

<b>Title of Report:</b>	<b>Consultation on Dilapidation Bill</b>
<b>Committee Report Submitted To:</b>	<b>Environmental Services Committee</b>
<b>Date of Meeting:</b>	<b>9<sup>th</sup> September 2025</b>
<b>For Decision or For Information</b>	<b>For Decision</b>
<b>To be discussed In Committee</b>	<b>No</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Healthy, Active and Engaged Communities
Outcome	Provide a consultation response
Lead Officer	Head of Health & Built Environment

<b>Estimated Timescale for Completion</b>	
Date to be Completed	N/A

<b>Budgetary Considerations</b>	
Cost of Proposal	N/A
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Legal Considerations</b>	
Input of Legal Services Required	<b>NO</b>
Legal Opinion Obtained	<b>NO</b>

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

## **1.0 Purpose of Report**

- 1.1 The purpose of this report is to provide a Causeway Coast and Glens Borough Council response to the consultation.

## **2.0 Background**

- 2.1 The Dilapidation Bill moved to the Second Stage in the Northern Ireland Assembly in June 2025.
- 2.2 The Bill aims to provide district councils with a modern, consistent and fit for purpose Northern Ireland-wide enforcement regime to deal with the negative impact of dilapidated and dangerous buildings, and neglected sites which reflects the powers already available to enforcement bodies in the rest of the UK.
- 2.3 The Bill's other key proposal is to significantly enhance the cost recovery powers available to councils, making the option of them carrying out the relevant works themselves much more viable.
- 2.4 As part of the Assembly's normal legislative processes, the Dilapidation Bill has been referred to the Assembly's Committee for Agriculture, Environment and Rural Affairs (AERA) for scrutiny and evaluation.
- 2.5 The Committee is seeking views from stakeholders on the objectives, proposals and potential consequences of the Bill to help inform the AERA Committee's consideration of the Bill and any recommendations it may suggest as it moves to the next stage of the legislative process.
- 2.5 The online survey form, the Dilapidation Bill 'as Introduced' and Explanatory and Financial Memorandum can be found at:  
<https://consult.nia-yourassembly.org.uk/agrienvra/dilapidation-bill/>
- 2.6 Attached as Appendix 1 is a suggested response to the consultation.
- 2.7 The closing date for submission of responses is 10<sup>th</sup> October 2025.

## **3.0 Recommendation**

It is recommended that Council endorses the response.

## Appendix 1

### Draft Consultation Response to Dilapidation Bill

#### **Clauses 1 to 3 - Detriment to local amenity**

##### **Clause 1 - Maintenance notice**

##### **Clause 2 - Appeal against maintenance notice**

##### **Clause 3 - Breach of maintenance notice**

#### **Information:**

**Clauses 1 to 3 allow district councils to serve a maintenance notice to require owners, occupiers and others with a relevant interest to take appropriate remedial action to deal with low level dilapidation and neglect. The clauses also deal with the appeals procedure and offences and penalties for breaches of a notice.**

**1. Do you agree that Clauses 1 to 3 will empower councils to tackle the issue of 'detriment to local amenity' (regarding buildings or other land in its district) that because of its condition is/are detrimental to the amenity of a part of the council's district or of an adjoining district - If not, why not?**

**No** If no, please explain.

It is recognised that it is the Department's intent that such provisions should be used proactively by Councils thereby ensuring that local areas are maintained to a higher standard than is presently legislatively required. Council comments that that such efforts will require regulatory resources to successfully deliver these improvements. Whilst the legislation is written that Council 'may' take action and use discretion – in practice and with the interest of communities and Elected Members, Councils are more likely to find that there is an expectation that action will be taken. Council would request that any new guidance reflects the discretionary nature of the legislation, and confirm that power will only be taken where the Council deems it expedient to do so.

A definition for 'detriment to local amenity' is required i.e. the tipping point to take action, otherwise this remains a subjective view that is open to interpretation and may be subject to challenge. Departmental guidance is required before legislation takes effect. Councils would welcome the opportunity to engage with The Department in the development of this guidance to ensure it is workable and effective.

It is envisaged that such powers would be primarily used for lower priority sites to require the "proper maintenance of land". It is noted that this intended to replicate the powers available to local authorities in England and Wales under the Town and Country Planning Act 1990 ('the 1990 Act').

