of, any such harbour commissioners shall be deemed for the purposes of this Order to be a road to which the public has access.

(2) A road vested in or under the control of the Belfast Harbour Commissioners or any such other harbour commissioners shall be deemed for the purposes of the following provisions of this Order to be a road to which this Order applies—

- (a) Article 43; and
- (b) Part VIII (except Articles 49 and 52).

(3) For the purpose of those provisions as applied by this Article to a road in the Belfast Harbour Estate a member of the Belfast Harbour Police shall have the same powers as a member of the Royal Ulster Constabulary has in relation to other roads.

Application of speed limits to Belfast Harbour Estate

72. (1) Where the Belfast Harbour Commissioners resolve that any length of road within their jurisdiction under or by virtue of the Belfast Harbour Acts 1847 to 1950 should be a restricted road within the meaning of this Order, the Department may, subject to the provisions of this Article and to such conditions as may be specified in the order, make an order under Article 37(3) deeming that road to be such a restricted road and Articles 36 and 43 shall have effect accordingly in relation to that road.

(2) Where such an order is made, Article 41 shall apply to the Belfast Harbour Commissioners as it applies to the Department.

(3) Nothing in any such order shall prejudice or affect any power of the Belfast Harbour Commissioners under the Belfast Harbour Acts 1847 to 1950 to make and enforce bye-laws.

Transitional provisions

73. (1) The Department may by order make such transitional provision as appears to it necessary or expedient for the purposes of this Order.

(2) Any bye-laws and regulations made under section 19(1) and (4) of the Road Traffic Act (Northern Ireland) 1970, and any provisions made by or under any local or private Act empowering the Department to regulate the waiting of any vehicle on any road, shall, if in force immediately before the commencement of this paragraph, have effect as if made under Article 4.

(3) Nothing in this Article or in any order made under it shall prejudice the operation of the Interpretation Act (Northern Ireland) 1954.

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Regulations and orders

74. (1) The Department may make regulations prescribing anything which is to be prescribed and providing for any matter in regard to which regulations may be made under the provisions of this Order.

(2) Subject to paragraph (3), regulations under this Order and orders under Article 40(6) or 73 shall be subject to negative resolution.

(3) Regulations under Article 39 or regulations which contain any provision made under Article 30(2) shall be subject to affirmative resolution.

(4) Orders under Article 36(3)(b) or 44 shall be subject to affirmative resolution.

(5) In Schedule 3 to the Statutory Rules (Northern Ireland) Order 1979 (statutory rules exempted from requirement as to printing and sale), after paragraph 7 there shall be inserted the following paragraph—

“**7A.** Orders under Article 4, 10, 13, 15, 36(3)(a), 37, 38,40(2), (3) or (7) or 66 of the Road Traffic Regulation (Northern Ireland) Order 1997”.

Art. 75—Amendments and repeals

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SCHEDULES

SCHEDULE 1

Article 4(6).

TRAFFIC REGULATION ORDERS

1. (1) The Department shall comply with paragraphs 2 and 3 before making a traffic regulation order, unless the sole effect of the order is to reproduce provisions of previous traffic regulation orders or to reproduce and continue indefinitely provisions of an experimental traffic control scheme which has been in force for at least six months.

(2) Sub-paragraph (1) shall not require the Department to comply with paragraphs 2 and 3 in respect of provisions of a traffic regulation order which reproduce provisions in respect of which the Department has already complied with those paragraphs but has not made a traffic regulation order including them.

2. The Department shall consult such persons as the Department considers appropriate.

3. (1) The Department shall publish a notice including the particulars specified in sub-paragraph (2).

(2) The particulars which the notice must contain are—

- (a) the title of the order;
- (b) a statement of the general nature and effect of the order;
- (c) the name or a brief description of any road^{F34} or area] to which the order will
- (d) an address. . . where a copy of the draft provision and any relevant map or plan may be inspected by any person free of charge at all reasonable hours during the period mentioned in head (e); and
- (e) the period during which, and the address to which, objections or other representations may be made, and a statement that all objections or other representations must be in writing and must specify the grounds on which they are made.

(3) The period specified under sub-paragraph (2)(e) shall not be less than 21 days from the date of the publication or last publication of the notice.

(4) The Department shall consider any objections or other representations in respect of the draft order made within the period specified under sub-paragraph (2)(e).

(5) Publication of a notice under sub-paragraph (1). . . shall be in a newspaper circulating in the^{F34} district where the order will apply].

Annotations:

F34 2005 NI 14

4. ^{F35}

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Annotations:

F35 Sch. 1 para. 4 repealed (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(2), 9(1), Sch. 3

5. The Department may make a traffic regulation order with or without omissions and other modifications.

6. (1) Where the Department makes a traffic regulation order, it shall—

(a) notify—

(i) any person consulted under paragraph 2; and

(ii) any person who made objections or other representations in accordance with paragraph 3; and

(b) publish in a newspaper circulating in the^{F36} district where the order applies] a notice stating that the order has been made.

(2) Where the Department makes a traffic regulation order which includes provisions in respect of which by virtue of paragraph 1(2) the Department has not complied with paragraphs 2 and 3, the Department shall also notify any person who was originally consulted under paragraph 2 or who originally made objections or other representations in accordance with paragraph 3.

Annotations:

F36 2005 NI 14

SCHEDULE 2

Article 5(10).

EXPERIMENTAL TRAFFIC CONTROL SCHEMES

1. In this Schedule—

(a) “scheme” means an experimental traffic control scheme; and

(b) references to making a scheme do not include references to making a scheme the sole effect of which is to revoke another scheme.

2. The Department shall comply with paragraphs 3 and 4 before making a scheme.

3. The Department shall consult such persons as the Department considers appropriate.

4. (1) The Department shall publish in a newspaper circulating in the^{F37} district where the scheme applies] a notice including the particulars specified in sub-paragraph (2).

(2) The particulars which the notice must contain are—

(a) the title of the scheme;

(b) a statement of the general nature and effect of the scheme;

(c) the name or a brief description of the road^{F37} or area] to which the scheme will apply;

(d) an address. . . where a copy of the draft scheme and any relevant map or plan may be inspected by any person free of charge at all reasonable hours during the period mentioned in head (e); and

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(e) the period during which, and the address to which, objections or other representations may be made, and a statement that all objections or other representations must be in writing and must specify the grounds on which they are made.

(3) The period specified under sub-paragraph (2)(e) shall not be less than 21 days from the date of the publication or last publication of the notice.

(4) The Department shall consider any objections or other representations in respect of the draft scheme made within the period specified under sub-paragraph (2)(e).

Annotations:

F37 2005 NI 14

5. ^{F38}

Annotations:

F38 Sch. 2 para. 5 repealed (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(2), 9(1), Sch. 3

6. The Department may make a scheme with or without omissions and other modifications.

7. (1) Where the Department makes a scheme, it shall—

(a) notify—

(i) any person consulted under paragraph 3; and

(ii) any person who made objections or other representations in accordance with paragraph 4; and

(b) publish—

(i) in the Belfast Gazette; and

(ii) in a newspaper circulating in the^{F39} district where the scheme applies],

a notice stating that the scheme has been made.

(2) The notice published under sub-paragraph (1)(b) shall include the following statements—

(a) that the Department will consider in due course whether the provisions of the scheme should be continued in force indefinitely;

(b) that within the period of six months from the commencement of the scheme any person may object to the making of a traffic regulation order for the purpose of continuing the provisions of the scheme in force indefinitely;

(c) that any such objection must be in writing, must give the grounds on which it is made and must be made to the address specified in the notice; and

(d) that a copy of the scheme and any relevant map or plan may be inspected by any person free of charge at all reasonable hours during the period mentioned in sub-paragraph (b) at the address mentioned in sub-paragraph (c).

Annotations:

F39 2005 NI 14

8. Paragraph 7 shall have effect in relation to the making of a scheme the sole effect of which is to revoke another scheme as if sub-paragraphs (1)(a) and (2) were omitted.

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9. Where under Article 5(5) the Department directs that a scheme shall continue in force, the Department shall publish in the Belfast Gazette and in a newspaper circulating in the^{F40} district where the scheme applies] a notice stating the period for which the scheme is to continue in force.

Annotations:

F40 2005 NI 14

10. (1) Where under Article 5(8) the Department directs in a scheme that a provision is to be suspended or modified, a notice under paragraph 7(1)(b) shall indicate the provision affected by the direction and its nature, and shall—

- (a) in the case of the making or amendment of a scheme, state the period for which the suspension or modification is to have effect; or
- (b) in the case of the revocation of a scheme, state the date on which the suspension or modification is to cease to have effect.

(2) Where, except as provided by sub-paragraph (1), under Article 5(8) the Department directs that a provision is to be suspended or modified, the Department shall publish in the Belfast Gazette and in a newspaper circulating in the^{F41} district where the provision applies] is situated a notice—

- (a) indicating the provision affected by the direction and its nature; and
- (b) stating the period for which the suspension or modification is to have effect.

Annotations:

F41 2005 NI 14

SCHEDULE 3

Article 7(10)

TEMPORARY TRAFFIC REGULATION

Annotations:

Modifications etc. (not altering text)

C4 Sch. 3 applied (with modifications) (22.6.2007) by Road Tunnel Safety Regulations 2007 (S.I. 2007/1520), reg. 7(4)(8)

1. Where the Department imposes or proposes to impose restrictions or prohibitions under Article 7 on the use of any road, the Department shall comply with paragraph 2 unless it is satisfied that the restrictions or prohibitions are unlikely to remain in force for more than two weeks.

2. The Department shall publish in a newspaper circulating in the^{F42} district] in which the road is situated, a notice specifying—

- (a) the restrictions or prohibitions imposed or to be imposed on the use of the road;
- (b) the period during which such restrictions or prohibitions are likely to be in force; and
- (c) where appropriate, an alternative route or routes available for traffic.

Annotations:

F42 2005 NI 14

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3. Where any restrictions or prohibitions imposed under Article 7 on the use of any road are to continue in force for a further period after the period specified in the notice under paragraph 2, the Department shall publish a further notice specifying that further period and that paragraph shall apply to that further notice as it applies to a notice under that paragraph.

4. Where the Department publishes a notice under paragraph 2 specifying restrictions or prohibitions on the use of a road, the Department may, on those restrictions or prohibitions ceasing to be in force, publish a notice stating that the restrictions or prohibitions have ceased to be in force.

5. Where, under Article 7(7), the Department directs that a provision is to be suspended or modified, the Department shall indicate in any notice published under paragraph 2, 3 or 4 the provisions affected by that direction and shall—

- (a) in the case of a notice published under paragraph 2 or 3, state a place^{F43} . . . where a copy of the direction may be inspected by any person free of charge at all reasonable hours during the period when the restrictions or prohibitions are in force; and
- (b) in the case of a notice published under paragraph 4, state the date on which the suspension or modification of that provision is to cease to have effect.

