

## **Influence of Committee for Social Development on legislation introduced to the Assembly in the 2011-16 Mandate.**

The note that follows contains information on the work of the Committee for Social Development on legislation introduced to the Assembly in the 2011-16 Mandate.

It provides examples of how the Committee has exercised influence in order to amend primary legislation and may, in part, assist in consideration of the following past exam questions.

### **Related AS questions**

#### **January 2014**

(b) Assess the view that since 2007 the Assembly has been a legislative success.

#### **January 2012**

1. With reference to the source and any other relevant material you have studied, explain two ways in which MLAs can influence legislation.

#### **May 2011**

1. With reference to the source and any other relevant material you have studied explain two functions of Assembly Statutory Committees.

2. With reference to the source and any other relevant material you have studied, explain why Assembly Statutory Committees have been considered a success.

Assess the extent to which Members of the legislative Assembly have been successful in carrying out their functions.

#### **May 2010**

3. (a) Assess the legislative record of the Assembly since it was elected in 2007.

Assess the record of the Assembly, since 2007, in holding the Executive Committee to account.

## Overview of legislation considered by the Committee for Social Development

Over the course of the 2011-2016 Mandate the Committee for Social Development considered 10 pieces of primary legislation (Bills). These were two Pensions Bills (in 2012 and 2015); the Charities Bill; the Business Improvement Districts Bill; the Welfare Reform Bill; the Licensing of Pavement Cafes Bill; the Regeneration Bill; the Housing (Amendment) Bill; the Houses in Multiple Occupation Bill; and the Licensing Bill.

Reports on each of these bills can be found [here](#).

In addition, it was content for 1 other bill to proceed by Accelerated Passage; considered 3 Legislative Consent Motions; and scrutinised over 240 pieces of Subordinate Legislation.

### The Pensions Bill

The Pensions Bill of 2012, which the Committee began considering in June of that year, reflected the provisions in the Westminster Pensions Bill that was making its way through the House of Commons at the same time. Of particular importance was the provision in clause 1 of the Pensions Bill to accelerate the equalisation of the pension age between men and women i.e. to increase the pension age of women to 65 by November 2018, rather than the original timescale of April 2020, thus bringing it forward by 18 months.

The Committee's [report](#) noted the adverse impact this would have on some 7000 women (depending on their birth date) who would see their pension age increase sooner than expected and therefore the start time for them to claim state pension delayed by up to 18 months. Some members of the Committee felt this was unfair and the Committee explored the projected cost of the Executive underwriting this 18 month period thus allowing the women to retire at the time they had previously expected to do so. During the Committee Stage (2 February 2012) the Department estimated that it would cost approximately £57m to pay the women their pension from the time they had expected to retire rather than in accordance with the newly proposed timetable (paragraph 636 of report).

When the Committee considered the Bill at the formal clause by clause stage, where the Chair puts the question as to whether the Committee agrees with the clause as drafted, the Committee agreed by a majority of 4 to 3 that it was *not* content with clause 1. The Committee did not however propose an amendment to the clause.

Noting that the Committee position was carried on a 4-3 vote, reflecting 3 Sinn Fein and 1 SDLP voting against the clause and 3 DUP in support of the clause, with 2 abstentions (1 UUP and 1 Alliance) it is reasonable to suggest that the breakdown in the Committee vote reflected Party positions. Indeed, when the Bill was debated at Consideration Stage in the Assembly on 27 March 2012 a majority of members of

the Assembly voted in *favour* of this clause in accordance with Party position, rather than the official Committee position or in support of amendments proposed by a member of the committee, Mark H Durkan.

It is evident therefore that a Committee position, adopted on the basis of a majority position, may not carry in the Assembly. However, this should not come as a surprise or necessarily be seen as a deficiency of the system – the Committee report and its decisions are not binding on the Assembly; rather they are to act as a guide.

The fact that £57m would have had to be found from other departmental budgets was evidently enough to convince members that parity should be maintained with Westminster on this issue. In fact, this was the overriding reason members gave during Consideration Stage on 27 March 2012 when the then Minister for Social Development gave a figure of £270m as the *actual* cost in returning to the original timetable for equalisation of pension age between men and women.

### **The Welfare Reform Bill**

The most contentious bill considered by the Committee over the Mandate was of course the Welfare Reform Bill considered by the Committee in 2012/13 session and which the Committee [reported](#) on in February 2013. Despite the subsequent political disagreement on the way forward it should be remembered that the Committee *unanimously* agreed its report which included opposition to a number of clauses and recommendations in relation to mitigation measures.

As with the 2012 Pensions Bill the report noted that there would be considerable costs associated with mitigation measures and, as these could not be borne by the Department for Social Development alone, any recommendations that had additional costs associated with them would have to be discussed and agreed by the Executive Committee.