It is envisaged that such powers on the lower scale could be used primarily for lower priority sites to require "proper maintenance of land". The Council would welcome the views of the Department on whether this Clauses 1 to 3 could be used to address lands that are excessively overgrown or or address the presence of invasive plant species e.g. Japanese Knotweed, Buddleia, etc which can adversely affect the amenity and property of a neighbour.

Clause 1 (1) refers to 'building or other land'. Council would welcome clarification on whether this includes other structures e.g. public facing retaining walls. A definition of 'building' would be welcomed. In relation to including a wide-ranging definition of "building", while the Council accepts that a definition may provide clarity, it is important to retain the flexibility already existing in the current Article 66 to enable enforcement action against any dilapidated man-made structure and not to restrict.

Clause 1 is very broad and there is potential for councils to get drawn into civil and domestic disputes i.e. boundary walls/fences between properties. Section 25(2) provides that a *"building includes any other structure."* Clarification on what is meant by other structure would be welcomed and whether that would include freestanding walls for example.

**Please provide comment on your understanding of 'detriment to local amenity' in the context of this Bill.**

The Cambridge Dictionary defines detriment as causing harm or damage. The Oxford Dictionary describes amenity as *"a useful or desirable feature of a place"*. Guidance on the meaning of 'amenity' has been provided by the English courts when dealing with the similar provision of s.215 of the Town and Country Planning Act 1990 ('TCPA'). 'Amenity' has been held to mean the pleasant circumstances, features or advantages of the area or the visual appearance and the pleasure of its enjoyment.

Council considers "Detrimental to amenity" as meaning something (as yet undefined) that has a negative impact on the attractiveness or features of a place or area. This can perhaps refer to issues such as dilapidated buildings, overgrown vegetation or anything else that detracts from the pleasantness or enjoyment of a neighbourhood.

The definition is, therefore, potentially broad and open to interpretation. Clear Government guidance on the definition of 'detriment to local amenity' will be essential to ensure consistency of approach, support the application of the legislation in appropriate circumstances and withstand potential legal challenges which could well undermine its intent. The guidance should reflect the learning from other jurisdictions where similar legislation has been implemented and provide examples of issues or situations that fall within the scope of what can be considered detriment to local amenity.

**Please comment on the maintenance notice, the appeal and action for breaches as appropriate**

Council welcomes the inclusion of a fixed penalty notice for failure to comply with a maintenance notice. However, the proposed level of £500 may be significantly lower than the actual cost of making good property, a building or parcel of land and may not provide sufficient deterrent or incentive to achieve compliance.

There is a risk that, irrespective of the notice being paid, the underlying issue could remain unresolved, potentially still necessitating costly and time-consuming Court proceedings.

In the event of non-compliance with a maintenance notice, Clause 3(1) allows for a Council to undertake the works itself. Council is concerned that this may create an expectation for it to intervene in every instance where an owner fails to act and potentially assume responsibility for ongoing maintenance thereafter. The obligation rests with Council to pursue cost recovery through the courts. This approach carries inherent financial risks as Council may not be able to recover the full costs, or recovery may be significantly delayed during which time the financial burden falls on ratepayers.

Council would therefore support a requirement that the court direct the owner to comply with the Notice, thereby removing the need for Council to consider the cost and expense of undertaking works to private property from the public purse and the associated risks with pursuing cost recovery.

Given the financial constraints under which all Councils operate, confidence in progressing actions to address dilapidated, derelict, and neglected sites will be directly linked to the

effectiveness of cost recovery options. Accordingly, clear and robust guidance on this matter would be welcomed and provision of dedicated funding to Councils would assist delivery of meaningful outcomes.

## **Clauses 4 to 6 – Serious detriment to local amenity**

**Clause 4 - Dilapidation notice**

**Clause 5 - Appeal against dilapidation notice**

**Clause 6 - Breach of dilapidation notice**

### **Information:**

**Clauses 4 to 6 allow district councils to serve a dilapidation notice to require owners, occupiers and others with a relevant interest to take appropriate remedial action to deal with more serious dilapidation and neglect. The clauses also deal with the appeals procedure and offences and penalties for breaches of a notice or condition.**

**7. Do you agree that Clauses 4 to 6 will empower councils to tackle the issue of 'serious detriment to local amenity' (regarding buildings or other land in its district) that because of its condition is/are seriously detrimental to the amenity of a part of the council's district or of an adjoining district - If not, why not?**

**No If no, please explain further.**

A definition for 'serious detriment to local amenity' is required i.e. the tipping point to take action and the threshold to be met to be considered as 'serious detriment' as opposed to 'detriment'. In the absence of a robust definition, this remains a subjective term that could be challenged. Departmental guidance is required before legislation takes effect. Councils would welcome the opportunity to engage with The Department in the development of this guidance to ensure it is workable and effective. Again, this clause should not be a mechanism to draw Council into civil disputes between neighbours.