Annotations:

F43 2005 NI 14

PROSPECTIVE

^{F44}SCHEDULE 3A

PROHIBITION OR RESTRICTION OF USE OF PUBLIC ROADS: SPECIAL EVENTS

Annotations:

F44 Sch. 3A inserted (prosp.) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 6(3), 9(2)(b), Sch. 1

Interpretation

1. (1) This paragraph applies for the purposes of this Schedule.
- (2) Subject to sub-paragraph (3), a “special event” is—
 - (a) any sporting event, social event or entertainment which is held on a public road; or
 - (b) the making of a film on a public road.

And for the purpose of this paragraph “film” includes a recording on any medium from which a moving image may by any means be produced.
- (3) The following are not special events —
 - (a) a public procession (within the meaning of the Public Processions (Northern Ireland) Act 1998);
 - (b) a motor race falling within the Road Races (Northern Ireland) Order 1986 (motor races on roads);

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- (c) a race or trial falling within Article 45 of the Road Traffic (Northern Ireland) Order 1995 (cycle racing on roads).
- (4) The “relevant authority”—
 - (a) for a special road, is the Department;
 - (b) for any other public road, is the district council for the district in which the road is situated.
- (5) Where the special event is the making of a film, references to the holding of the event are to be read as references to the making of the film.
- (6) References to the promoter, in relation to a special event, are references to the person organising the event.
- (7) References to an order are to an order under paragraph 2.
- (8) A public road is “affected” by an order or proposed order if the order contains or would contain provisions restricting or prohibiting the use of the road.

Prohibition or restriction on public roads in connection with special events

- 2. (1) Sub-paragraph (2) applies if the relevant authority for a public road is satisfied that—
 - (a) traffic on the road should be restricted or prohibited for the purpose of—
 - (i) facilitating the holding of a special event,
 - (ii) enabling members of the public to watch a special event, or
 - (iii) reducing the disruption to traffic likely to be caused by a special event; and
 - (b) it is not reasonably practicable for the event to be held otherwise than on a public road.
- (2) The relevant authority may by order restrict or prohibit temporarily the use of that road, or any part of it, by vehicles or vehicles of any class or by pedestrians, to such extent and subject to such conditions or exceptions as it may consider necessary or expedient.
- (3) An order may relate to the public road on which the special event is to be held or to any other public road.
- (4) No order shall be made with respect to any public road which would have the effect of preventing at any time access for pedestrians—
 - (a) to any premises situated on or adjacent to the road, or
 - (b) to any other premises accessible for pedestrians from, and only from, the road.
- (5) An order may suspend or modify any statutory provision relating to the affected road or its use by traffic or pedestrians.
- (6) An order may contain provision —
 - (a) requiring the promoter to insure against such risks in connection with the holding of the event on a public road as the relevant authority may specify;
 - (b) requiring the promoter to produce to the relevant authority such certificates as it may require as to the safety of any structures, equipment or other apparatus to be used in association with the special event;
 - (c) requiring the promoter to erect such barriers and place such signs in such places on or in the vicinity of any affected road as the relevant authority may specify;
 - (d) requiring any such barriers and signs to be erected no earlier than, and removed no later than, such times as the relevant authority may specify;

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(e) requiring the promoter to comply with such other conditions as may be specified in the order.

(7) A district council may not make an order except with the consent of the Department.

Procedure for making orders

3. (1) An order shall not be made except on an application made to the relevant authority by the promoter of the special event.

(2) An application shall be in writing and give such details of the event as the relevant authority may require.

(3) Where—

(a) an application for an order is made to a relevant authority, and

(b) the relevant authority is minded to make an order,

the relevant authority shall publish in at least one local newspaper circulating in the district in which any affected road is situated a notice complying with sub-paragraph (4).

(4) The notice must—

(a) identify the promoter of the special event;

(b) identify any affected road;

(c) specify any restrictions or prohibitions which the relevant authority proposes to include in the order;

(d) specify the dates on which and times between which the restrictions or prohibitions would apply;

(e) specify any alternative routes for traffic or pedestrians;

(f) state the address where copies of the application may be inspected by any person free of charge at all reasonable times;

(g) state that representations in writing may be sent to the relevant authority within such period as is specified in the notice (not being less than 21 days from the date of the last publication of the notice) at such address as is so specified.

(5) Before making an order the relevant authority must consult—

(a) the district commander of the police district in which any affected road is situated;

(b) the Northern Ireland Fire and Rescue Service;

(c) the Northern Ireland Ambulance Service.

(6) When considering whether to make an order, the relevant authority must—

(a) consider any representations made in accordance with a notice published under sub-paragraph (3) and the outcome of consultations under sub-paragraph (5);

(b) have regard to the safety and convenience of alternative routes suitable for traffic and pedestrians affected by the order; and

(c) if the relevant authority is a district council, also have regard to any guidance issued by the Department under paragraph 5.

Recovery of certain costs

4. The relevant authority may recover from the promoter the whole of the costs incurred by the relevant authority in connection with or in consequence of the making of an order, including in

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particular the cost to the relevant authority of complying with the requirement in paragraph 3(3) to publish notices.

Guidance

5. The Department may issue guidance—
- (a) to district councils as to the exercise of their functions under this Schedule; and
 - (b) to promoters of events as to the procedure for making an order and as to the conduct of events in relation to which an order has been made.

Offences in relation to orders

6. (1) A person who contravenes, or who uses or permits the use of a vehicle in contravention of, a restriction or prohibition imposed by an order is guilty of an offence.
- (2) A promoter who fails to comply with any requirement imposed under paragraph 2(6) is guilty of an offence.]

SCHEDULE 4

Articles 10(7), 13(18) and 15(7).

ORDERS UNDER ARTICLE 10, 13 OR 15

1. The Department shall comply with paragraphs 2 and 3 before making an order under Article 10, 13 or 15 unless the sole effect of the order is to vary charges or to revoke or reproduce provisions of previous orders.

2. The Department shall consult such persons as the Department considers appropriate.

3. (1) The Department shall publish in a newspaper circulating in the^{F45} district] in which any parking place to which the order relates is situated a notice including the particulars specified in sub-paragraph (2).

(2) The particulars which the notice must contain are—

- (a) the title of the order;
- (b) a statement of the general nature and effect of the order;
- (c) the name or a brief description of the road (unless it is an off-street parking place) and the parking place to which the order will apply;
- (d) an address . . . where a copy of the draft order and any relevant map or plan may be inspected by any person free of charge at all reasonable hours during the period mentioned in head (e); and
- (e) the period during which, and the address to which, objections or other representations may be made, and a statement that all objections or other representations must be in writing and must specify the grounds on which they are made.

(3) The period specified under sub-paragraph (2)(e) shall not be less than 21 days from the date of the publication or last publication of the notice.

(4) If the order is an order under Article 10 or 15, the Department shall, in addition to publishing a notice under sub-paragraph (1), take such other steps as appear to the Department reasonably practicable for the purpose of bringing specifically to the knowledge of the occupiers of land adjacent to the parking place the particulars specified in sub-paragraph (2).

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(5) The Department shall consider any objections or other representations in respect of the draft order made within the period specified under sub-paragraph (2)(e).

Annotations:
F45 2005 NI 14

4. ^{F46}.....

Annotations:
F46 Sch. 4 para. 4 repealed (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(2), 9(1), Sch. 3

5. The Department may make an order under Article 10, 13 or 15 with or without omissions and other modifications.

6. Where the Department makes an order under Article 10, 13 or 15, it shall—
- (a) notify—
 - (i) any person consulted under paragraph 2; and
 - (ii) any person who made objections or other representations in accordance with paragraph 3; and
 - (b) publish in a newspaper circulating in the^{F47} district] in which any parking place to which the order relates a notice stating that the order has been made.

Annotations:
F47 2005 NI 14

7. (1) Where the department makes an order under Article 13 or 15 the sole effect of which is to vary charges, the Department shall publish at least 21 days before the order comes into operation in a newspaper circulating in the^{F48} district] in which any parking place to which the order relates is situated a notice including the particulars specified in sub-paragraph (2).

- (2) The particulars which the notice must contain are—
- (a) the date on which the order comes into operation;
 - (b) the particulars described in paragraph 3(2)(a) to (c);
 - (c) the charges payable before the order comes into operation;
 - (d) the charges payable after the order comes into operation.

Annotations:
F48 2005 NI 14

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[^{F49}SCHEDULE 4A

ORDERS UNDER ARTICLE 27A

Annotations:

F49 Sch. 4A inserted (23.11.2009) by Taxis Act (Northern Ireland) 2008 (c. 4), ss. 21(2), 59; S.R. 2009/352, art. 2, Sch.

1. The Department shall comply with paragraphs 2 and 3 before making an order under Article 27A.
2. The Department shall consult such persons as it considers appropriate.
3. (1) The Department shall publish a notice including the particulars specified in sub-paragraph (2).
 - (2) The particulars which the notice must contain are—
 - (a) the title of the order;
 - (b) a statement of the general nature and effect of the order;
 - (c) the name or a brief description of any road or taxi stand to which the order will apply;
 - (d) an address in that area where a copy of the draft order and any relevant map or plan may be inspected by any person free of charge at all reasonable hours during the period mentioned in head (e); and
 - (e) the period during which, and the address to which, objections or other representations may be made, and a statement that all objections or other representations must be in writing and must specify the grounds on which they are made.
 - (3) The period specified under sub-paragraph (2)(e) shall not be less than 21 days from the date of the publication or last publication of the notice.
 - (4) Publication of a notice under sub-paragraph (1) shall be in a newspaper circulating in the area in which any road to which the order relates is situated.
 - (5) The Department shall consider any objections or other representations made within the period specified under sub-paragraph (2)(e).
4. ^{F50}

Annotations:

F50 Sch. 4A para. 4 repealed (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(2), 9(1), Sch. 3

5. The Department may make an order under Article 27A with or without omissions and other modifications
6. When the Department makes an order under Article 27A, it shall—
 - (a) notify—
 - (i) any person consulted under paragraph 2; and
 - (ii) any person who made objections or other representations in accordance with paragraph 3; and
 - (b) publish in a newspaper circulating in the area in which any road to which the order relates is situated a notice stating that the order has been made.]

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SCHEDULE 5

Article 36(4).

ORDERS UNDER ARTICLE 36(3)(a), 37 OR 38

1. The Department shall comply with paragraphs 2 and 3 before making an order under Article 36(3)(a), 37 or 38.
2. The Department shall consult such persons as it considers appropriate.
3. (1) The Department shall publish a notice including the particulars specified in sub-paragraph (2).
 - (2) The particulars which the notice must contain are—
 - (a) the title of the order;
 - (b) a statement of the general nature and effect of the order;
 - (c) the name or a brief description of any road to which the order will apply;
 - (d) an address^{F51} . . . where a copy of the draft order and a map or plan of any road in that area to which the order relates may be inspected by any person free of charge at all reasonable hours during the period mentioned in head (e); and
 - (e) the period during which, and the address to which, objections or other representations may be made, and a statement that all objections or other representations must be in writing and must specify the grounds on which they are made.
 - (3) The period specified under sub-paragraph (2)(e) shall not be less than 21 days from the date of the publication or last publication of the notice.
 - (4) Publication of a notice under sub-paragraph (1) shall be in a newspaper circulating in the^{F51} district] in which any road to which the order relates is situated.
 - (5) The Department shall consider any objections or other representations made within the period specified under sub-paragraph (2)(e).

