



Northern Ireland  
Assembly

## Research and Information Service Review of Bill Costs

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NIAR 645-15

**Public Finance Scrutiny Unit**

# Rural Needs Bill – Assessing the Costs

On 9 November 2015 the Rural Needs Bill (the Bill) was introduced in the Assembly. This Review of Bill Costs provides a framework to facilitate Assembly financial scrutiny of the Bill. It should be read in conjunction with RaISe Bill Paper NIAR 177-15 (15 November 2015), which addresses policy issues.

## Introduction

On 9 November 2015 the Rural Needs Bill (the Bill) was introduced in the Assembly by the Minister of Agriculture and Rural Development. The Bill was accompanied by an Explanatory and Financial Memorandum (EFM), which at paragraph 12 sets out the Department for Agriculture and Rural Development's (DARD's) assessment of the financial impact of implementing the Bill, if enacted as introduced.

This Review of Bill Costs is intended to supplement information provided in RaISe Bill Paper NIAR 177-15 (15 November 2015), wherein policy issues are addressed. The Review provides a framework to orientate the Assembly's financial scrutiny of the proposed Bill:

- Section 1 reviews key clauses of the Bill and paragraph 12 within the EFM; and,
- Section 2 provides concluding remarks, highlighting key observations relating to the financial implications of the Bill.

Scrutiny points are provided throughout the Review.

**All references to “the Bill” refer to the Bill as introduced by the Minister.**

## 1. Bill Clauses - as introduced

It appears the DARD has not provided specific estimated costs to implement the Bill. Instead it has simply indicated that the Bill would not incur significant costs. To enable scrutiny, this section reviews the EFM and key Bill clauses, seeking to identify potential cost drivers and underlying assumptions.

### 1.1. Costing terms used in the EFM

The EFM states that:

*Rural proofing is an existing Executive commitment with an established procedure in place. This Bill places that commitment on a statutory footing and would put in place new monitoring and reporting arrangements. **The requirement across government to report on their functions under this Bill will require some additional administrative resource. However, it is not envisaged that this would be significant.***<sup>1</sup> [emphasis added]

Arguably use of the term 'significant' in the context of departmental bill costing estimates is unhelpful. It is a relative concept that does not provide any quantification.

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<sup>1</sup>DARD (2015) Rural Needs Bill – Explanatory and Financial Memorandum, available online at: <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/session-2015-2016/rural-needs-bill/efm---rural-needs-bill---as-introduced.pdf> (see paragraph 12)

Whether a cost is significant to a department is likely to depend upon the size and nature of that department's budget. For example, a £1 million (m) **resource cost** to the Department of Culture Arts and Leisure is more significant to it than it would be to the Department of Health Social Services and Public Safety.

In addition, for a department with a relatively small capital budget - such as the Department of Finance and Personnel (DFP) - a £500,000 **capital cost** is more significant than to a department with a large capital budget (such as the Department for Regional Development).

It therefore might be more helpful for the DARD to quantify a figure in the EFM. This would allow Members to consider that figure within the given context and to draw their own conclusions about its significance.

**Scrutiny points:**

**1. The Assembly may wish to ask the DARD to provide an estimated cost, or range of costs, for implementation of the Bill, if enacted as introduced.**

## 1.2. The *de minimis* threshold

In this context, it would be helpful to give due consideration to what the DFP calls the *de minimis* threshold.

The *de minimis* threshold is the level over which an In-Year Monitoring bid is to be considered by the Executive. Currently, the threshold is £1m. Bids below £1m are not routinely considered, unless there are exceptional circumstances. Generally departments are expected to address below-threshold pressures from within their existing allocations.<sup>2</sup>

It therefore appears reasonable for a department to consider costs in excess of £1m to be a significant factor in informing its budget allocation decisions. Generally speaking, as budgets become increasingly constrained, it is reasonably foreseeable that a department would find it increasingly difficult to secure additional funding from the Executive. As a result, it is likely in some cases that a **new** departmental activity, such as complying with new statutory rural needs assessments (see sub-section 1.3 below), could require cessation of some **current** activities elsewhere..

**2. In the apparent absence of standardised costing terminology, and the need to ensure that the Assembly has a clear understanding of what the DARD considers to be 'significant', the Assembly may wish to ask the DARD what 'significant' means; what range does it cover, bearing in mind the DFP *de minimis* threshold discussed above?**

<sup>2</sup>DFP 'In-Year Monitoring of Public Expenditure: 2015-16 Guidelines'

<https://www.dfpni.gov.uk/sites/default/files/publications/dfp/2015-16-in-year-monitoring-guidelines.pdf> (page 11)

**3. How does the DARD plan to factor the new statutory rural needs assessment duty into its budget decision-making?**

**4. Does the DARD foresee that it will require cessation of current activities elsewhere? If so, please detail.**

### 1.3. Identification of potential cost drivers

With the above discussion in mind, this sub-section turns to the seven clauses in the Bill. Clauses 5 to 7 deal with ‘Commencement’, ‘Interpretation’ and ‘Short title’ respectively. As such, these clauses would not be expected to drive costs if enacted.