Clause 4(1) refers to 'building'. Council would welcome clarification on whether this Clause applies to other structures e.g. public facing retaining walls. A definition of 'building' with in this content would be welcomed.

It is noted that in Clause 4 responsibility for determining the required works is placed on Council. Council is of the view that this responsibility should rest with the owner, who should propose the steps necessary to remedy the condition or state of a building so that it is no longer seriously detrimental to local amenity. Any works proposed by the owner should then be subject to Council approval, rather than being specified by Council itself.

It must be recognised that, in the current financial climate, many properties—particularly those that are neglected—are often under the control of persons other than the owner. Robust legislation, supported by clear guidance, will be essential to define who is responsible for properties where there is multiple interested parties and under what circumstances. In the experience of Council, it is often possible to secure minor works, such as boarding up/securing a site however, it is much more difficult to secure more extensive building or demolition works.

**Please provide comment on the dilapidation notice, the appeal and action for breaches as appropriate.**

The inclusion of clear definitions for key terms such as 'serious detriment to local amenity' in both the legislation and accompanying guidance is essential to enable Councils robustly defend any appeal to a dilapidation notice.

In the event of non-compliance with a dilapidation notice, Clause 6(2) allows for a Council to undertake the works itself. Council is concerned that this may create an expectation for it to intervene in every instance where an owner fails to act. The obligation rests with Council to pursue cost recovery through the courts. This approach carries inherent financial risks as Council may not be able to recover the full costs, or recovery may be significantly delayed during which time the financial burden would fall on ratepayers.

Council would therefore support a requirement to enable the court to direct the owner to comply with the Notice, thereby removing the need for Council to consider the cost and expense of undertaking works to private property from the public purse and the associated risks with pursuing cost recovery.

Given the financial constraints under which all Councils operate, confidence in progressing actions to address dilapidated, derelict, and neglected sites will be directly linked to the effectiveness of cost recovery options. Accordingly, clear and robust guidance on this matter would be welcomed and provision of dedicated funding to Councils would assist delivery of meaningful outcomes.

It is noted that in Clause 4 responsibility for determining the required works is placed on Council. Council is of the view that this responsibility should rest with the owner, who should propose the steps necessary to remedy the condition or state of a building so that it is no longer seriously detrimental to local amenity. Any works proposed by the owner should then be subject to Council approval, rather than being specified by Council itself.

It must be recognised that, in the current financial climate, many properties—particularly those that are neglected—are often under the control of persons other than the owner. ‘serious detriment to local amenity’ Robust legislation, supported by clear guidance, will be essential to define who is responsible for properties where there are multiple interested parties and under what circumstances. In the experience of Council, it is often possible to secure minor works, such as boarding up/securing a site; however, it is much more difficult to secure more extensive building or demolition works.

## **Clauses 7 to 10 - Dangerous structures**

### **Clause 7 - Dangerous structure notice**

### **Clause 8 - Appeal against dangerous structure notice**

### **Clause 9 - Breach of dangerous structure notice**

### **Clause 10 - Emergency action**

#### **Information:**

**Clauses 7 to 9 allow district councils to serve a dangerous structure notice to require owners, occupiers and others with a relevant interest to take appropriate remedial action to deal with dangerous buildings and structures. The clauses also deal with the appeals procedure, fee provisions and offences and penalties for breaches of a notice or condition.**

**8. Do you agree that Clauses 7 to 9 will empower councils to tackle the issue of ‘dangerous structures’ (apart from if Clause 10 Emergency Action is to be used) regarding a building in its district that is in such a condition as to be dangerous, or is used to carry such loads as to be dangerous - If not, why not?**

**No** If no, please explain further.

It is noted that the title of Clause 7 refers to a dangerous ‘structure’, whereas Clause 7(1) refers specifically to a ‘building’ which is defined at Clause 25(2). Clarity is required on the

scope of this provision and whether, for example, structures such as freestanding retaining walls are intended to be included.