Annotations:
F51 2005 NI 14

4. ^{F52}

Annotations:
F52 Sch. 5 para. 4 repealed (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(2), 9(1), Sch. 3

5. The Department may make an order under Article 36(3)(a), 37 or 38 with or without omissions and other modifications.
6. Where the Department makes an order under Article 36(3)(a), 37 or 38, it shall—
 - (a) notify—
 - (i) any person consulted under paragraph 2; and
 - (ii) any person who made objections or other representations in accordance with paragraph 3; and
 - (b) publish in a newspaper circulating in the^{F53} district] in which any road to which the order relates is situated a notice stating that the order has been made.

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Annotations:

F53 2005 NI 14

SCHEDULE 6

Article 65(1).

INQUIRIES

1. (1) Where the Department decides to hold an inquiry [^{F54}in connection with the making by the Department of an order or scheme under this Order], the Department shall publish—

- (a) in the Belfast Gazette; and
- (b) in a newspaper circulating in the [^{F55}district] in which any road or other place to which the order or scheme relates is situated,

a notice including the particulars specified in sub-paragraph (2).

(2) The particulars which the notice must contain are—

- (a) the title of the order or scheme;
- (b) a statement that an inquiry will be held in connection with the order or scheme;
- (c) the date, time and place of the inquiry and the name of the person appointed to hold it;
- (d) a statement of the general nature and effect of the order or scheme;
- (e) the name or a brief description of the road or other place to which the order or scheme will apply; and
- (f) an address . . . where a copy of the draft order or scheme and any relevant map or plan may be inspected by any person free of charge at all reasonable hours until the date specified under head (c).

Annotations:

F54 Words in Sch. 6 para. 1(1) substituted (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(1), 9(1), Sch. 2 para. 6(3)

F55 2005 NI 14

2. (1) Subject to sub-paragraphs (2) and (3), all persons interested may appear at the inquiry either in person or by counsel, agent or solicitor.

(2) No person shall be entitled to be heard at the inquiry unless he has within one week from the last publication of the notice of the holding of the inquiry under paragraph 1 sent a notice in writing to the Department of his desire to be heard at the inquiry.

(3) The person holding the inquiry may refuse to hear any person if he is satisfied that the views of that person—

- (a) are frivolous; or
- (b) have been adequately stated by some other person.

[^{F56}3. Where the inquiry has been held, the Department may, after considering the report of the person who held the inquiry—

- (a) determine to make the order or scheme; or
- (b) make the order or scheme either without modification or subject to such modifications as the Department thinks fit.]

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Status: This version of this Order contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Road Traffic Regulation (Northern Ireland) Order 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:

F56 Sch. 6 para. 3 added (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(1), 9(1), **Sch. 2 para. 6(4)**

Schedules 7, 8—Amendments

Schedule 9—Repeals

Status:

This version of this Order contains provisions that are prospective.

Changes to legislation:

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Changes and effects yet to be applied to :

- art. 35(9)(a) words substituted by 2011 c. 25 (N.I.) Sch. 6 para. 84
- art. 48(4) repealed by 2011 c. 23 (N.I.) s. 11(1) Sch. 4 Pt. 1
- art. 49(4) repealed by 2011 c. 23 (N.I.) s. 11(2) Sch. 4 Pt. 1
- art. 51(2) words repealed by 2011 c. 23 (N.I.) s. 12(5) Sch. 4 Pt. 1
- art. 51(2)(a) words repealed by 2011 c. 23 (N.I.) s. 12(2) Sch. 4 Pt. 1
- art. 51(2)(b) substituted by 2011 c. 23 (N.I.) s. 12(3)
- art. 51(2)(c)(ii) words inserted by 2011 c. 23 (N.I.) s. 12(4)
- art. 51(3) repealed by 2011 c. 23 (N.I.) s. 12(6) Sch. 4 Pt. 1
- art. 51(7) words inserted by 2011 c. 23 (N.I.) s. 12(7)
- art. 52(2) words repealed by 2011 c. 23 (N.I.) s. 13(5) Sch. 4 Pt. 1
- art. 52(2)(a) words repealed by 2011 c. 23 (N.I.) s. 13(2) Sch. 4 Pt. 1
- art. 52(2)(b) substituted by 2011 c. 23 (N.I.) s. 13(3)
- art. 52(2)(c)(ii) words inserted by 2011 c. 23 (N.I.) s. 13(4)
- art. 52(3) repealed by 2011 c. 23 (N.I.) s. 13(6) Sch. 4 Pt. 1
- art. 53 words repealed by 2011 c. 23 (N.I.) Sch. 4 Pt. 1
- art. 54(4)(c) words inserted by 2011 c. 23 (N.I.) Sch. 3 para. 2

Commencement Orders yet to be applied to the The Road Traffic Regulation (Northern Ireland) Order 1997

Commencement Orders bringing legislation that affects this Order into force:

- S.R. 2012/13 art. 2(1) Sch. 1 art. 2(1) Sch. 2 commences (2011 c. 23 (N.I.))

The Traffic Management (Northern Ireland) Order 2005

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Traffic Management (Northern Ireland) Order 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

2005 No. 1964 (N.I. 14)

NORTHERN IRELAND

The Traffic Management (Northern Ireland) Order 2005

Made - - - - 19th July 2005
Coming into operation in accordance with Article 1(2)
and (3)

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Annotations:

Modifications etc. (not altering text)

- C1** Order: functions transferred from Lord Chancellor to Department of Justice, except functions which are transferred by virtue of paragraph 42 of Schedule 4 to the Northern Ireland Act 2009 c. 3 (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1), **Sch. 17 para. 55** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

Introductory

Title and commencement

1. (1) This Order may be cited as the Traffic Management (Northern Ireland) Order 2005.

(2) This Article, Articles 2, 3, 4(3), (4) and (7), 8, 18(1)(b) and (6), 20(2), 21(1)(b) and (8), 23(7), 24, 29 to 38 and 41 to 46, and Article 47 so far as it relates to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) and Articles 56 and 57 of, and Schedules 1 to 6 to, the 1997 Order shall come into operation on the expiration of one month from the day on which this Order is made.

(3) The remaining provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

Annotations:

Subordinate Legislation Made

- P1** Art. 1(3) power fully exercised: 30.10.2006 appointed by {S.R. 2006/347}, art. 2, Sch.

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Interpretation

2. (1) Subject to Article 45, the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“1997 Order” means the Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2);

“adjudicator” means a person appointed under Article 29;

“charge certificate” means a statement under Article 14(2);

“the Department” means the Department for Regional Development;

“disabled person's badge” means—

(a) a badge issued, or having effect as if issued, under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53); or

(b) a recognised badge within the meaning given by section 14A of that Act;

“fixed penalty notice” has the meaning given by Article 58 of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10);

“hiring agreement” has the meaning given by Article 71(8) of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10);

“immobilisation device” means any device or appliance which is—

(a) designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion; and

(b) of a type approved by the Department for use for that purpose;

“notice of rejection” means—

(a) a notice under Article 9(4)(b) that the Department does not accept that a ground mentioned in Article 9(2) has been established; or

(b) a notice under Article 25(5)(b) that the Department does not accept that a ground mentioned in Article 25(4) has been established;

“notice to owner” has the meaning given by Article 6(1);

“owner”, in relation to a vehicle, means (subject to paragraph (3)) the person by whom the vehicle is kept, which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 (c. 22) is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered;

“parking device” has the same meaning as in Article 13 or 21 of the 1997 Order;

“parking place” means a parking place (within the meaning given by Article 2(2) of the 1997 Order) which is—

(a) provided under Article 10 or 11 of the 1997 Order; or

(b) designated by an order under Article 15 of that Order;

“penalty charge notice” means a notice under Article 5 or 7;

“prescribed” means prescribed by regulations made by the Department;

“prescribed device” means a device of a description prescribed under Article 8(1)(a);

“public road” means a public road (within the meaning given by Article 2(2) of the 1997 Order) which is not a special road;

“special road” has the meaning given by Article 2(2) of the Roads (Northern Ireland) Order 1993 (NI 15);

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“statutory declaration” means a declaration made by virtue of the Statutory Declarations Act 1835 (c. 62);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“traffic attendant” shall be construed in accordance with Article 3;

“vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

(3) The Department may by regulations provide for prescribed references in this Order to the owner of a vehicle to be construed as, or as including, references to a person prescribed under Article 4(1)(b).

(4) In determining for the purposes of any provision of this Order whether a penalty charge or other amount has been paid before the end of a particular period, it shall be taken to have been paid when it is received by the Department.

Traffic attendants

Traffic attendants

3. (1) The Department may provide for the enforcement of contraventions specified in Schedule 1 by individuals to be known as traffic attendants.

(2) A traffic attendant must be—

- (a) an individual employed by the Department; or
- (b) where the Department has made arrangements with any person for the purposes of this Article, an individual employed by that person to act as a traffic attendant.

(3) Traffic attendants—

- (a) when exercising specified functions shall wear such uniform as the Department may determine; and
- (b) shall not exercise any of those functions when not in uniform.

(4) In paragraph (3)(a) “specified functions” means—

- (a) functions under Article 5 (issue of penalty charge notice by traffic attendant);
- (b) functions under section 14(4BA) or 14A(5) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) (enforcement powers relating to disabled persons' badges); and
- (c) such other functions as may be prescribed.

Penalty charges

Penalty charges

4. (1) A penalty charge is payable with respect to a vehicle involved in a contravention specified in Schedule 1—

- (a) by the owner of the vehicle; or
- (b) by such other person as may be prescribed.

(2) Schedule 1 (which specifies the contraventions for which a penalty charge is payable) shall have effect.

(3) The Department may by regulations amend Schedule 1 and regulations under this paragraph may in particular add any contravention of a statutory provision involving a vehicle, whether stationary or not.

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- (4) The Department may by regulations specify—
- (a) the amounts of any specified penalty charges;
 - (b) the contraventions in relation to which any specified penalty charge is payable; and
 - (c) the percentages by which any penalty charges may be reduced or increased.
- (5) A penalty charge shall not be payable except on the basis of—
- (a) information given by a traffic attendant as to conduct observed by him; or
 - (b) a record produced by a prescribed device.
- (6) A penalty charge shall not be payable (or if paid shall be refunded) where the conduct in respect of which it was imposed is the subject of—
- (a) criminal proceedings; or
 - (b) a fixed penalty notice.
- (7) Criminal proceedings shall not be brought, and a fixed penalty notice shall not be issued, in respect of any prescribed description of conduct for which a penalty charge may be imposed.

Annotations:**Commencement Information**

- I1** Art. 4 wholly in force at 30.10.2006; art. 4(3)(4)(7) in force at 20.8.2005 see art. 1(2); art. 4(1)(2)(5)(6) in force at 30.10.2006 by S.R. 2006/347, art. 2, Sch.

