



**Tithe an
Oireachtais**
**Houses of the
Oireachtas**

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An Comhchoiste um Thithíocht, Pleanáil agus Rialtas Áitiúil

Tuarascáil maidir le Grinnscrúdú ar an mBille Rialtais Áitiúil (Coimisiún Comhairlí
Baile a Bhunú), 2017 [BCP]

Eanair 2019

Houses of the Oireachtas

Joint Committee on Housing, Planning & Local Government

Report on Scrutiny of the Local Government (Establishment of Town Council
Commission) Bill, 2017 [PMB]

January 2019

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Introduction -

This is the report of the Joint Committee on Housing, Planning and Local Government's detailed scrutiny of the Local Government (Establishment of Town Council Commission) Bill 2018 (the Bill).

The Bill was referred to the Select Committee on Housing, Planning and Local Government by order of the Dáil of 27th June 2017.

The Minister for Housing, Planning and Local Government was included in the circulation of a draft of this report, in accordance with Standing Order 141(2), as an *ex officio* Committee Member.

Procedural basis for scrutiny -

At its meeting of 30th June 2017, the Committee agreed to undertake scrutiny of the Local Government (Establishment of Town Council Commission) Bill 2017. Private Members Bills referred to Select Committee are subject to the provisions of Standing Order 141(2) [Dáil], which provides that a Select Committee "*shall undertake detailed scrutiny of the provisions of such Bills ... and shall report thereon to the Dáil prior to Committee Stage consideration ...*" unless the Committee decides in relation to a particular Bill that detailed scrutiny is not necessary.

Paragraph (3) of Standing Order 141 permits scrutiny of the Bill in Joint Committee, viz. "*Nothing in this Standing Order shall preclude a Joint Committee from undertaking detailed scrutiny as set out in paragraph (2) and reporting thereon to both Houses prior to Committee Stage consideration of the Bill by the Select Committee*".

Main provisions of the Bill -

The ultimate purpose of the Bill is to introduce a new system of town councils in Ireland. The previous system of town councils was abolished under the *Local Government Reform Act* 2014. The Bill does not aim to re-introduce the same system of town councils. Rather it seeks to establish a new system of town councils through the creation of a Town Council Commission. The Commission will be required to publish a report on the creation and boundaries of town councils six months after it is established. The Bill then compels the Minister for

Housing, Planning and Local Government to bring forward legislative proposals for the establishment of town councils, taking in to account the recommendations of the Commission.

In particular the Bill provides for -

- A definition of Town Council;
- The creation of a Town Council Commission to review the establishment and boundaries of a population based town council system;
- The purpose and functions of the Town Council Commission;
- The membership of the Commission including the number of members, eligibility, tenure and appointment process;
- The timeframe under which the Commission should operate to;
- The Minister for Housing, Planning and Local Government to bring forward legislative proposals for the establishment of Town Councils following the publication of the report by the Town Council Commission.

Pre-Committee Stage scrutiny -

On the 13th of December 2017, the Joint Committee held two sessions scrutinising the Bill. In the first session, the sponsor of the Bill, Shane Cassells T.D. briefed the Committee on the main provisions of the Bill.

Deputy Cassells informed the Committee of his rationale for the Bill, stating that he believes Ireland's urban centres have suffered since the abolition of town councils. The aim of the Bill is to establish a new town council system following the report of the Town Councils Commission. Deputy Cassells stated that he believes town councils can strengthen the current role of Local Government. He went on to explain that town councils previously had statutory budgetary and planning functions which reverted back to County Councils when they were abolished. He explained that he believes this has had an adverse effect on the ability for towns to promote growth and economic development. It was his aim to have the Bill enacted by the upcoming local elections in May 2019.

Members' expressed the broad support there is for the Bill. The need for the new town council system to change significantly from the previous system was discussed. Deputy Cassells explained that the intention of the new town council system was to reflect Ireland and to be based on population changes. By his

calculations, he believes that 56 towns around Ireland would be eligible for a town council. The Committee discussed the need of funding in several ways. The need for Town Councils to have statutory financial powers was agreed to be essential if they are to have an impact. There were opinions stated that town councils could be organised in a cost neutral way. It was also mentioned that the Town Council Commission would have to acknowledge potential financial effects that could be caused by the creation of Town Councils. Ultimately the Committee agreed to the broad principles of the Bill but highlighted the need for further local government reform. The Committee continued the discussion in a second session on the same day.