A financial review of the substantive clauses – i.e. Clauses 1 to 4 - is provided below. (Refer to RalSe Bill Paper NIAR 177-15 for a discussion about the policy issues.)

#### 1.3.1 Clause 1: Duty of public authorities to consider rural needs

Clause 1 imposes a statutory duty on departments and district councils to consider rural needs when: developing, adopting, implementing or revising policies, strategies and plans; and, when designing and delivering public services.<sup>3</sup> Clause 1(2)(c) also enables the DARD to specify by order any other person who may be bound by this duty.

As noted in sub-section 1.1, the EFM states:

*Rural proofing is an existing Executive commitment with an established procedure in place. This Bill places that commitment on a statutory footing and would put in place new monitoring and reporting arrangements. The requirement across government to report on their functions under this Bill will require some additional administrative resource.<sup>4</sup>*

On 3 November 2015, the DARD stated in evidence to the Committee for Agriculture and Rural Development (CARD) that “*rural proofing is already an Executive commitment, therefore departments should be undertaking it.*”<sup>5</sup> Considering this alongside the EFM statement, the implication appears to be that departments are already supposed to be undertaking rural proofing, so the DARD assumes there would be no additional cost arising from the Bill.

Presumably however, **all, most or some departments may not currently undertake rural proofing as well as they should.** It seems reasonable to think that the DARD is

<sup>3</sup>DARD (2015) Rural Needs Bill – Explanatory and Financial Memorandum, available online at: <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/session-2015-2016/rural-needs-bill/efm---rural-needs-bill---as-introduced.pdf> (pages 3)

<sup>4</sup>DARD (2015) Rural Needs Bill – Explanatory and Financial Memorandum, available online at: <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/session-2015-2016/rural-needs-bill/efm---rural-needs-bill---as-introduced.pdf> (see paragraph 12)

<sup>5</sup>Official report, <http://aims.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=15636&evidID=8808>

seeking to introduce this new statutory duty in order to make rural proofing happen more consistently or fully across departments, as well as extending it to the wider public sector. For example, district councils are not currently bound by Executive commitments, meaning rural proofing is not required of them. It appears, however, that Clause 1 of the Bill may impose costs on councils for acts and activities related to considering rural needs.

In addition, if the DARD was to exercise its prescribed power under the Bill to designate other bodies/persons, they too would incur such costs. (Refer to RaISe Bill Paper NIAR 177-15 at section 4 for a discussion about designated authorities.)

Generally speaking, any new or additional activity would give rise to costs to bodies when implementing the duty. Rural needs-related costs therefore would be likely to incur in the following areas:

- Training - For all designated public authorities under the Bill, it is reasonably foreseeable that their staff would require appropriate training to inform and guide their implementation of their duty.<sup>6</sup>
- Monitoring and reporting – This could concern staffing, administration, and IT, for example.
- Enforcement – This could include investigation of complaints about non-compliance and any potential legal costs.

These types of costs have arisen in the past when new similar duties have been introduced, e.g. under Section 75 of the *Northern Ireland Act 1998*. In its response to the DARD's consultation on the Bill, the Northern Ireland Local Government Association stated:

*NILGA would be keen to highlight that if a duty is imposed, clarity is required on a number of issues:*

- 1. Guidance in relation to the expectations of the Department;*
- 2. How the Department intends to monitor and report on compliance;*
- 3. What the sanction will be if there is inadequate compliance.<sup>7</sup>*

In the absence of specific estimated costs in the above-stated areas, , it is difficult to assess the financial impact of this Bill for the DARD and the wider public sector. If such information is sought and secured, it would be necessary to revisit this costing for Clause 1.

<sup>6</sup> The Northern Ireland Local Government Association made this point in their response to the DARD consultation, available online at: <http://www.dardni.gov.uk/response-18---northern-ireland-local-government-association.pdf> (see page 5)

<sup>7</sup> The Northern Ireland Local Government Association made this point in their response to the DARD consultation, available online at: <http://www.dardni.gov.uk/response-18---northern-ireland-local-government-association.pdf> (see page 5)

**Scrutiny points:**

**5. If departments are not currently rural proofing to the extent they should, doing it in future would inevitably impact their work and systems. The Assembly may therefore wish to ask the DARD to provide an estimate of the additional costs that would be incurred when discharging the new rural proofing statutory duty, such as those relating to training, monitoring and recording, enforcement etc. In particular, the DARD should indicate who would be responsible for the costs.**

**6. The Assembly may wish to seek information from councils and/or the Northern Ireland Local Government Association about the financial impact for them of Clause 1, if enacted as introduced.**

**7. The Assembly may wish to ask the DARD about which bodies/persons, if any, it intends to designate as public authorities under the Bill; and then seek those public authorities' views about the potential financial impact of the new statutory duty (Clause 1 as introduced) on them.**