Issue of penalty charge notice by traffic attendant or Department

- 5.** (1) Where a traffic attendant has reason to believe that a penalty charge is payable with respect to a stationary vehicle on a public road or in a parking place, he may—
- (a) fix a penalty charge notice to the vehicle; or
 - (b) give a penalty charge notice to the person appearing to him to be in charge of the vehicle.
- (2) Where a traffic attendant—
- (a) has reason to believe that a penalty charge is payable with respect to a moving vehicle on a public road; or
 - (b) is prevented from issuing a penalty charge notice under paragraph (1),
- the Department may issue a penalty charge notice produced by the traffic attendant.
- (3) A penalty charge notice under this Article must state—
- (a) the grounds on which the traffic attendant believes that a penalty charge is payable with respect to the vehicle;
 - (b) the amount of the penalty charge which is payable;
 - (c) that the penalty charge must be paid within 28 days;
 - (d) that if the penalty charge is paid within 14 days, the amount of the penalty charge will be reduced by a specified percentage;
 - (e) that if the penalty charge is not paid within 28 days, a notice to owner may be served by the Department on the person who appears to it to be the owner of the vehicle;
 - (f) how payment of the penalty charge may be made; and
 - (g) such additional matters as the Department may determine.
- (4) In paragraph (3)—

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“specified” means specified in regulations under Article 4(4);

“within 14 days” and “within 28 days” mean before the end of the period of 14 days or, as the case may be, 28 days from the date of the penalty charge notice.

(5) A penalty charge notice under paragraph (2) must be—

(a) accompanied by a supplementary notice from the Department stating—

(i) the effect of paragraph (6); and

(ii) where paragraph (2)(b) applies, that the traffic attendant was prevented from issuing a penalty charge notice under paragraph (1); and

(b) served, before the end of the period of 28 days from the date on which the alleged contravention occurred, on the person appearing to the Department to be the owner of the vehicle.

(6) Where the Department issues a penalty charge notice under paragraph (2), any statements made under paragraph (3)(c), (d) or (e) shall have effect as if references to the date of the penalty charge notice were references to the date of the supplementary notice under paragraph (5).

(7) A penalty charge notice fixed to a vehicle in accordance with this Article shall not be removed or interfered with except by or under the authority of—

(a) the owner, or person in charge, of the vehicle;

(b) the Department; or

(c) a constable.

(8) A person who contravenes paragraph (7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Service of notice to owner if penalty charge not paid

6. (1) Where—

(a) a penalty charge notice with respect to a vehicle has been issued under Article 5; and

(b) the penalty charge has not been paid within 28 days,

the Department may serve a notice (“a notice to owner”) on the person who appears to the Department to have been the owner of the vehicle when the alleged contravention occurred.

(2) In paragraph (1)(b) “within 28 days” means before the end of the period of 28 days from the date—

(a) of the penalty charge notice if it was issued by a traffic attendant; or

(b) of the supplementary notice under Article 5(5) if the penalty charge notice was issued by the Department.

(3) A notice to owner must state—

(a) the grounds on which the traffic attendant believed that a penalty charge was payable with respect to the vehicle;

(b) the amount of the penalty charge which is payable;

(c) that the penalty charge must be paid within 28 days;

(d) that failure to pay the penalty charge may lead to the penalty charge being increased;

(e) the amount of that increased charge;

(f) that there is a right to make representations under Article 9 and a right of appeal under Article 13;

(g) how payment of the penalty charge may be made; and

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(h) such additional matters as the Department may determine.

(4) In paragraph (3)(c) “within 28 days” means before the end of the period of 28 days from the date of the notice to owner.

Issue of penalty charge notice on basis of record produced by prescribed device

7. (1) Where the Department has reason to believe on the basis of a record produced by a prescribed device that a penalty charge is payable with respect to a vehicle, it may serve a penalty charge notice on the person who appears to it to have been the owner of the vehicle when the alleged contravention occurred.

(2) The Department shall not serve a penalty charge notice under this Article after the end of the period of 28 days from the date on which the alleged contravention occurred.

(3) A penalty charge notice under this Article must state—

- (a) the grounds on which the Department believes that a penalty charge is payable with respect to the vehicle;
- (b) the amount of the penalty charge which is payable;
- (c) that the penalty charge must be paid within 28 days;
- (d) that if the penalty charge is paid within 14 days, the amount of the penalty charge will be reduced by a specified percentage;
- (e) that failure to pay the penalty charge may lead to the penalty charge being increased;
- (f) the amount of that increased charge;
- (g) that there is a right to make representations under Article 9 and a right of appeal under Article 13;
- (h) how payment of the penalty charge may be made; and
- (i) such additional matters as the Department may determine.

(4) In paragraph (3)—

“specified” means specified in regulations under Article 4(4);

“within 14 days” and “within 28 days” mean before the end of the period of 14 days or, as the case may be, 28 days from the date of the penalty charge notice under this Article.

Prescribed devices: admissibility of evidence

8. (1) Evidence of a fact relevant to proceedings to which this Article applies may be given by the production of—

- (a) a record produced by a prescribed device; and
- (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by a person authorised by the Department;

but subject to the following provisions of this Article.

(2) Subject to paragraph (8), this Article applies to—

- (a) proceedings before an adjudicator relating to a contravention specified in Schedule 1; and
- (b) proceedings for an offence which consists of such a contravention.

(3) A record produced by a prescribed device shall not be admissible as evidence of a fact relevant to proceedings to which this Article applies unless—

- (a) the device is of a type approved by the Department; and
- (b) any conditions subject to which the approval was given are satisfied.

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(4) Any approval given by the Department for the purposes of this Article may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, any device of the type concerned is to be used.

(5) In proceedings to which this Article applies, evidence that a device was of a type approved for the purposes of this Article, or that any conditions subject to which an approval was given were satisfied, may be given by the production of a document which—

- (a) is signed as mentioned in paragraph (1), and
- (b) states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.

(6) For the purposes of this Article a document purporting to be—

- (a) a record of the kind mentioned in paragraph (1), or
- (b) a certificate or other document signed as mentioned in that paragraph or in paragraph (5),

shall be deemed to be such a record, or to be so signed, unless the contrary is proved.

(7) Nothing in paragraph (1) or (5) makes a document admissible as evidence in proceedings for an offence unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence; and nothing in those paragraphs makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the complainant requiring attendance at the hearing or trial of the person who signed the document.

(8) Paragraph (7) does not apply in relation to proceedings before an adjudicator.

Right to make representations to Department

9. (1) Where it appears to a person who has received a notice under Article 6 or 7 (“the recipient”) that one or more of the grounds mentioned in paragraph (2)

are satisfied, he may make representations in writing to the Department before the end of the period of 28 days from the date of the notice.

(2) The grounds are—

- (a) that the recipient—
 - (i) never was the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - (iii) became its owner after that date;
- (b) that the alleged contravention did not occur;
- (c) that—
 - (i) at the time of the alleged contravention the vehicle was in the control of a person without the consent of the owner; or
 - (ii) it would be unreasonable to regard the owner as responsible for the alleged contravention because the vehicle had previously been in the control of a person without his consent;
- (d) that the recipient is a vehicle-hire firm and—
 - (i) the vehicle was at the time of the alleged contravention hired from that firm under a hiring agreement; and

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- (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge during the currency of the hiring agreement;
 - (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
 - (f) in the case of a notice under Article 6 which was preceded by a penalty charge notice issued under Article 5(2)(b), that the traffic attendant was not prevented from issuing a penalty charge notice under Article 5;
 - (g) that the conduct constituting the alleged contravention is the subject of criminal proceedings or of a fixed penalty notice.
- (3) The reference in paragraph (2)(d) to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of a fixed period specified in the agreement, but otherwise on the terms and conditions so specified.
- (4) The Department shall—
- (a) consider any representations made under this Article and any supporting evidence which the person making them provides; and
 - (b) serve on that person notice of its decision as to whether it accepts that the ground in question has been established.

Additional information to be included in representations

- 10.** (1) Where in any representations made under Article 9 the ground mentioned in paragraph (2) (a)(ii) or (iii) or (d) of that Article is relied on, the representations must include a statement made by the person making the representations (“R”) of the information required by this Article (if that information is in his possession).
- (2) If the ground mentioned in Article 9(2)(a)(ii) is relied on, the following information is required—
- (a) the name and address of the person to whom the vehicle was disposed of; and
 - (b) the date on which R complied with any relevant statutory requirements relating to the disposal.
- (3) If the ground mentioned in Article 9(2)(a)(iii) is relied on, the following information is required—
- (a) the name and address of the person from whom the vehicle was acquired; and
 - (b) the date on which R complied with any relevant statutory requirements relating to the acquisition.
- (4) If the ground mentioned in Article 9(2)(d) is relied on, the information required is the name and address of the person hiring the vehicle and the representations must include a copy of the hiring agreement and the statement of liability referred to in Article 9(2)(d)(i) and (ii) (if they are in R’s possession).
- (5) In paragraphs (2)(b) and (3)(b) “relevant statutory requirements” means requirements under the Vehicle Excise and Registration Act 1994 (c. 22) relating to notifying, or delivering a document to, the Secretary of State.

Duty to cancel notice

- 11.** (1) Where the Department accepts that a ground mentioned in Article 9(2) has been established, it shall—
- (a) cancel the notice served under Article 6 or 7; and

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(b) state in the notice served under Article 9(4)(b) that the notice served under Article 6 or 7 has been cancelled.

(2) The cancellation of a notice under paragraph (1) does not prevent the Department from serving a fresh notice on another person (to which, in the case of a notice under Article 7, paragraph (2) of that Article shall not apply).

(3) Where the Department accepts that the ground mentioned in Article 9(2)(d) has been established, the person hiring the vehicle shall be taken to be its owner for the purposes of this Order.

Rejection of representations

12. Where the Department serves a notice of rejection under Article 9(4)(b), the notice must—

- (a) state that a charge certificate may be served under Article 14(2) unless before the end of the period of 28 days from the date of that notice—
 - (i) the penalty charge is paid; or
 - (ii) the person on whom the notice is served appeals to an adjudicator under Article 13;
- (b) describe in general terms the form and manner in which such an appeal must be made;
- (c) indicate the nature of an adjudicator's power to award costs against any person appealing to him; and
- (d) contain such other information as the Department considers appropriate.

Appeal to an adjudicator

13. (1) Where the Department serves a notice of rejection under Article 9(4)(b), the person on whom it is served may appeal to an adjudicator before the end of the period of 28 days from the date of that notice or such longer period as an adjudicator may allow.

- (2) On an appeal under this Article, the adjudicator—
 - (a) shall consider the representations in question and any additional representations which are made by the appellant on any of the grounds mentioned in Article 9(2);
 - (b) shall serve notice of his decision on the appellant and the Department; and
 - (c) may give the Department such directions as he thinks appropriate.
- (3) The Department shall comply with any directions under paragraph (2)(c) forthwith.

Charge certificates

14. (1) Paragraph (2) applies where—

- (a) a notice under Article 6 or 7 is served on any person; and
- (b) the penalty charge to which it relates is not paid before the end of the relevant period (as defined in paragraph (3)).

(2) The Department may serve on that person a statement (a “charge certificate”) to the effect that the penalty charge in question is increased by a specified percentage.