The Committee resumed scrutiny of the Bill with Mr. Paul Lemass, Mr. Denis Conlon, Ms. Lorraine O' Donoghue and Ms. Áinle Ní Bhriain from the Department of Housing, Planning and Local Government. The Department's stance was that the Bill does not align with the Programme for Partnership Government 2016. The Department expressed that the previous town council system only served a small number of the population. The Department also questioned whether any potential costs arising from the establishment of town councils could be seen as cost effective in relation to population served. After their abolition they were organised in to municipal districts. The Department explained that any introduction of town councils would have to be examined as to whether they could benefit the current system. It was also explained how a report on local election boundaries was commissioned that could result in changes to local authority electoral areas. The Department also expressed concern that the introduction of a new town council system could be premature as not enough time has passed to properly assess the new municipal district system.

Members of the Committee expressed that they opposed the abolition of Town Councils previously. They did acknowledge the need for the system to be reformed and are confident that the Bill will achieve this. The need for an increase in devolved powers was agreed and the need for equal representation around the country was emphasised. The Committee stated the opinion that Local Authorities have come under additional pressure as they have absorbed the functions of the previous town council system.

While the Committee agrees that amendments take place to strengthen the Bill, it agrees that the Bill is trying to improve Local Government around the country and that it should take place in the context of wider local authority reform.

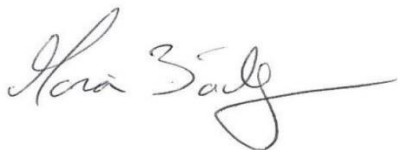
Observations of the Joint Committee -

The Committee in its scrutiny of the Bill and pursuant to Standing Orders, agreed to report to the Houses of the Oireachtas that it has undertaken and completed detailed scrutiny of the Bill. The Committee has made the following observations and conclusions:-

- the Committee notes the broad support expressed for the principle of the Bill and notes also that the Bill passed Second Stage reading;
- that the sponsor and the Department engage to ensure that any amendments required are fully explored and to include in that engagement consideration work carried out and reports submitted to the JOC by the department in relation to municipal governance since the publication of the Bill in 2017.
- that any drafting issues identified, particularly around potential constitutional issues, in the Bill be resolved.

Conclusion –

The Committee concluded that that the Bill proceed to Third Stage consideration and that the proposer of the Bill take account of the observations of the Committee in framing their respective amendments to the Bill, in particular in relation to the need to address certain drafting issues arising in the Bill.



Maria Bailey T.D.
Chair
January 2019

Appendix 1 – Committee Membership

Joint Committee on Housing, Planning & Local Government

Deputies

Committee Membership:

Chairperson: Maria Bailey (Fine Gael)

Deputies

Pat Casey (Fianna Fáil) (Vice Chair)

Mick D. Barry (Solidarity-PBP)

Mattie McGrath (Rural Independent Group)

Darragh O'Brien (Fianna Fáil)

Eoin O Broin (Sinn Féin)

Fergus O'Dowd (Fine Gael)

Senators

Victor Boyhan (Independent)

Martin Conway (Fine Gael)

Jennifer Murnane O'Connor (Fianna Fáil)

Grace O'Sullivan (Green Party)

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 16 June 2016.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 21 July 2016.
3. Elected Vice Chair on 24 May 2017

Appendix 2 – Terms of Reference of Committee

COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

TERMS OF REFERENCE

a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

(1) The Select Committee shall consider and report to the Dáil on—

(a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and

(b) European Union matters within the remit of the relevant Department or Departments.

(2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—

(a) Bills,

(b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,

(c) Estimates for Public Services, and

(d) other matters

as shall be referred to the Select Committee by the Dáil, and

(e) Annual Output Statements including performance, efficiency and

effectiveness in the use of public monies, and

(f) such Value for Money and Policy Reviews as the Select Committee may select.

(4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:

(a) matters of policy and governance for which the Minister is officially responsible,

(b) public affairs administered by the Department,

(c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

(d) Government policy and governance in respect of bodies under the aegis of the Department,

(e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,

(f) the general scheme or draft heads of any Bill,

(g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,

(h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,

(i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,

(j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and

(k) such other matters as may be referred to it by the Dáil from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the

relevant Department or Departments—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, and

(d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) The Chairman of the Joint Committee appointed pursuant to this Standing Order, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee.

(7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

(a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; SSO 70]

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (4) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.
- (5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.