As noted in the report:

*Members felt that this approach allowed the Minister the flexibility to engage with Executive colleagues on the potential to fund these recommendations and therefore offered the best possibility for adoption of a range of mitigation measures to address their concerns and those of stakeholders.*

Therefore this (unanimous) report arguably set the scene for two years of (protracted) negotiation between the parties and the British Government on welfare reform which ultimately led to the [Welfare Reform Mitigations Working Group Report of January 2016](#) and the Executive agreeing *not* to implement certain aspects of the legislation.

For example, in its report the Committee recommended the Minister reconsider varying the sanction regime which included the possibility of a 3-year sanction for those people who avoided work-related requirements associated with their benefit claim. The Executive agreed that in NI that period would only be for 18 months.

Similarly, the Committee unanimously opposed the introduction of the so-called 'bedroom tax' (Clause 69: Housing Benefit: determination of appropriate maximum) which would have impacted on 33000 tenants in receipt of housing benefit. At the time this was estimated to cost approximately £18m *not* to implement. In the Stormont Castle Agreement the parties agreed to fund the cost of not implementing this measure.

Another key issue was the regularity of payments to benefit claimants. The Bill envisaged benefits being made to claimants on a monthly basis rather than twice monthly as was the norm. One concern of the Committee related to the financial capability of some claimants to budget over a monthly period rather than the two week period they were used to and that this may cause them to resort to loans to bridge any financial gap. The Committee therefore advocated a twice monthly payment by default with an option for monthly payments if requested. This approach was ultimately adopted by the Minister.

Similarly, housing associations raised concerns about rent (in the form of housing benefit) being paid directly to the tenant rather than the landlord. These relate to the possibility of tenants falling into rent arrears which could lead to eviction. The Committee agreed with this view and supported housing benefit being paid directly to landlords. Again, the Minister (and Executive) ultimately supported this view.

The Committee in its report also noted the importance that the Advice Sector plays in providing advice on the benefits system to claimants and the potential increase in the demand for advice services as a result of the changes to the benefits' system. The Committee recommended that additional resources are made available to the independent advice sector, including local advice centres, in NI during this period and subsequent years, to ensure that all benefit claimants can access independent advice relating to the new system.

As can be seen from Appendix 3 of the report of the Working Group the Group also agreed that additional resources should be provided over 4 years, amounting to some £8m.

Over 30 separate organisations gave oral evidence to the Committee and it received over 50 written submissions. The Committee's report therefore reflects the concerns that civic society had about the potential impact of the Bill and its recommendations aimed to address these. While the legislative process of the original Bill was halted it is evident that the huge amount of evidence collated by the Committee and recommendations made by it are reflected in the recommendations of the Working Group which were adopted by the Executive in February 2013. Therefore, while it

may have been a circuitous route, the Committee did influence the Executive to agree the content of the mitigation measures. Furthermore, the Committee recently fulfilled one aspect of its statutory role by recommending at its meeting of March 10, 2013 that the Assembly affirm the subordinate legislation (Statutory Rule: The Welfare Supplementary Payments Regulations (Northern Ireland) 2016) which gives effect to some of these mitigation measures. The Assembly subsequently did affirm this legislation on March 14, 2013.

## **The Licensing of Pavement Cafes Bill**

In its consultation paper on Business Improvement Districts and Licensing of Pavement Cafés in 2010, the Department of Social Development noted that:

*There has been a significant increase in the number of pavement cafés operating in towns and cities across Northern Ireland, particularly since the 2007 introduction of the smoking ban. However, no legislation exists to enable the authorisation and control of such areas.*

The key aim of the Licensing of Pavement Cafés Bill was to address this deficiency in regulation by introducing a mandatory licensing scheme for pavement cafés. While this may seem an innocuous issue for many it had greater resonance for people with disabilities who found unregulated pavement cafes a hindrance to free movement on the footpath and a potential safety hazard.

In its [report](#) the Committee recommended that the Minister amend two clauses. The Committee proposed that Clause 14 be amended. This clause deals with the revocation of a pavement café licence. The Committee felt that Clause 14(1)(d) which allows a council to revoke a pavement café licence at any time if it is satisfied that *'any condition of the licence has not been complied with'* was too broad. The Committee was of the opinion that strict interpretation of this clause could allow the revocation of a licence even when there were very minor breaches of conditions.

The Minister considered the Committee's view, and agreed to amend the clause to refer to 'persistent breaches' of conditions. The amended clause is included in the Committee's clause-by-clause consideration on page 15 of its report.

The Committee also raised issues about the duration of a licence and noted that the Minister should reconsider the right of appeal on this matter. Subsequently the Minister agreed to amend clause 21 in order to extend the right of appeal to a decision to limit the duration of a licence.

While these are two clear examples of how the Committee can exert influence during the Committee Stage of the Bill it is also noteworthy that the Committee continued to follow up with the Department and stakeholders on the content of the guidance which was to accompany the legislation. The Committee had sought assurances

from the Minister that the guidance would, in particular, address the concerns of people with disabilities.