(3) In this Article “relevant period” means—

- (a) where no representations are made under Article 9, the period of 28 days from the date of the notice under Article 6 or 7;
- (b) where—
 - (i) representations are made under Article 9;
 - (ii) a notice of rejection is served under paragraph (4)(b) of that Article; and

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- (iii) no appeal against the notice of rejection is made, the period of 28 days from the date of the notice of rejection;
- (c) where there has been an unsuccessful appeal against a notice of rejection under Article 9(4)(b), the period of 28 days from the date of the notice of the adjudicator's decision;
- (d) where an appeal against a notice of rejection under Article 9(4)(b) is made but is withdrawn before the adjudicator gives notice of his decision, the period of 14 days from the date on which the appeal is withdrawn.

Enforcement of charge certificate

- 15.** (1) Where—
- (a) a charge certificate is served on any person (“the liable person”); and
 - (b) the increased penalty charge to which it relates is not paid within 14 days,
- the increased penalty charge shall be recoverable by the Department from the liable person.
- (2) The Department shall serve on the liable person a notice which states—
- (a) that the increased penalty charge is recoverable from him by the Department; and
 - (b) that the liable person may serve a statutory declaration on an adjudicator under Article 16.
- (3) Subject to Article 16(5), paragraph (1) shall not have effect in relation to an increased penalty charge until the later of—
- (a) the end of the period of 21 days from the date of a notice under paragraph (2) (or if an adjudicator allows a longer period for service of a statutory declaration under Article 16(1), the end of that longer period); or
 - (b) if the liable person serves a statutory declaration, the date of the adjudicator's decision.
- (4) Any costs reasonably incurred by the Department in recovering an amount under paragraph (1) shall be recoverable by the Department from the liable person.
- (5) The Judgments Enforcement (Northern Ireland) Order 1981 (NI 6) shall apply with the necessary modifications to any amount recoverable under this Article as it applies in relation to a sum due under a money judgment (within the meaning of that Order).
- (6) In paragraph (1) “within 14 days” means before the end of the period of 14 days from the date of the charge certificate.

Appeal by way of statutory declaration to an adjudicator

- 16.** (1) Where a person is liable to pay an amount under Article 15(1) he may serve a statutory declaration on an adjudicator before the end of the period of 21 days from the date of a notice under paragraph (2) of that Article or such longer period as an adjudicator may allow.
- (2) A statutory declaration for the purposes of this Article must state not more than one of the following—
- (a) that the appellant did not receive a notice under Article 6 or 7;
 - (b) that the appellant made representations under Article 9 but did not receive a notice of rejection;
 - (c) that the appellant appealed to an adjudicator under Article 13 but did not receive a notice of his decision under that Article.
- (3) A statutory declaration must state such additional matters as the Lord Chancellor may [^{F1}after consultation with the Lord Chief Justice] determine.
- (4) The adjudicator shall—

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- (a) consider the statutory declaration, any additional representations made by the appellant and any representations made by the Department; and
 - (b) serve notice of his decision on the appellant and the Department.
- (5) Where an adjudicator decides that a statement under paragraph (2) is true—
- (a) the charge certificate shall be deemed to be cancelled and Article 15(1) shall not by virtue of the service of that certificate have effect in relation to the penalty charge;
 - (b) the Department shall comply forthwith with any directions which the adjudicator may give to it; and
 - (c) in the case of a statement under paragraph (2)(c), the adjudicator may take such steps as he thinks appropriate.
- (6) Service of a statutory declaration stating that the appellant did not receive a notice under Article 6 or 7 does not prevent the Department serving a fresh notice under Article 6 or 7 (to which, in the case of a notice under Article 7, paragraph (2) of that Article shall not apply).
- (7) In this Article “appellant” means the person making the statutory declaration.

Annotations:

- F1** Words in art. 16(3) inserted (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(1), 9(1), Sch. 2 para. 7(1)

Procedure on cancellation of penalty charge notice etc.

- 17.** (1) The Department may cancel any penalty charge notice or notice to owner but if it does so, it shall serve notice of the cancellation on the person who appears to it to have been the owner of the vehicle at the time the alleged contravention occurred.
- (2) The Department may cancel a charge certificate but if it does so, it shall serve notice of the cancellation on any person on whom the charge certificate was served.
- (3) The cancellation under this Article of a notice served by the Department or of a charge certificate does not prevent the Department serving a fresh notice or charge certificate (to which, if it is served on another person, any time limit which applied to the cancelled notice or certificate shall not apply).
- (4) This Article is without prejudice to Article 11 (duty to cancel).

Immobilisation and removal of vehicles

Immobilisation of vehicles

- 18.** (1) The Department may fix an immobilisation device to a stationary vehicle on a public road or in a parking place if—
- (a) a traffic attendant has fixed a penalty charge notice to the vehicle; or
 - (b) an amount is recoverable from the owner of the vehicle under Article 15 and prescribed conditions are satisfied.
- (2) The Department shall also fix to the vehicle a notice—
- (a) indicating that an immobilisation device has been fixed to the vehicle and warning that no attempt should be made to drive the vehicle or otherwise put it in motion unless it has been released from the device;
 - (b) specifying the steps to be taken in order to secure its release; and
 - (c) giving such other information as the Department may determine.

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(3) A notice fixed to a vehicle in accordance with this Article shall not be removed or interfered with except by or under the authority of—

- (a) the owner, or person in charge, of the vehicle; or
- (b) the Department.

(4) A person contravening paragraph (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) The power conferred by paragraph (1) includes power to move the vehicle to another place and fix an immobilisation device to the vehicle in that other place.

(6) It shall be the duty of the Department to prescribe conditions for the purposes of paragraph (1) (b).

Annotations:

Commencement Information

- I2** Art. 18 wholly in force at 30.10.2006; art. 18(1)(b)(6) in force at 20.8.2005 see art. 1(2); art. 18(1)(a) (2)-(5) in force at 30.10.2006 by S.R. 2006/347, art. 2, Sch.

Exemptions from Article 18

19. (1) An immobilisation device shall not be fixed to a vehicle under Article 18 if a current disabled person's badge is displayed on the vehicle.

(2) Where under Article 5(1)(a) a traffic attendant fixes a penalty charge notice to a vehicle in a parking place in respect of a contravention which consists of, or arises out of, a failure to—

- (a) pay a parking charge;
- (b) display a ticket or parking device properly; or
- (c) remove the vehicle from the parking place by the end of a period for which the appropriate charge was paid,

the Department shall not fix an immobilisation device to the vehicle under Article 18(1)(a) until 15 minutes have elapsed from the time when the traffic attendant fixes the penalty charge notice to the vehicle.

(3) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1), the vehicle was not being used—

- (a) in accordance with regulations under section 14 or 14A of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53); and
- (b) in circumstances falling within section 14B(1)(b) or (2)(b) of that Act (disabled person's concession),

the person in charge of the vehicle shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Release of immobilised vehicle

20. (1) Subject to paragraph (3), a vehicle to which an immobilisation device has been fixed in accordance with this Order shall be released from that device on payment of the relevant charges.

(2) In paragraph (1) “relevant charges” means—

- (a) the penalty charge payable if a penalty charge notice was fixed to the vehicle;
- (b) any amount recoverable from the owner of the vehicle under Article 15; and

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(c) such charge in respect of the immobilisation and release of the vehicle as may be prescribed.

(3) A vehicle to which an immobilisation device has been fixed in accordance with this Order may only be released from the device by or under the direction of a person authorised by the Department.

(4) A person who, without being authorised to do so in accordance with this Article removes or attempts to remove an immobilisation device fixed to the vehicle in accordance with this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Annotations:

Commencement Information

I3 Art. 20 wholly in force at 30.10.2006; art. 20(2) in force at 20.8.2005 see art. 1(2); art. 20(1)(3)(4) in force at 30.10.2006 by S.R. 2006/347, art. 2, Sch.

Removal of vehicles by the Department

21. (1) The Department may remove to another place a stationary vehicle on a public road or in a parking place if—

- (a) a traffic attendant has fixed a penalty charge notice to the vehicle; or
- (b) an amount is recoverable from the owner of the vehicle under Article 15 and prescribed conditions are satisfied.

(2) The Department may remove a vehicle under paragraph (1) in such manner as it thinks necessary and may take such measures in relation to the vehicle as it thinks necessary to enable the vehicle to be removed.

(3) The power of removal conferred by paragraph (1) in relation to a vehicle before it was moved shall continue to be exercisable in relation to the vehicle while it remains in the place to which it was moved.

(4) The Department shall take such steps as are reasonably necessary for the safe custody of a vehicle which is removed under paragraph (1) to a place which is not on a public road.

(5) Paragraph (4) shall not apply if in the opinion of the Department the vehicle is in such a condition that it ought to be destroyed.

(6) The power of removal conferred by paragraph (1) in relation to a vehicle includes power to remove from the vehicle any of its contents where—

- (a) it is reasonable to do so to facilitate the removal of the vehicle;
- (b) there is good reason for storing them at a different place from the vehicle; or
- (c) their condition requires them to be disposed of without delay.

(7) A person who intentionally obstructs or impedes, or assists another person to obstruct or impede, the removal of a vehicle under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) It shall be the duty of the Department to prescribe conditions for the purposes of paragraph (1) (b).

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Annotations:**Commencement Information**

- 14** Art. 21 wholly in force at 30.10.2006; art. 21(1)(b)(8) in force at 20.8.2005 see art. 1(2); art. 21(1)(a)(2)-(7) in force at 30.10.2006 by S.R. 2006/347, art. 2, Sch.

Exemption from Article 21

22. Where under Article 5(1)(a) a traffic attendant fixes a penalty charge notice to a vehicle in a parking place in respect of a contravention which consists of, or arises out of, a failure to—

- (a) pay a parking charge;
- (b) display a ticket or parking device properly; or
- (c) remove the vehicle from the parking place by the end of the period for which the appropriate charge was paid,

the Department shall not remove the vehicle under Article 21(1)(a) until 15 minutes have elapsed from the time when the traffic attendant fixes the penalty charge notice to the vehicle.

Disposal or recovery of vehicles removed under Article 21

23. (1) Subject to paragraphs (2) and (3), the Department may, in such manner as it thinks fit, dispose of a vehicle which has been removed by the Department under Article 21.

(2) The Department shall not dispose of a vehicle under paragraph (1)—

- (a) before the end of the period of 35 days from the removal date; and
- (b) unless—
 - (i) the owner of the vehicle has failed to comply with a notice served on him requiring him to remove the vehicle from the custody of the Department within 21 days from the date of the notice; or
 - (ii) the Department has been unable to serve such a notice.

(3) If before a vehicle is disposed of by the Department under paragraph (1), the vehicle is claimed by a person who satisfies the Department—

- (a) that he is the owner of the vehicle or is acting with the authority of the owner, and
- (b) that the relevant charges have been paid,

the Department shall permit him to remove the vehicle from its custody.

(4) If, before the expiration of one year from the date on which a vehicle is sold in pursuance of this Article, any person satisfies the Department that at the time of the sale he was the owner of the vehicle, the Department shall pay him any sum by which the proceeds of sale exceed the relevant charges.