Clause 7(2)(b) requires that a notice “MUST” be served, allowing no discretion. Guidance is therefore sought on how Councils should proceed in cases where an interested party cannot be identified or resides outside the UK jurisdiction.

It is noted that in Clause 7(2) responsibility for determining the required works is placed on Council. Council is of the view that this responsibility should rest with the owner, who should propose the steps necessary to remedy the dangerous condition or state of a building. Any works proposed by the owner should then be subject to Council approval, rather than being specified by Council itself.

Clause 7(5) provides that the Council may restrict the use of a building. It is unclear whether such restrictions could extend to neighbouring buildings that may be affected. The Council will need to review the Departmental guidance on this matter before providing further comment.

**Please provide comment on your understanding of ‘dangerous’ in the context of this Bill.**

Council considers in the context of this Bill that the term “dangerous” is generally interpreted as describing a building or structure (or part of one) that poses a real and significant risk of harm to people or public safety due to its condition and said danger must be imminent or reasonably foreseeable.

A clear definition of the term ‘dangerous’ and clarity on the scope to which it is intended to apply is essential within the legislation and accompanying guidance. The Council would welcome clarification on the category of persons to whom it will apply, for example whether the clause is intended to protect only persons lawfully using the building or adjacent roads, footpaths or lands. Council would welcome clarification on whether Clause 7 to 10 are intended to also protect person unlawfully accessing a building or structure e.g. trespassers.

Clarification would also be welcome on whether said ‘danger’ applies only to the exterior of the building or the interior also. By way of example could clause 7 to 10 be utilised if a building externally appears free from disrepair and posed no danger however the building is known to be accessed by trespassers and the interior was in a dangerous state with only those trespassing affected or at risk.

Council would welcome guidance on whether this clause Council could be applied to require a building to be secured to prevent unlawful access.

**Please provide comment on the dangerous structure notice, the appeal and action**

The inclusion of clear definitions of key terms such as ‘dangerous’ and ‘building’ in both legislation and accompanying guidance is essential to enable robust defence of any appeal.

Council welcomes the provision in Clause 9(1) allowing a Council to order a person to comply with the Notice, thereby removing the need for Council to consider the cost and expense of undertaking works to private property from the public purse and the associated risks with pursuing cost recovery.

However, in the event of non-compliance with a dangerous structure notice, Clause 9(2) allows for a Council to undertake the works itself. Council is concerned that this may create an expectation to intervene in every instance where an owner fails to act. The obligation rests with Council to pursue cost recovery through the courts. This approach carries inherent

financial risks as Council may not be able to recover the full costs, or recovery may be significantly delayed. In the meantime, the financial burden, which may be significant, would fall on ratepayers.

Given the financial constraints under which all Councils operate, confidence in progressing actions to address dilapidated, derelict, and neglected sites will be directly linked to the effectiveness of cost recovery options. Accordingly, clear and robust guidance on this matter would be welcomed and provision of dedicated funding to Councils would assist delivery of meaningful outcomes.

### **Clause 10 (Emergency action)**

#### **Information:**

**Clause 10 (Emergency Action) deals with a building which is considered by a council to be in such a state or is carrying such loads as to be dangerous and immediate action should be taken to obviate the danger and allows a council to take the necessary steps for that purpose.**

**Clause 10 also requires that after seven days from the date when remedial works began, a council must give notice to at least one person with an interest in the building advising of the action being taken and that an appeal may be made to a Magistrates' Court against that action, stipulating the grounds for appeal.**

**Clause 10 also deals with cases where an interested person sustains damage as a result of the exercise of a council's power under clause 10 - in such cases the person is entitled to compensation if a Magistrates' Court determines that the council was not justified in its exercise of the power (whether on an appeal under clause 10 or by a separate application under clause 10). Any disputes around compensation shall be determined by the Lands Tribunal or by an agreed arbitrator.**

**Clause 10 also allows a district council to charge a fee for exercising its powers under the clause. The fees may be specified in regulations to be made by the Department.**

**9. Do you agree that Clause 10 will empower councils to tackle the issue of 'dangerous structures' requiring 'Emergency Action' regarding a building in its district that is in such a condition as to be dangerous, or is used to carry such loads as to be dangerous and immediate action should be taken to remove the danger, and that the council may take whatever steps are necessary to remove the danger - If not, why not?**

**No If no, please explain further.**

The Dilapidation Bill is written and structured in a way that place responsibility on Councils alone for enforcement, prosecution and resolution. The Department should be aware that council cannot effectively deliver these emergency actions on its own. The DfI Roads and PSNI should be written into this legislation to ensure they respond in support of councils in its emergency actions, such as road closures and permissions, signage, public information etc. Also, if the danger is a retaining wall that adjoins a public roadway, then DfI should be the pro-active lead agency by way of this Bill and the Roads (Northern Ireland) Order 1993.

