

Causeway Coast & Glens

District Council

To: Shadow Council

Date: 26th February 2015

Consultation report

1. Department of the Environment – Statutory Guidance for the Operation of Community Planning – Local Government Act (Northern Ireland) 2014 – A Consultation Paper

The Department of the Environment proposes to introduce statutory guidance to assist councils and their community planning partners in the operation of their new duty of community planning from 1st April 2015.

NILGA has prepared a draft response to the consultation document, attached at Appendix 1. Council's comments on the draft are requested.

The closing date for the DoE consultation is 9th March 2015.



NILGA response to the DOENI Consultation on Draft Statutory Guidance for the Operation of Community Planning

27th January 2015

INITIAL DRAFT – WITHOUT PREJUDICE

The following response was drafted further to local government officer consideration of the issues involved, and is now forwarded to councils for comment, and to assist in developing local responses.

This response will be considered and finalised by the NILGA Executive on 13th February, and NILGA would be grateful for receipt of any additional comments or views from shadow councils prior to that date, if possible. The response date for this DOENI consultation is 9th March 2015.

Any queries in relation to this paper should be directed to Karen Smyth at the NILGA office. k.smyth@nilga.org (028 9079 8972).

**Derek McCallan
Chief Executive**

27th January 2015

1.0 Introduction

The Northern Ireland Local Government Association is the representative body for district councils in Northern Ireland. The membership is currently comprised of the 26 local borough, district and city councils. NILGA represents and promotes the interests of local authorities and is supported by all the main political parties in Northern Ireland, and will be reconstituted to align with the new 11 councils for April 2015.

Council-led community planning will be hugely important for local government, and for all residents of Northern Ireland. NILGA was therefore keen to respond to this consultation, in collaboration with community planning officers from the 11 shadow councils.

We trust that the views of local government will be taken into account, and look forward to working with the Department, the 11 councils, and the future statutory and non-statutory partners as the new community planning system develops in Northern Ireland.

2.0 Context

The following comments are made in relation to the structure and content of the draft 'Statutory Guidance for the Operation of Community Planning', published for public consultation in December 2015.

This response provides views on:

- Key issues for councils arising from the guidance
- The questions posed by the department within the consultation document
- Issues with the structure and content of the document – suggested amendments

The drafting of this response was informed by a meeting of community planning officers on 22nd January 2015, held to discuss concerns with the Statutory Guidance document and to provide suggestions as to how it could be improved.

3.0 Key Issues

3.1 Timing of Consultations

As observed previously, in our response to the consultation on the draft Local Government (Statutory Partners) Order (NI) 2015, the finalised statutory guidance, and indeed the community planning process as a programme of work, will be heavily dependent on how the service delivery providers within departments are to be categorised within the community planning context. This draft response has been written prior to the publication of the finalised Order, or even the Department's response to the information it received via the consultation. There is therefore a certain degree of speculation in the following response, based on informal conversations with Departmental officials, and these areas of uncertainty are clearly outlined.

3.2 Differences in Language used throughout the draft Guidance document

Whilst accepting that the duties placed on councils, partners and departments are different in legislation, it is noticeable throughout the guidance document that the language used in relation to councils is much stronger than that used for other participants, and this difference is marked when contrasting the treatment of councils to that of partners and departments. Paragraphs 3.14, 3.16 and paragraphs 3.17 - 3.21 in particular, require a great deal of strengthening. Local government would be keen to see these paragraphs rewritten in stronger, more positive, action-oriented terms – more 'must' rather than 'should'.

Paragraph 3.21 whilst strengthened somewhat by the inclusion of the input of the Partnership Panel, is still placing a very loose commitment on central government departments. Where the evidence based needs and priorities of a District Council area *clearly demonstrate* the requirement for central government action and contribution, departments must be required to participate in Community Planning at local level. The current wording is completely unsatisfactory – i.e. "It is possible that departments **may** be invited to participate in Community Planning at local level... and it is for each department to **consider** the implications of this in consultation with local government." This undermines any potential for Councils to guarantee the necessary input from central government to the Community Planning process.

Conversely, the document is perhaps too flexible in relation to community engagement, and the Department should note that meaningful community engagement is likely to be a key driver for elected member buy-in. It is accepted however, that there is a need to allow some local flexibility in how the community is engaged. The principle of *accountability* to communities should be promoted more clearly, whilst avoiding the guidance becoming too prescriptive.

The style of the language changes throughout the document. It is not always clear if it is aimed at the elected members, officers, partners or community representatives. It is difficult to create a middle ground in guidance which has to be appropriate for such a wide audience, but this Guidance falls short. For example Paragraph 5.2 states 'Nevertheless, the Minister intends that....' which is not appropriate language for the main body of the guidance document and would be better placed in the foreword.