(5) If the relevant charges exceed the proceeds of sale, the amount of the difference shall be recoverable by the Department from the person who was the owner of the vehicle on the removal date and Article 15(5) shall apply to that amount and any costs reasonably incurred by the Department as it applies in relation to a sum recoverable under that Article.

(6) The Department may dispose of the contents of a vehicle (including those removed from the vehicle under Article 21(6)) and references in paragraphs (4) and (5) to the proceeds of sale include any proceeds of sale of the contents.

(7) In this Article—

“relevant charges” means—

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- (a) the penalty charge payable if a penalty charge notice was fixed to the vehicle;
- (b) any amount recoverable under Article 15 from the person who was the owner of the vehicle on the removal date; and
- (c) such charges in respect of the removal and storage, and in paragraph (4) disposal, of the vehicle as may be prescribed;

“removal date” means the date on which the vehicle was removed (or first removed) under Article 21.

(8) If in the case of any vehicle it appears to the Department that more than one person is or was the owner of the vehicle at the time of the sale, such one of them as the Department thinks fit shall be treated as the owner of the vehicle for the purposes of paragraphs (3) and (4).

Annotations:

Commencement Information

I5 Art. 23 wholly in force at 30.10.2006; art. 23(7) in force at 20.8.2005 see art. 1(2); art. 23(1)-(6)(8) in force at 30.10.2006 by S.R. 2006/347, art. 2, Sch.

Application of Articles 18 to 23 in relation to amounts recoverable under Article 15

24. (1) The Department may make regulations modifying the application of Articles 18 to 23 in relation to amounts recoverable under Article 15.

(2) The power conferred by paragraph (1) includes power to make additional provisions.

Representations in relation to immobilisation or removal of vehicles

25. (1) Where—

- (a) a vehicle to which an immobilisation device has been fixed is released in accordance with Article 20;
- (b) a vehicle is removed from the custody of the Department in accordance with Article 23(3); or
- (c) the owner of a vehicle receives any sum under Article 23(4) or is informed that the proceeds of sale of the vehicle did not exceed the relevant charges,

the Department shall inform the relevant persons as soon as practicable in writing of their rights to make representations under this Article and of the effect of Articles 26 to 28.

(2) For the purposes of this Article the relevant persons are the owner of the vehicle and, if he is not the owner, the person who paid the relevant charges under Article 20 or 23.

(3) Where it appears to a relevant person that one or more of the relevant grounds are satisfied, he may make representations in writing to the Department before the end of the period of 28 days from the date on which he is informed under paragraph (1) of his right to make representations.

(4) The grounds are—

- (a) in a case within paragraph (1)(a)—
 - (i) that an immobilisation device should not have been fixed to the vehicle because of Article 19(1); or
 - (ii) that the Department did not comply with Article 19(2);
- (b) where an immobilisation device was fixed to the vehicle under Article 18(1)(a) or the vehicle was removed under Article 21(1)(a)—

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- (i) that there were no reasonable grounds for the traffic attendant to believe that a penalty charge was payable in respect of the vehicle;
 - (ii) that at the time of the alleged contravention the vehicle was in the control of a person without the consent of the owner; or
 - (iii) that it would be unreasonable to regard the owner as responsible for the alleged contravention because the vehicle had previously been in the control of a person without his consent;
- (c) where an immobilisation device was fixed to the vehicle under Article 18(1)(b) or the vehicle was removed under Article 21(1)(b), that no amount was recoverable from the owner of the vehicle under Article 15 or that prescribed conditions mentioned in Article 18(1)(b) or 21(1)(b) were not satisfied;
 - (d) where the vehicle was removed under Article 21(1)(a), that the Department did not comply with Article 22;
 - (e) that the charges under Article 20(1) or 23(3)(b) exceeded the amount applicable in the circumstances of the case.
- (5) The Department shall before the end of the period of 56 days beginning with the date on which it receives any representations under this Article—
- (a) consider any representations made under this Article and any supporting evidence which the person making them provides; and
 - (b) serve on that person notice of its decision as to whether it accepts that the ground in question has been established.

Refund of sums if representations accepted

26. (1) Where the Department serves notice under Article 25(5)(b) that it accepts that a ground has been established, it shall (when serving that notice) refund any sums—

- (a) paid under Article 20(1) or 23(3), or
- (b) deducted from the proceeds of sale under Article 23(4),

except to the extent (if any) to which those sums were properly paid.

(2) Where the Department fails to comply with Article 25(5)(b) before the end of the period of 56 days mentioned there—

- (a) the Department shall be taken to have accepted that the ground in question has been established and to have served notice to that effect under Article 25(5)(b); and
- (b) paragraph (1) shall have effect as if it required any refund to be made immediately after the end of that period.

Rejection of representations

27. Where the Department serves a notice of rejection, the notice must—

- (a) inform the person on whom it is served of his right to appeal to an adjudicator under Article 28;
- (b) describe in general terms the form and manner in which such an appeal must be made;
- (c) indicate the nature of an adjudicator's power to award costs; and
- (d) contain such other information as the Department considers appropriate.

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Appeal to an adjudicator

28. (1) Where the Department serves a notice of rejection, the person making representations under Article 25 may appeal to an adjudicator against the Department's decision before the end of the period of 28 days from the date of that notice or such longer period as an adjudicator may allow.

(2) On an appeal under this Article, the adjudicator shall consider the representations in question and any additional representations which are made by the appellant on any of the grounds mentioned in Article 25(4).

(3) If the adjudicator concludes—

- (a) that any ground has been established; and
- (b) that the Department would have been under the duty imposed by Article 26(1) to refund any sum if it had served notice that it accepted that the ground in question had been established,

he shall serve notice of his decision on the appellant and the Department and shall direct the Department to make the necessary refund.

(4) The Department shall comply with any directions under paragraph (3) forthwith.

Adjudicators

Adjudicators

29. (1) The [^{F2}Northern Ireland Judicial Appointments Commission] may appoint persons to act as adjudicators for the purposes of this Order.

(2) A person shall not be appointed as an adjudicator unless he is a barrister or solicitor of at least five years' standing.

(3) A person shall be appointed as an adjudicator for such term not exceeding five years as may be specified in his instrument of appointment.

(4) An adjudicator shall hold and vacate office under the terms of the instrument under which he is appointed.

[^{F3}(4A) The term mentioned in paragraph (3) and the terms mentioned in paragraph (4) are to be determined by the Commission with the agreement of the [^{F4}Department of Justice].]

(5) An adjudicator may resign office by notice in writing to the [^{F5}Commission].

(6) ^{F6}.....

(7) An adjudicator is eligible for re-appointment if he ceases to hold office otherwise than under [^{F7}section 7 of the Justice (Northern Ireland) Act 2002].

(8) ^{F8}.....

Annotations:

- F2** Words in art. 29(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7), **Sch. 4 para. 42(2)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**
- F3** Art. 29(4A) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7), **Sch. 4 para. 42(3)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**
- F4** Words in art. 29(4A) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), **Sch. para. 17**; S.R. 2010/147, **art. 2(2)**
- F5** Words in art. 29(5) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7), **Sch. 4 para. 42(4)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**
- F6** Art. 29(6) omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7), **Sch. 4 para. 42(5)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

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- F7** Words in art. 29(7) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7), Sch. 4 para. 42(6) (with Sch. 5 para. 16); S.I. 2010/812, art. 2
- F8** Art. 29(8) omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7), Sch. 4 para. 42(7) (with Sch. 5 para. 16); S.I. 2010/812, art. 2

Proceedings before adjudicators

30. (1) The Lord Chancellor may [^{F9}after consultation with the Lord Chief Justice] make regulations providing for the procedure to be followed in relation to proceedings before adjudicators.

(2) The regulations may, in particular, include provision—

- (a) as to the manner in which appeals to adjudicators are to be made or withdrawn;
- (b) authorising an appeal to an adjudicator to be disposed of on the basis of written representations unless the appellant requests an oral hearing;
- (c) as to the procedure to be followed before the hearing of an appeal by an adjudicator;
- (d) requiring any such hearing to be held in public except in circumstances specified in the regulations;
- (e) as to the persons entitled to appear and be heard on behalf of the parties;
- (f) requiring persons to attend to give evidence and to produce documents;
- (g) as to evidence at the hearing;
- (h) as to the adjournment of hearings;
- (i) for the award of costs in circumstances specified in the regulations;
- (j) for the settlement of costs by such method as may be specified in the regulations;
- (k) authorising decisions of adjudicators to be reserved;
- (l) authorising or requiring adjudicators—
 - (i) to revise or set aside decisions;
 - (ii) to revoke or vary orders made by them;
- (m) requiring decisions of, and orders made by, adjudicators to be recorded;
- (n) as to the proof of decisions of, and orders made by, adjudicators;
- (o) authorising the correction of clerical errors in records kept in accordance with the requirements of the regulations;
- (p) requiring service of—
 - (i) notice of decisions of adjudicators;
 - (ii) copies of any orders made by adjudicators;
 - (iii) notice of any corrections made by adjudicators in their decisions or orders.

(3) Subject to any provision made by the regulations, an adjudicator may regulate his own procedure.

(4) If a person who is required—

- (a) to attend a hearing held by an adjudicator; or
- (b) to produce any document to an adjudicator in accordance with regulations under paragraph (1),

fails without reasonable excuse to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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Annotations:

F9 Words in art. 30(1) inserted (14.8.2010) by Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 14), ss. 8(1), 9(1), Sch. 2 para. 7(2)

Further provisions relating to adjudicators

31. (1) The Lord Chancellor shall—

- (a) make arrangements for the provision of accommodation and administrative staff and facilities for adjudicators;
- (b) determine the places where adjudicators are to sit; and
- (c) at least once in every twelve months publish information on the discharge by the adjudicators of their functions under this Order.

(2) The Department shall defray the costs of the adjudication process (including the remuneration of the adjudicators).

(3) An adjudicator shall provide the Lord Chancellor with such information on the discharge of his functions under this Order as the Lord Chancellor may determine.

Disabled persons' badges

Disabled persons' badges

32. (1) Section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) (badges for display on motor vehicles used by disabled persons) shall be amended in accordance with paragraphs (2) to (6).

(2) In subsection (4), for the word “institution” (in both places) there shall be substituted the word “organisation”.

(3) In subsection (4B), after the word “badge” where it first occurs there shall be inserted the words “purporting to be”.

(4) After subsection (4B) there shall be inserted the following subsections—

“(4BA) Where it appears to a constable or a traffic attendant that there is displayed on any motor vehicle a badge purporting to be of a form prescribed under this section, he may require any person who—

- (a) is in the vehicle, or
- (b) appears to have been in, or to be about to get into, the vehicle,

to produce the badge for inspection.

(4BB) The power conferred on a traffic attendant by subsection (4BA) is exercisable only for purposes connected with the discharge of his functions in relation to a stationary vehicle.

(4BC) A person who without reasonable excuse fails to produce a badge when required to do so under subsection (4BA) shall be guilty of an offence.”.

(5) In subsection (4C), after the words “subsection (4B)” there shall be inserted the words “or (4BC)”.

(6) After subsection (9) there shall be added the following subsection—

“(10) Regulations under this section or section 14A may contain incidental, supplementary, transitional or consequential provisions.”.