It is critical that the Department include provision for instances when an owner cannot be identified within a specified period.



**Please provide comment on any aspect of the Emergency Action powers provided for in Clause 10, including the assessment the council must conduct; the notice of its intention to exercise the power; the proposal of a fee; the appeal; and the timescales**

Clause 10 raises a number of points requiring clarification to ensure effective and practicable Council enforcement:

- Clause 10(1) uses the terminology “appears,” implying that a visual inspection by a Council officer is sufficient. This may not always identify greater structural defects, which could require more detailed examination or access to the building.
- Clause 10(2) refers to initial steps to “remove the danger,” which could include fencing or hoarding to protect the public. Support from DfI is essential where the building is on a busy road or arterial route; this requirement should be reflected in the Bill.
- Clause 10(3) states that an assessment must be undertaken, yet there is no guidance on the depth or detail required. Clause 10(4) then requires notification of the owner and allows for an appeal process. Given that the appeal period in 10(9) is 14 days, it is unclear whether the Council is prohibited from taking emergency action during this time, which could delay critical interventions.
- Clause 10(4) allows the Council to take emergency action to remove danger, while Clause 10(5) permits the Council to charge a fee, the amount of which is yet to be determined. Given the potentially significant costs of remedial works to property, the fee is unlikely to act as an effective deterrent unless it is set at a substantial level.
- Clause 10(2) states that the Council “may” take whatever steps are necessary to remove danger, but must first carry out an assessment. Clause 10(6), however states Council “MUST”, act within seven days from the date it is deemed to have “begun to exercise its powers” under Clause 10(2). Clarification is needed on what constitutes “beginning to exercise its powers,” as this determines when the Council’s role shifts from a discretionary to a mandatory duty.
- Under Clause 10 of the Bill, Council undertaking the emergency works would be the default course of action, which would only be halted if the owner appeals. This approach provides no incentive for the owner to undertake the necessary works, allowing them to rely on the Council to do the works on their behalf and incur the costs.

Council would strongly oppose such an approach, as the primary responsibility for remedying any defect—however urgent—rests with the owner of the premises in the first instance. Where urgent action is required, the Council should have the option serve a notice with a short timeframe to ensure a defect is addressed.

- Clause 10(7) requires the Council to make “all reasonable endeavours” to identify persons of interest. Guidance is essential here to prevent this becoming a contentious issue.
- Clause 10(8) expands the grounds for appeal beyond 10(1), where action only had to appear necessary to the Council. This broader scope does not support Councils and may hinder enforcement.
- Clauses 10(11) and 10(12) introduces the possibility that compensation may be payable to owners or persons with an interest. This is likely to increase appeals against Notices and make Councils more cautious in issuing them.

## Clause 11 - Defective premises

### Information:

Clause 11 allows district councils to serve a Defective Premises Notice in circumstances requiring rapid remediation (e.g. a building which had an incorrectly installed staircase). This is to be used where the premises appear to be in such a state as to be "prejudicial to health or a nuisance."

The building does not have to be dilapidated or dangerous, but the council considers the problem needs to be tackled quickly. The council may serve a notice stating that it intends to remedy the defective state of the premises and specifying the defects which it intends to remedy. Nine days after the Notice takes effect, a council may carry out whatever remedial works are necessary.

Clause 11 also allows the person on whom the notice was served to serve a counter notice within seven days of the defective premises notice taking effect stating that they intend to remedy the defects themselves. In this case the council is prohibited from taking any action unless the person fails to remedy the defects within a specified time or to a specified standard.

Clause 11 further requires that after seven days from the date when remedial works began, a council must serve notice on the person who received the original notice advising that an appeal may be made to a Magistrates' Court against the works, stipulating the grounds for appeal.