The document is repetitive as it explains and paraphrases the Act several times (such as 'the community planning process includes the production and review of the community plan') which gives an impression that it is lacking in substance.

3.3 Role of Ministers and Departments

As the Department for Environment will already be aware, councils are keen to ensure that departments are fully aware of, and prepared for, a substantive participative role in the community planning process, and that this is especially true of departments with direct service delivery responsibilities. **The overwhelming view of councils is that if 'buy-in' from government departments cannot be achieved, then council-led community planning will face significant difficulty.** We need to see tangible commitments emerging at an early stage of the community planning process.

NILGA is keen to ensure that Ministers are fully supportive of the community planning process through the work of the Political Partnership Panel, and that they drive the effort to encourage departments to work better together with each other, and with local government. NILGA is keen to work towards a better system of government in Northern Ireland, with the Programme for Government and council-led plans designed and operating in an integrated way, potentially working towards a system of Single Outcome Agreements and/or a One Public Estate programme tailored to Northern Ireland arrangements.

In the short-term absence of direction arising from the Department's consultation on the Statutory Partners Order, NILGA would again emphasise that given the peculiarity of Northern Ireland government, in that departments deliver services as well as policy, more thought needs to be given as to how to tie Departments more effectively into the process.

The Department is therefore again strongly encouraged to explore the possibilities for drawing Departments into the Community Planning Process, preferably as statutory partners, and to ensure this is done for what are critically important areas of work. In particular, a focus is required on the involvement of the Department of Employment and Learning (responsible for job centres) and Department for Regional Development (particularly Transport NI and Public Transport Services).

The constraints affecting the ability of these Departments to be statutory partners must be identified and satisfactorily addressed. This may be a longer term exercise than can be addressed through this consultation and may require changes to Primary legislation. NILGA would support the Department in relation to any efforts made in this regard. The necessity for central government departments to *financially* engage in community planning to make it a success, is also highlighted.

It would be useful in the short-medium term, to explore the potential, for example, for a system of SLAs or MOUs between key departments and the 11 councils, to further expand on the Departments' duty to 'promote and encourage'. **This must be considered in the guidance, and we would therefore propose that a section in this regard is inserted into the document after a strengthened paragraph 3.21.**

The underlying principle for identifying and involving statutory – and indeed, non-statutory - community planning partners should be based on their contribution to achieving the agreed community planning outcomes. Involvement should not be based merely on the legal/organisational status of the potential partner.

Councils have been encouraged to provide the DOENI with examples of difficulties experienced locally, as a result of the service delivery units of departments working at cross purposes with other potential community planning partners, adversely impacting on local development and regeneration projects.

3.4 Concerns re Resourcing

NILGA has some concerns that scepticism may develop quickly in relation to community planning amongst members, particularly if there is difficulty in identifying funding streams for this work. Councils, even after the 2015 reforms, will be responsible for managing less than 6% of the public sector budget, and will be faced with negotiating shared community planning budgets with departments and agencies with much more financial 'clout'. Councils will have a huge job in managing the expectations of the community and the current budgetary environment could actively work against these new local plans and policies. Local government will be keen to promote community planning as a means of using money more effectively across government, but this will require the policy support of DOENI, not least in the finalised Statutory Guidance document. Additionally, a united voice from the Political Partnership Panel as a driver for change, requiring ongoing government commitment and the related revision of the Programme for Government, will be crucial to the operation of community planning, and the provision of necessary finances.

3.5 Links to other Policy and Strategy

3.5.1 Equality, Good Relations and Social Inclusion

NILGA would be keen to ensure that this section also explicitly referenced the Racial Equality Strategy.

3.5.2 Sustainable Development

NILGA has serious concerns in relation to the policy drift on sustainable development. The implementation plan has run its course and there is no sign of a revised plan, or strategy. Councils have been active in working towards compliance with the statutory duty, and it is now clear that this

duty has been expanded through the Local Government (NI) Act 2014, particularly in its references to well-being in S66(2) and to sustainability in the general duty of improvement at S84.

It would appear that the Act is giving councils increased responsibility at local level for delivery of what was a central government role, and it will be vitally important that clear guidance is produced in relation to these enhanced and codified responsibilities. It is acknowledged that this may take some time, and that there will be a need to work closely with DFP, Carnegie and potentially the Cabinet Office What Works centres, to develop this work.

3.5.3 Rural Proofing

On the basis of recent policy meetings with DARD officials, NILGA has been made aware that the Agriculture and Rural Development Minister is keen to link her proposed new policy and legislation on Rural Proofing to the council-led community planning process. A consultation process is soon to commence, which will last for 8 weeks, the new maximum consultation period under the terms of the Stormont House Agreement.