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Recognition of badges issued outside Northern Ireland

33. After section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) there shall be inserted the following section—

“Recognition of badges issued outside Northern Ireland

- 14A.** (1) For the purposes of this section and section 14B, a “recognised badge” means—
- (a) a badge issued under section 21 of the Chronically Sick and Disabled Persons Act 1970, or any provision replacing that section, as from time to time amended, or
 - (b) a badge issued under provisions of the law of any jurisdiction outside the United Kingdom that are specified in regulations made by the Department.
- (2) In exercising the power under subsection (1)(b), the Department may specify a provision only if it appears to the Department that badges issued under the provision are issued by reference to persons who are, or include, disabled persons.
- (3) A recognised badge may be displayed on a motor vehicle only in such circumstances and in such manner as may be prescribed by regulations made by the Department.
- (4) A person who drives a motor vehicle on a road (within the meaning of the Road Traffic Regulation (Northern Ireland) Order 1997) at a time when a badge purporting to be a recognised badge is displayed on the vehicle is guilty of an offence unless the badge is a recognised badge and is displayed in accordance with regulations made under subsection (3).
- (5) Where it appears to a constable or a traffic attendant that there is displayed on any motor vehicle a badge purporting to be a recognised badge, he may require any person who —
- (a) is in the vehicle, or
 - (b) appears to have been in, or to be about to get into, the vehicle,
- to produce the badge for inspection.
- (6) The power conferred on a traffic attendant by subsection (5) is exercisable only for purposes connected with the discharge of his functions in relation to a stationary vehicle.
- (7) A person who without reasonable excuse fails to produce a badge when required to do so under subsection (5) shall be guilty of an offence.
- (8) A person guilty of an offence under subsection (4) or (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) The concessions mentioned in subsection (10) shall apply in respect of vehicles lawfully displaying a recognised badge as they apply in respect of vehicles lawfully displaying a badge issued under section 14.
- (10) The concessions are—
- (a) any exemption from an order under the Road Traffic Regulation (Northern Ireland) Order 1997 given by reference to vehicles lawfully displaying a badge issued under section 14;
 - (b) any provision made in an order under that Order for the use of a parking place by such vehicles.
- (11) The Department may by regulations provide that recognised badges are to be treated, for purposes specified in the regulations, as if they were badges issued under section 14.”.

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Wrongful use of badges

34. After section 14A of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53) (inserted by Article 33) there shall be inserted the following section—

“Wrongful use of badge

14B. (1) A person who at any time contravenes any provision of an order under the Road Traffic Regulation (Northern Ireland) Order 1997 relating to the parking of motor vehicles is also guilty of an offence under this subsection if at that time—

- (a) there was displayed on the motor vehicle in question a badge purporting to be of a form prescribed under section 14, and
- (b) he was using the vehicle in circumstances where a disabled person's concession would be available to a vehicle lawfully displaying a badge issued under that section,

but he shall not be guilty of an offence under this subsection if the badge was issued under that section and displayed in accordance with regulations made under it.

(2) A person who at any time contravenes any provision of an order under the Road Traffic Regulation (Northern Ireland) Order 1997 relating to the parking of motor vehicles is also guilty of an offence under this subsection if at that time—

- (a) there was displayed on the motor vehicle in question a badge purporting to be a recognised badge, and
- (b) he was using the vehicle in circumstances where a concession would, by virtue of section 14A(9) to (11), be available to a vehicle lawfully displaying a recognised badge,

but he shall not be guilty of an offence under this subsection if the badge was a recognised badge and displayed in accordance with regulations made under section 14A.

(3) A person guilty of an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) In this section “disabled person's concession” means—

- (a) an exemption from an order under the Road Traffic Regulation (Northern Ireland) Order 1997 given by reference to vehicles lawfully displaying a badge issued under section 14; or
- (b) a provision made in any order under that Order for the use of a parking place by such vehicles.”.

Consequential provision

35. In Article 44(2) of the 1997 Order (powers of traffic wardens), for sub-paragraph (d) there shall be substituted the following sub-paragraph—

“(d) “(d) sections 14(4BA) and 14A(5) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.”.

Maps

Maps

36. (1) The Department may prepare a map for the purposes of any—

- (a) traffic regulation order;

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- (b) parking place order; or
 - (c) extinguishment order.
- (2) The Department shall ensure that any map to which reference is made by a traffic regulation order, a parking place order or an extinguishment order is—
- (a) available for inspection by the public; and
 - (b) preserved for record purposes.
- (3) In this Article—
- “extinguishment order” means—
- (a) an order made, or which the Department proposes to make, under Article 100(1) of the Planning (Northern Ireland) Order 1991 (NI 11);
 - (b) any provision having effect as if so made;
- “map” includes a map in electronic form;
- “parking place order” means—
- (a) an order made, or which the Department proposes to make, under Article 10(4) or 15(1) of the 1997 Order;
 - (b) any provision having effect as if so made;
- “traffic regulation order” means—
- (a) an order made, or which the Department proposes to make, under Article 4 of the 1997 Order;
 - (b) any prohibition or restriction having effect, or which the Department intends to impose, under Part III of the 1997 Order;
 - (c) such other provisions of a similar nature as the Department considers appropriate.

Use of maps in certain orders

37. (1) In Article 4 of the 1997 Order, after paragraph (4) there shall be inserted the following paragraph—

“(4A) A traffic regulation order may—

- (a) specify any public road or any area by reference to a map prepared under Article 36 of the Traffic Management (Northern Ireland) Order 2005 which is not part of the order; and
- (b) provide that the order shall have effect as if the map were part of the order.”.

(2) In Article 10 of the 1997 Order (power of Department to provide parking places), after paragraph (6) there shall be inserted the following paragraph—

“(6A) An order under paragraph (4) may—

- (a) specify any road by reference to a map prepared under Article 36 of the Traffic Management (Northern Ireland) Order 2005 which is not part of the order; and
- (b) provide that the order shall have effect as if the map were part of the order.”.

(3) In Article 15 of the 1997 Order (designation of parking places on roads for which charges may be made), after paragraph (4) there shall be inserted the following paragraph—

“(4A) An order under paragraph (1) may—

- (a) designate a parking place or specify a public road by reference to a map prepared under Article 36 of the Traffic Management (Northern Ireland) Order 2005 which is not part of the order; and

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(b) provide that the order shall have effect as if the map were part of the order.”.

Miscellaneous

Acquisition of land for purposes of functions of Department under this Order or 1997 Order

38. (1) In Article 110(1) of the Roads (Northern Ireland) Order 1993 (NI 15) (acquisition of land for purposes of functions of Department under that Order), after the words “this Order” there shall be inserted the words “ the Road Traffic Regulation (Northern Ireland) Order 1997 or the Traffic Management (Northern Ireland) Order 2005, ”.

(2) In Article 118(1) of that Order (power to obtain information as to ownership of land), after the words “this Order” there shall be inserted the words “ the Road Traffic Regulation (Northern Ireland) Order 1997 or the Traffic Management (Northern Ireland) Order 2005, ”.

Parking charges

39. The following provisions of the 1997 Order (provisions for different kinds of charges for the use of parking places) shall cease to have effect—

- (a) in Article 2(2), the definitions of “excess charge” and “initial charge”;
- (b) Article 13(3) and (4);
- (c) Article 14(3)(b);
- (d) Article 16(1); and
- (e) in Article 19—
 - (i) in paragraph (1)(a)(ii), the words “after the excess charge has been incurred”; and
 - (ii) paragraph (7).

Disposal of abandoned vehicles under 1997 Order

40. (1) Article 52 of the 1997 Order (disposal of abandoned vehicles by Department) shall be amended as follows.

(2) In paragraph (1), after the words “13 or 15” there shall be added the words “ or of Article 21 of the Traffic Management (Northern Ireland) Order 2005 ”.

(3) In paragraph (4)(b), for the words “such sums as may reasonably have been incurred in respect of the removal and storage of the vehicle” there shall be substituted the words “ the relevant charges ”.

(4) In paragraph (5), for the words “reasonable costs of the removal, storage and disposal of the vehicle” there shall be substituted “ relevant charges ”.

(5) After paragraph (6) there shall be added the following paragraph—

- “(7) In paragraphs (4) and (5) “relevant charges” means—
- (a) any penalty charge payable in respect of the vehicle;
 - (b) any sum recoverable from the owner of the vehicle;
 - (c) the reasonable costs of the removal and storage of the vehicle; and
 - (d) in paragraph (5) the reasonable costs of the disposal of the vehicle.”.

Procedure for making traffic regulation orders, etc.

41. (1) Schedule 1 to the 1997 Order (traffic regulation orders) shall be amended as follows.

(2) In paragraph 3 (publication of notice before making traffic regulation order)—

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- (a) in sub-paragraph (2)—
 - (i) in head (c), after the words “any road” there shall be inserted the words “ or area ”;
 - (ii) in head (d), the words “in that area” shall cease to have effect;
- (b) in sub-paragraph (5)—
 - (i) the words “in respect of a road” shall cease to have effect;
 - (ii) for the words “area in which the road is situated” there shall be substituted the words “ district where the order will apply ”.
- (3) In paragraph 6(1)(b) (publication of notice after traffic regulation order is made), for the words “area in which any road to which the order relates is situated” there shall be substituted the words “ district where the order applies ”.
- (4) Schedule 2 which makes similar amendments of Schedules 2 to 6 to the 1997 Order shall have effect.

Relationship between traffic regulation orders and earlier provisions

42. (1) The power of the Department to make any provision under Article 4 of the 1997 Order (traffic regulation orders) includes, and shall be deemed always to have included, any power conferred by Article 21 or 22 of the 1981 Order (powers to control traffic).

(2) Without prejudice to paragraph (1), a traffic regulation order may amend, revoke or reproduce with or without modifications any provision to which paragraph (4) applies.

(3) Paragraph 1(1) of Schedule 1 to the 1997 Order (procedure for making traffic regulation orders) shall not require the Department to comply with paragraphs 2 and 3 of that Schedule (consultation and publication of notices) in respect of any provision of a traffic regulation order which revokes or reproduces with or without modifications any provision to which paragraph (4) applies.

(4) This paragraph applies to any provision which was—

- (a) made under Article 21 or 22 of the 1981 Order, or
- (b) had effect, immediately before the commencement of Article 4 of the 1997 Order, as if made under Article 21 or 22 of the 1981 Order.

(5) Any reference in the 1997 Order to a traffic regulation order includes, and shall be deemed always to have included, any provision to which paragraph (4) applies.

(6) In this Article—

“1981 Order” means the Road Traffic (Northern Ireland) Order 1981 (NI 1);

“traffic regulation order” means an order under Article 4 of the 1997 Order.

Power to make consequential amendments of traffic regulation orders, etc.

43. The Department may by order make such amendments or revocations as appear to it necessary or expedient in consequence of this Order—

- (a) of any provision made under Article 4, 10, 13 or 15 of the 1997 Order (traffic regulation orders and orders relating to parking places); or
- (b) of any provision to which Article 42(4) applies (provisions under earlier legislation).