**10. Do you agree that Clause 11 will empower councils to tackle the issue of premises in its district which are in a defective state, but there would be an unreasonable delay in remedying the defective state of the premises if the procedure under Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (statutory nuisance) were to be followed - If not, why not?**

**No** If no, please explain further

Statutory nuisance, as defined under the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 and applies to conditions that are either prejudicial to health or constitute a nuisance. This includes matters such as smoke, fumes, odours, noise, accumulations, or the keeping of animals. Case law has held that it does not generally cover safety hazards, such as structural instability or other risks that could cause physical injury.

DoE Guidance to District Councils on Part 7 (Statutory Nuisances) of the 2011 Act provides further clarification on what may constitute a statutory nuisance. <https://www.daera-ni.gov.uk/publications/guidance-district-councils-statutory-nuisances>

Section 5 of the DoE guidance outlines the meaning of statutory nuisance and provides the following definitions of 'prejudicial to health' and 'nuisance' as well as guidance on their application. See extract below.

### **5.0 Prejudicial to Health**

*5.1 The term "prejudicial to health" is defined in subsection 63(10) of the 2011 Act as "injurious, or likely to cause injury, to health". However, determination of what in fact are conditions prejudicial to health is more a judgement based upon a balance of common sense and the experience of public health professionals. The use of the term "injury to health" is central to this consideration. It has been held in previous case law that it is not sufficient that there is the risk of personal injury or accident (such as from broken glass), but there must be an underlying threat to health from disease.*

### **Nuisance**

5.3 Nuisance is not defined in the 2011 Act but can be regarded as interference that ordinary people would consider unreasonable with the personal comfort or enjoyment or amenity of neighbours or the community. There are three significant differences between common law nuisance and statutory nuisance: -

..... (ii) the statutory nuisance regime, unlike common law nuisance does not deal with harm to property. A statutory nuisance must interfere with personal comfort in a manner that affects a person's wellbeing. For example, dust affecting cars would not be nuisance but the same dust in a person's eyes or hair would interfere with personal comfort even if there were no adverse health impact.

### **What Constitutes a Nuisance?**

5.4 There is no clear objective definition as to what constitutes a nuisance....

5.6 A district council must be of the opinion that either substantial personal discomfort or a health effect must exist. There are eight key issues to consider when evaluating whether a nuisance exists: -

.....(i) **IMPACT** - this is a measure of the impact of the alleged nuisance on the receptor. In some cases assessment of the impact can be supported by objective measurements (such as noise), but in many cases it will be the objective view of a district council as to the degree of health risk or interference. In addition to the impact on individuals, a council should consider the extent of the impact (how many persons, how far from the source etc.)

5.7 The standard cannot be defined precisely and much will depend on the view taken by the court of the seriousness of the harm, the health impact and a balance of the key issues outlined above.

The Council notes the example provided under 'Information' in this section of the consultation, of a Defective Premises Notice being served under Clause 11 in circumstances such as a building with an incorrectly installed staircase. This example appears to use the statutory nuisance regime to address what is essentially a safety issue. As outlined above, and supported by case law and DoE guidance, the 'prejudicial to health' element of statutory nuisance requires a threat to health from disease; it is not sufficient that there is a risk of personal injury or accident. Similarly, the 'nuisance' element must interfere with personal comfort in a manner that affects a person's wellbeing.

Council is of the view that use of the statutory nuisance regime is not an appropriate mechanism to remedy safety issues and if that is the intention of Clause 11 this should be reviewed and replaced with an alternative process to enable safety issues to be dealt with effectively as use of nuisance powers are likely to be unsuccessful.

The 2016 consultation preferred option proposed a new Bill to replace all previous legislation and a single source of powers and enforcement. This objective is not fully achieved if powers within other legislation are to be relied upon also.

If the intention is to enhance Council's enforcement tools in respect of the current statutory nuisance regime, then consideration should be given to amending the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 rather than incorporating these within the Dilapidation Act.

In either case guidance on the scope and intended application of Clause 11 is essential to ensure appropriate and consistent use. The development of such guidance should be undertaken in consultation with the enforcement authority to ensure it is appropriate, practical and effective.