Given the crossover between the two consultation periods, NILGA would suggest that DOE officials and DARD officials meet to discuss the potential for and timing of an addendum to the Statutory Guidance in relation to Rural Proofing legislation.

3.6 Links to Performance Management

The links between community planning and the forthcoming council performance management framework will need to be crystal clear. It will be vital to ensure that the new system is clear on which issues are under council control. NILGA is looking forward to engaging with councils and the Department in the development of a suitable new system over the next number of months.

4.0 Consultation Questions

Question 1: Is the guidance clear, specific and proportionate?

See above comments in relation to language used throughout the document. NILGA has serious concerns that the guidance document suffers from a lack of the robustness which we believe is necessary to ensure that community planning is given the required priority by government departments and partners. If we are to work together to ensure that community planning acts as the 'key over-arching framework for other Partnerships and initiatives at regional, local and neighbourhood level' the guidance needs to be strong, and must assist in driving top-down participation within departments, particularly as this impacts on local service delivery.

Further amendments to wording are provided below in section 5.0 of this response.

Question 2: Do you feel the guidance will help you implement community planning?

It is vital that the guidance, when finalised, *supports* councils in their endeavours to ensure that community planning is successful in achieving its objectives. Weak wording at this stage has the potential to undermine those efforts from the outset.

Although the guidance for councils is clear, the best way for the Department to assist councils in implementing community planning is to be strong and clear about the requirements for **each** group of participants.

Question 3: Do you feel one year is a sufficient time frame to develop a community plan and if not what alternative would you suggest?

Consensus is developing within the local government sector that to produce a plan within the year could be counterproductive to local relationships and may result in a poor quality plan. Councils would prefer to take more time over this piece of work, and to produce a plan of high quality that will provide a robust baseline for development. The prevailing view is that to adequately and appropriately engage the community will take time, and certainly in the first instance, will require a culture change, as more actively participative communities develop.

It is therefore proposed that a progress report/high level draft plan could be provided to the department at the end of the first year, with the final agreed plan published by the end of year two. This would not preclude councils from publishing a plan earlier, should they so wish.

Question 4: What would you define as a reasonable degree of consensus reached to enable decision making?

It would be useful if more information could be provided in the guidance as to how consensus is to be achieved. There is a lack of clarity in the draft in relation to achieving consensus, and we would seek detailed guidance, in particular on how to achieve consensus on the core aspects of the plan.

It is noted that the Welsh Guidance provides advice in relation to the development of local governance arrangements that ensure clarity about delegation and reporting back to partner bodies, agreeing joint projects, how proposals will be taken forward within [partner] organisations' decision making and planning processes and how any disagreements will be resolved.

Advice of this nature would be helpful and if not included in the statutory guidance, a supplementary advice note should be supplied.

Question 5: Is the guidance clear in respect of equality and good relations duties?

Equality and Good Relations is heavily and clearly referenced within the guidance, as is Together Building a United Community. The Race Relations Strategy should be referenced.

Question 6: Does the guidance sufficiently define partner roles and responsibilities?

The guidance sets out the partner roles and responsibilities as defined in the Local Government (NI) Act 2014, however NILGA would be keen to reinforce the comments made in relation to the use of language and depth of content across the piece. This has the potential for misinterpretation as to the required level of commitment and involvement of the different partners, particularly involvement of departments. NILGA trusts that DOENI officials are working assiduously to address the concerns that have already been highlighted by local government in relation to this issue, and will make the necessary substantive changes to the final document. It will be key to the success of community planning in Northern Ireland for DOENI to support councils in ensuring that all participants in the process understand their role and the required commitment to the process. It is likely to be necessary to engage in wider capacity building for Departments, at the centre and particularly for local service delivery units, as the 2015-16 year progresses.

More work will be required in relation to the interface with the voluntary and community sector, given that community planning is intended to be a bottom-up process. The voluntary and community sector participants may require advice and support in relation to governance and it will be important for councils to be aware of potential sources for relevant information and finance.

It will be important to elected members to ensure as far as possible that the participants from the voluntary and community sector are representative and accountable.

5.0 Suggested Amendments to Structure and Content

The following proposed amendments follow the structure of the draft guidance document, for ease of reference.

Paragraph 2.7 - 2.9 and fig 1

It would be helpful to link, more effectively, this section of the guidance to the section on the Partnership Panel. It would also be helpful as previously stated in our pre-consultation comments, to link Fig 1 to EU policy, which often has a direct impact at local level.

At present the guidance does not outline a mechanism for how community planning will feed into the programme for government, and although we would envisage that the Partnership Panel will provide a conduit, explicit reference should be made to the development of a process for building the 'bridge' to which Paragraph 2.9 refers.