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False representations

44. A person who makes a representation under this Order which is false in a material particular and does so recklessly or knowing it to be false shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Service of documents

45. For the purposes of this Order section 24 of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents) shall apply as if the word “registering” were omitted from subsection (1).

Regulations

- 46.** (1) ^{F10} . . . Regulations made under this Order shall be subject to negative resolution.
(2) ^{F11}

Annotations:
F10 Words in art. 46(1) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 164(2)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
F11 Art. 46(2) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 164(2)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Repeals

47. The statutory provisions specified in Schedule 3 are hereby repealed to the extent specified in the second column of that Schedule.

Annotations:
Commencement Information
I6 Art. 47 wholly in force at 30.10.2006; art. 47 in force for certain purposes at 20.8.2005 see art. 1(2); and wholly in force at 30.10.2006 by S.R. 2006/347, **art. 2**, Sch.

A. K. Galloway
Clerk of the Privy Council

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SCHEDULES

SCHEDULE 1

Article 4(2)

CONTRAVENTIONS SUBJECT TO PENALTY CHARGES

Offences under the 1997 Order

An offence under Article 4(5), 5(9), 7(9) or 8(3) of contravening a prohibition or restriction on the waiting of vehicles in any public road or in any area or the loading or unloading of vehicles.

An offence under Article 14(1).

An offence under Article 19(1) or (3) (certain offences relating to parking places on roads where charges may be made).

[^{F12}An offence under Article 27A(2).]

Annotations:

F12 Words in Sch. 1 inserted (23.11.2009) by Taxis Act (Northern Ireland) 2008 (c. 4), ss. 58(1), 59, Sch. 2 para. 13(a); S.R. 2009/352, art. 2, Sch.

An offence under Article 59(4) (contravention of regulations relating to pedestrian or other crossings).

Other offences

An offence under Article 50 of the Road Traffic (Northern Ireland) Order 1995 (NI 18) of contravening an indication given by a traffic sign of a type shown in diagram 636 of Schedule 2 to the Traffic Signs Regulations (Northern Ireland) 1997 (S.R. 1997 No. 386) (temporary prohibition of waiting except for loading and unloading) (construing the reference to the traffic sign in accordance with regulation 4(b) of those Regulations).

[^{F13}An offence under that Article of contravening in respect of a stationary vehicle a traffic sign indicating a prohibition on the use of vehicles under the following orders—

- (a) The Prohibition of Traffic (Royal Avenue and Rosemary Street, Belfast) Order (Northern Ireland) 1990;
- (b) The Prohibition of Traffic (Dunluce Street, Larne) Order (Northern Ireland) 1992;
- (c) The Prohibition of Traffic (North Street, Carrickfergus) Order (Northern Ireland) 1993; and

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(d) The Prohibition of Traffic (Church Lane, Portadown) Order (Northern Ireland) 1999.]

Annotations:

F13 Words in Sch. 1 inserted (30.4.2008) by Penalty Charges (Additional Contravention) Regulations (Northern Ireland) 2008 (S.R. 2008/78), reg. 2

An offence under that Article of contravening in respect of a stationary vehicle a traffic sign indicating a prohibition or restriction under an order under Article 100(1) of the Planning (Northern Ireland) Order 1991 (NI 11) on the use of vehicles on a road (within the meaning of that Order of 1991).

An offence under any statutory provision of contravening a prohibition or restriction on the use of a stand or starting place for taxis or taxis of a particular description by a vehicle which is not a taxi or not a taxi of that description (“taxi” meaning a public service vehicle within the meaning of the Road Traffic (Northern Ireland) Order 1981 which seats not more than eight passengers or such number less than eight as applies for the purposes of the prohibition or restriction).

Exceptions

This Schedule does not apply to an offence under Article 4(5), 5(9), 7(9) or 8(3) of the 1997 Order where a person contravenes a prohibition or restriction by causing or permitting a vehicle to wait—

- (a) in such a position as to obstruct access to any premises; or
- (b) (unless the prohibition or restriction is indicated by a traffic sign) in a public road within 15 metres of its junction with any other road.

This Schedule does not apply to an offence under Article 14(1) of the 1997 Order where a person otherwise than as authorised by a licence under Article 13(14) of that Order uses part of an off-street parking place as mentioned in Article 13(14) of that Order.

SCHEDULE 2

Article 41(4)

AMENDMENTS OF SCHEDULES 2 TO 6 TO THE 1997 ORDER

1. Amend the 1997 Order as follows.
2. (1) Amend Schedule 2 to the 1997 Order (experimental traffic schemes) as follows.
 - (2) In paragraph 4—
 - (a) in sub-paragraph (1) for “area in which any road to which the scheme relates is situated” substitute “ district where the scheme applies ”;
 - (b) in sub-paragraph (2)—
 - (i) in head (c), after the word “road” insert “ or area ”;
 - (ii) in head (d), omit “in that area”.
 - (3) In paragraph 7(1)(b)(ii), for “area in which any road to which the scheme relates is situated” substitute “ district where the scheme applies ”.

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(4) In paragraph 9, for “area in which any road to which the scheme relates is situated” substitute “district where the scheme applies”.

(5) In paragraph 10(2), for “area in which any road to which the provision relates” substitute “district where the provision applies”.

3. (1) Amend Schedule 3 (temporary traffic regulation) as follows.

(2) In paragraph 2, for “area” substitute “district”.

(3) In paragraph 5(a), omit “in the area”.

4. (1) Amend Schedule 4 (orders under Article 10, 13 or 15) as follows.

(2) In paragraph 3—

(a) in sub-paragraph (1), for “area” substitute “district”;

(b) in sub-paragraph (2)(d), omit “in that area”.

(3) In paragraph 6(b), for “area” substitute “district”.

(4) In paragraph 7(1), for “area” substitute “district”.

5. (1) Amend Schedule 5 (orders under Article 36(3)(a), 37 or 38) as follows.

(2) In paragraph 3—

(a) in sub-paragraph (2)(d), omit “in that area”;

(b) in sub-paragraph (4), for “area” substitute “district”.

(3) In paragraph 6(b), for “area” substitute “district”.

6. (1) Amend Schedule 6 (inquiries) as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1)(b), for “area” substitute “district”;

(b) in sub-paragraph (2)(f), omit “in that area”.

SCHEDULE 3

Article 47

REPEALS

Annotations:**Commencement Information**

17 Sch. 3 wholly in force at 30.10.2006; Sch. 3 in force for certain purposes at 20.8.2005 see art. 1(2); Sch. 3 in force at 30.10.2006 in so far as not already in force by S.R. 2006/347, art. 2, Sch.

Short Title

The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10).

The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2).

Extent of repeal

In Part I of Schedule 1, the entries relating to Articles 56 and 57 of the Road Traffic Regulation (Northern Ireland) Order 1997.

In Article 2(2), the definitions of “excess charge” and “initial charge”.

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Article 13(3) and (4).

Article 14(3)(b).

Article 16(1).

In Article 19, in paragraph (1)(a)(ii), the words “after the excess charge has been incurred” and paragraph (7).

Articles 56 and 57.

In Schedule 1, in paragraph 3(2)(d), the words “in that area”.

In Schedule 2, in paragraph 4(2)(d), the words “in that area”.

In Schedule 3, in paragraph 5(a), the words “in the area”.

In Schedule 4, in paragraph 3(2)(d), the words “in that area”.

In Schedule 5, in paragraph 3(2)(d), the words “in that area”.

In Schedule 6, in paragraph 1(2)(f), the words “in that area”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order introduces a system of penalty charging for certain road traffic contraventions. It confers powers on the Department to immobilise or remove vehicles where a penalty charge is payable or recoverable from their owners. It also makes miscellaneous amendments, including amendments for the recognition of disabled persons' badges issued outside Northern Ireland.

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 1 words inserted by 2008 c. 4 (N.I.) Sch. 2 para. 13(a)
- Sch. 1 words substituted by 2008 c. 4 (N.I.) Sch. 2 para. 13(b)
- art. 16(3) words inserted by 2010 c. 14 (N.I.) Sch. 2 para. 7(1)
- art. 29(1) words substituted by 2009 c. 3 Sch. 4 para. 42(2)
- art. 29(4A) inserted by 2009 c. 3 Sch. 4 para. 42(3)
- art. 29(4A) words substituted by 2010 c. 3 (N.I.) Sch. para. 17
- art. 29(5) word substituted by 2009 c. 3 Sch. 4 para. 42(4)
- art. 29(6) omitted by 2009 c. 3 Sch. 4 para. 42(5)
- art. 29(7) words substituted by 2009 c. 3 Sch. 4 para. 42(6)
- art. 29(8) omitted by 2009 c. 3 Sch. 4 para. 42(7)
- art. 30(1) words inserted by 2010 c. 14 (N.I.) Sch. 2 para. 7(2)
- art. 31(2) transfer of functions by S.R. 2011/44 art. 7
- art. 46(1) words omitted by S.I. 2010/976 Sch. 18 para. 164(2)(a)
- art. 46(2) omitted by S.I. 2010/976 Sch. 18 para. 164(2)(b)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Order transfer of functions by S.I. 2010/976 Sch. 17 para. 55

Commencement Orders yet to be applied to the The Traffic Management (Northern Ireland) Order 2005

Commencement Orders bringing legislation that affects this Order into force:

- S.I. 2010/812 art. 2 commences (2009 c. 3)
- S.R. 2009/352 art. 2 commences (2008 c. 4 (N.I.))
- S.R. 2010/147 art. 2 commences (2010 c. 3 (N.I.))



Northern Ireland
Assembly

Appendix 6

List of Witnesses

List of Witnesses

Mr Gerry Anketell, Department for Regional Development
Mr Terry Deehan, Department for Regional Development
Mr Seán McConnell, Department for Regional Development
Mr David Millar, Department for Regional Development

Mr Glyn Roberts, Northern Ireland Independent Retail Trade Association

Mr Adrian Farrell, Portadown Chamber of Commerce

Mr Damian Connolly, Belfast City Council
Mr Mark McBride, Belfast City Council
Ms Cathy Reynolds, Belfast City Council
Ms Siobhan Toland, Belfast City Council

Mr Paul Casey, Antrim and Newtownabbey District Council
Mr Hugh Kelly, Antrim and Newtownabbey District Council

Ms Anne Donaghy, Mid and East Antrim District Council
Councillor Timothy Gaston, Mid and East Antrim District Council
Councillor Gordon Lyons, Mid and East Antrim District Council
Councillor Tommy Nicholl, Mid and East Antrim District Council

Alderman Arnold Hatch, Northern Ireland Local Government Association
Mr Derek McCallan, Northern Ireland Local Government Association
Councillor John O' Kane, Northern Ireland Local Government Association
Mr Stephen Reid, Northern Ireland Local Government Association
Mr Jonathan Glendinning, Fermanagh and Omagh District Council
Mr Kevin O'Gara, Fermanagh and Omagh District Council

Councillor Cáthal Mallaghan, Mid Ulster District Council
Mr Adrian McCreesh, Mid Ulster District Council
Councillor Kenny Reid, Mid Ulster District Council
Mr Anthony Tohill, Mid Ulster District Council



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