During the [Consideration Stage](#) debate the Minister stated:

*The Committee recommended that the guidance address a number of issues to safeguard the interests of pedestrians, particularly those with disabilities. I confirm that the guidance will address the issues raised by the Committee. Indeed, the guidance will place strong emphasis on putting the access needs of pedestrians at the heart of the licensing regime.*

However, the Committee was briefed by The Inclusive Mobility and Transport Advisory Committee (Imtac) and Guide Dogs for the Blind on 11 June 2015 who noted their dissatisfaction with the guidance. As a result of this briefing the Committee wrote to the Department highlighting its concerns about the draft guidance. Subsequently the Department made a number of amendments to the guidance which were acceptable to Imtac/Guide Dogs for the Blind and to the Committee. The Committee welcomed and acknowledged the positive amendments to the guidance at its meeting of [19 November 2015](#).

## **The Housing Amendment Bill**

This Bill was introduced to the Assembly on 30 June 2015 and the Committee released its [report](#) on 7 January 2016.

The political situation in September/October 2015 meant that it was unclear when the Second Stage of the bill would take place and, therefore, when the Committee Stage would begin. Noting the potential impact on the time the Committee would have to consider the bill as a result of this delay, the Committee agreed to proceed with oral evidence sessions in advance of the bill reaching Second Stage and being formally referred to the Committee.

The bill was, by design, limited in scope. It encompassed three areas:

- Sharing of information relating to empty properties;
- Disclosure of information relating to anti-social behaviour; and
- Registration as statutory charge of certain loans.

One of the key issues to emerge during discussions with stakeholders was the appropriateness of the information-sharing provisions of clause 2 which relate to anti-social behaviour and related definitions. One stakeholder in particular, Housing Rights, highlighted its concerns with the definition of “relevant information” and “relevant purpose” in respect of clause 2. They felt that there were two grounds proposed for inclusion in the bill which did not relate to anti-social behaviour and

which should therefore not be included. These were ground 1-usually related to rent arrears and ground 3 – related to neglect of property.

Housing Rights felt that, if included, these grounds would broaden the scope of landlords to pursue possession action (i.e. evict tenants). In other words they were concerned that the inclusion of various additional grounds for possession were not linked to anti-social behaviour, would potentially put tenants at risk of eviction and should therefore be removed.

The Committee discussed this issue at length with the Department. In the end, the Department stated that while the Minister did not believe that the references to grounds 1 and 3 in the bill do go beyond what is necessary, if the Committee requested their removal from the bill, he would accept this in order to ensure the bill's timely progress through the Assembly.

At its meeting of 10 December the Committee agreed that reference to grounds 1 and 3 in clause 2 should be removed by way of an amendment provided by the Minister.

The Minister subsequently tabled amendments to reflect the Committee's position. During the [debate](#) on the 1<sup>st</sup> February 2016 the Minister made the following statement:

*The Social Development Committee took the view that any application for an order for possession that relates to any description of antisocial behaviour can be made under ground 2, and that it is not necessary for clause 2 to provide for the disclosure of information relating to any other grounds. I accept this view and have therefore tabled amendments that would remove the references to grounds 1 and 3 from this clause.*

## **The Houses in Multiple Occupation Bill**

The aim of this bill was to improve the regulation of houses in multiple occupation (HMO) by introducing a licensing regime. Associated with this are provisions that will require a HMO to meet certain standards. For example, the size of room, numbers of people and the range of facilities are considered as part of the licensing regime.

While the Committee was generally supportive of the bill it raised specific issues on some clauses following consideration of written and oral briefings from stakeholders. Details of these can be found in the Committee's [report](#). This led to the bill being amended by the Department specifically in relation to clauses 3, 10, 28, 62, 83, 88, and schedules 1 and 2. There were many more *consequential* amendments as a result of these changes – see p.9-28 of the plenary debate on the [Consideration Stage](#).

For example, under Schedule 1 the Department intended to exclude hostels and refuges from the definition of HMO (and therefore not subject to the provisions of the Bill) if they were owned or managed by housing associations or the NIHE. The Committee noted that hostels/refuges could be owned by a housing association or NIHE but managed by a third party on their behalf. The Committee felt as these types or properties hold some of the most vulnerable members of society they would benefit from being covered by the new HMO regulatory regime. As a result a slight amendment was drafted to Schedule 1 whereby the control aspect is removed and only those managed directly by HA/NIHE are excluded from the HMO definition.

The Committee was concerned that clause 83 could lead to the diminution of tenants' rights in seeking redress for a landlord's failure to address sub-standard accommodation. In considering the Committee's position and that of the Attorney-General, who noted this provision wasn't required since it would be covered under common law, the Department agreed to remove this clause.