Paragraph 3.2

It would be helpful if this paragraph explicitly referred to partnership resourcing or shared financial commitment.

Paragraph 3.3

It is suggested that the last sentence of this paragraph be supplemented, so that it reads; "As lead partner the council is responsible for making arrangements for community planning in its area *and working with partners to ensure the necessary resources are available for the process.*"

Paragraph 3.4

Bullet point 2 should be augmented to read “Ensuring that the commitments set out in the council equality *and good relations schemes* are applied....”

An additional bullet point should be included in this paragraph, to read; “*Identifying potential funding streams*”.

Paragraph 3.6

See response to Q4 at Section 4.0 above.

Paragraph 3.7

Reference to ‘disabled people’ should be changed to ‘people with disabilities’.

Paragraphs 3.9 – 3.16 Statutory Partners and Paragraphs 3.17 – 3.21 Duty on Departments

It is anticipated that this section of the guidance will change radically once the final decisions have been made in relation to the Statutory Partners Order. The views of local government are well rehearsed above as a follow-on to the responses submitted to the Partners Order consultation. Local government expects that in the absence of an expanded list, at the very least a requirement will be introduced into the Statutory Guidance for Departments with service delivery aspects to enter into formal agreements with councils (and potentially each other) in relation to community planning and joint action.

NILGA is extremely concerned to note Paragraph 3.18 which states that “Departments will be working more closely with Councils on the ***delivery of central government strategies and programmes.***”

There is **no** mention or emphasis on the need for central government to work towards the delivery of the Community Plan.

The wording of these paragraphs should be strengthened as highlighted earlier. Examples of weak and ambiguous language are to be found at Point 3.19 and 3.20, where it states Departments “*should*” engage with Councils and “*should*” seek to integrate community planning outcomes into corporate and business planning. At the very least the Guidance should state that Departments “**must**” engage with Councils and “**must**” integrate community planning into corporate and business planning.

Paragraphs 3.22 – 3.30 The Community and Paragraphs 3.31 – 3.35 Support Partners

NILGA acknowledges that this section of the document must remain flexible to a certain degree, however to support councils, we would recommend that the Department provides an advisory note as a supplementary document to the Statutory Guidance, providing examples of assessment tools that it deems suitable for use in Northern Ireland.

NB: NILGA will soon be constructing a Community Planning resources library on its website, drawing together information from a variety of different sources, but it would be extremely useful to have a series of ‘Department Endorsed’ advice notes to expand upon the Statutory Guidance.

Paragraph 4.1

It is recommended that the specific reference to the business community on line 8 of this paragraph is removed, with the sentence finishing “other additional partners”. It is also noted that there is no reference to central government departments on the list of likely members.

Paragraphs 5.1 and 5.2

As mentioned above, it would be helpful to link the comments on the Partnership Panel to the strategic introductory comments at paragraphs 2.7 – 2.9.

The use of the word “may” when describing the duties of the Partnership Panel could be construed as portraying a weak role for the Panel. Paragraph 5.1 provides a sound description of the Partnership Panel but in Paragraph 5.2 it could be interpreted as having a less influential role. The Partnership Panel must encourage appropriate and timely collaborative working by both central and local government and address regionally significant issues which impact on the delivery of the community planning across all 11 council areas.

Paragraph 6.8

Some queries have been raised as to why there is explicit mention of the Community Planning Toolkit and NICCY guidance in this section of the Statutory Guidance. It might be better to include resources such as this in a separate advice note.

Paragraph 6.11

NILGA notes the reference to an ‘outcomes based approach’ in this paragraph, but would suggest that reference to a timescale for a move to this approach might provide some helpful clarity.

Paragraph 11.2 Reaching Consensus

Please note comments in relation to Q4.

Paragraph 11.5 Timeframe for first plan

Please note comments in relation to Q3

Part 12

The title of this part of the document should include ‘accountability’. The reference to how the council and its partners make themselves accountable to the community at paragraph 12.4 could be more prominent.

Performance Improvement

It is noted that this part of the document is relatively high level. This area of work is still in development and the aspirations of this section of the Guidance will be tested over time.

6.0 Conclusion

In conclusion, it is the NILGA view that the Guidance still requires significant amendment, particularly to strengthen the legislation in response to recommendations made through the public consultation on the draft Local Government (Community Planning Partners) Order (NI) 2015. We therefore trust that the Department will have regard to the suggestions made above and change the Statutory Guidance document accordingly.

We look forward to working with the Department in continuing to develop a substantive Guidance document and corresponding advice notes.

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.

NILGA accepts no responsibility for any erroneous information placed by or on behalf of any user or any loss by any person or user resulting from such information.