**1.3.2 Clause 2: Guidance, advice and information etc**

Clause 2(a) enables the DARD to provide guidance, advice and information about issues connected with rural needs, or ways of meeting those needs. In addition, Clause 2(b) provides a power for the DARD to “*undertake, commission or support (by financial means or otherwise) research into any matter relating to rural needs.*”<sup>8</sup>

Section 4 of RaISe Bill Paper NIAR 177-15 discusses the absence of detail in relation to the legislative intent behind this Clause. Without further information at present, it is difficult to assess what costs Clause 2 would impose on the DARD or the wider public sector. If additional information is sought and secured, it would be necessary to revisit the Costing for Clause 2.

In addition, in relation to supporting research into rural needs, it is apparent that the additional power could only be exercised if funds were available to commit to such purposes. But because this is an **enabling power not a duty**, it would not automatically give rise to costs. If in future however, the DARD was to fund research, it would presumably need the administrative mechanisms and resources to call for and to select relevant research projects. If such work could not be absorbed within existing resources, this Clause could therefore give rise to additional financial impacts.

<sup>8</sup>DARD (2015) Rural Needs Bill – Explanatory and Financial Memorandum, available online at: <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/session-2015-2016/rural-needs-bill/efm---rural-needs-bill---as-introduced.pdf> (pages 3)

**Scrutiny point:**

**8. The Assembly may wish to seek further information from the DARD on how it would exercise the enabling power in Clause 2, if enacted as introduced. In particular, such information should include an assessment of the resources required to deliver the preferred approach.**

**1.3.3 Clause 3: Monitoring and reporting**

As noted above, the EFM states:

*This Bill places that commitment on a statutory footing and would put in place new monitoring and reporting arrangements. The requirement across government to report on their functions under this Bill will require some additional administrative resource.<sup>9</sup>*

There currently is a Rural Proofing Branch within the DARD. The Branch does not currently monitor or report on compliance with the Executive's commitment to rural proofing. In addition, the DARD has not yet determined how this function would be resourced.<sup>10</sup>

It appears likely that this Branch would be responsible for the new monitoring and reporting arrangements. But without further information at present, it is difficult to assess what costs Clause 3 would impose on the DARD or the wider public sector. If additional information is sought and secured, it would be necessary to revisit the costing for Clause 3.

**Scrutiny point:**

**9. The Assembly may wish to ask the DARD to provide the current cost of rural proofing for the DARD and the rest of the Executive/the wider public sector, and then compare it with an estimated future cost of rural proofing under the Bill, if enacted as introduced.**

**1.3.4 Clause 4: Co-operation with other bodies**

Clause 4 imposes a duty on the DARD to:

*...make arrangements with public authorities with a view to securing co-operation and the exchange of information between public authorities.*

<sup>9</sup> DARD (2015) Rural Needs Bill – Explanatory and Financial Memorandum, available online at: <http://www.niassembly.gov.uk/globalassets/documents/legislation/bills/executive-bills/session-2015-2016/rural-needs-bill/efm---rural-needs-bill---as-introduced.pdf> (pages 3)

<sup>10</sup>E-mail from DARD to PFSU, 13 November 2015

The EFM provides no additional information about how the DARD envisages its implementation. However, on 3 November 2015, the DARD stated in evidence to the CARD that Clause 4:

*...will enable DARD, other departments, district councils and any other specified public authorities to cooperate with each other and share information, which will help ensure a more consistent and cohesive approach to addressing rural needs.<sup>11</sup>*

Without further information at present, it is difficult to assess what costs Clause 4 would impose on the DARD or the wider public sector. If additional information is sought and secured, it would be necessary to revisit the costing for Clause 4.

**Scrutiny point:**

**10. The Assembly may wish to seek further information from the DARD on how it intends to discharge the Clause 4 duty, if enacted as introduced; and what the related financial implications would be.**

## 2. Concluding remarks

The EFM states that the DARD does not expect costs associated with the implementation of the Bill to be 'significant.' Section 1.1 of this Paper pointed out the importance of the DARD specifying estimated costs, rather than using relative language in the absence of a context. This would enable the Assembly to consider those estimations and arrive at its own conclusions, based on relevant, material facts.

Beyond that statement in the EFM, and some further discussion in an evidence session with the CARD on 3 November 2015, the DARD's estimated financial impacts for this Bill lack sufficient detail. In the absence of additional departmental information, the extent to which the Assembly can draw firm conclusions about the financial implications of the Bill is limited.

The Assembly may wish to ask the DARD to provide further information about the Bill, as indicated throughout Section 1. If additional information is sought and secured, it would enable better assessment of the likelihood and extent of potential costs to be imposed by the Bill. This would allow the Assembly to assure itself that the DARD has robustly considered the financial impact of the Bill.

<sup>11</sup>Official report, <http://aims.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=15636&evidID=8808>