**Please provide comment on any aspect of the Defective Premises powers provided for in Clause 11, including the Defective Premises Notice, the timescales and the appeal.**

Clause 11(3) allows the Council to serve a defective premises notice, specifying the defects it intends to remedy and stating its intention to carry out the necessary works. Under the Bill, the Council undertaking the works would be the default course of action, which would only be halted if the owner serves a counter-notice indicating their intention to remedy the defects themselves.

This approach provides no incentive for the owner to undertake the necessary works, allowing them to rely on the Council to do the works on their behalf and incur the costs.

The Council would strongly oppose such an approach, as the primary responsibility for remedying any defect—however urgent—rests with the owner of the premises in the first instance. Where urgent action is required, the Council should have the option serve a notice with a short timeframe to ensure a defect is addressed.

As noted previously, the example provided suggests that District Councils could serve a Defective Premises Notice for a building with an incorrectly installed staircase. The scope of this clause is potentially very wide and, as currently written, could apply to any dwelling or building within the Borough. The Council is concerned that this may create an expectation for it to potentially intervene in every instance of defective premises, which would be entirely unsustainable.

Although there is to be a process for cost recovery through the courts, the obligation to recover costs rests with the Council. This approach carries inherent financial risks, as the Council may not be able to recover the full costs, or recovery could be significantly delayed. In the meantime, the financial burden would fall on ratepayers.

Council would therefore support a requirement that the court direct the owner to comply with the Notice, thereby removing the need for Council to consider the cost and expense of undertaking works to private property from the public purse and the associated risks with pursuing cost recovery.

Given the financial constraints under which all Councils operate, confidence in progressing actions to address defective premises will be directly linked to the effectiveness of cost recovery options. Accordingly, clear and robust guidance on this matter would be welcomed and provision of dedicated funding to Councils would assist delivery of meaningful outcomes.

It is noted that in Clause 11(3) responsibility for determining the required works is placed on Council. Council is of the view that this responsibility should rest with the owner, who should propose the steps necessary to remedy the defective states of the building. Any works proposed by the owner should then be subject to Council approval.

It must be recognised that, in the current financial climate, many properties—particularly those that are neglected—are often under the control of persons other than the owner. Robust legislation, supported by clear guidance, will be essential to define who is responsible for properties where there are multiple interested parties and under what circumstances. In the experience of Council, it is often possible to secure minor works, such as boarding up, on such sites; however, it is much more difficult to secure more extensive building or demolition works.

## **Clauses 12 – 15 Liability for Costs etc.**

**Clause 12 - Costs of district council**

**Clause 13 - Charge on land**

**Clause 14 - Costs of interested person**

**Clause 15 - Obstruction by occupier etc.**

## **Information:**

**Clause 12 - Costs of district council** - provides that where a district council has issued a maintenance notice, a dilapidation notice, a dangerous structure notice, a defective premises notice; or where a council has to take emergency action in order to remove danger, it may recover its costs from the relevant person where it has taken the necessary remedial action itself.

**Clause 13 - Charge on land** - provides for a district council to register a charge on the land in the Statutory Charges Register (Schedule 11 to the Land Registration Act (Northern Ireland) 1970) in respect of any costs incurred under clause 12 until such costs are recovered. It also provides for councils to register a Dilapidation Notice in the Register - to allow a property to be sold "with information" and binding the purchaser to the terms of the original notice where works have not been carried out.

**Clause 14 - Costs of interested person** - provides that where costs have been demanded under clause 12 a person who is receiving the rent for the land on behalf of another person would not be pursued for costs as it is not likely that they could be deemed responsible for causing a relevant nuisance.

**Clause 15 - Obstruction by occupier etc.** - provides that a court order may be made in a case where an occupier is preventing an owner from carrying out works to comply with a notice. It also provides for the associated offence and penalty.

11. Do you agree that Clauses 12 to 15 will empower councils to recover the costs which it incurs in so acting under section 3(1), 6(2), 9(2) or 10(2) (carrying out work) of the Bill, from the persons (who at that time have an interest in the land in question) as the council considers appropriate - If not, why not?

**No** If no, why not?

Council would request that guidance accompanying this legislation specifies what constitutes and may be included in "reasonable costs" with examples e.g. staff time, structural engineer consultants, legal costs, actual 'works' costs. Without clear definitions, councils may face challenges in cost recovery and budgeting for enforcement actions.

Clause 12(4) presents a potential conflict. Where a Council fences off a dilapidated or dangerous building to protect public safety and subsequently undertakes remedial works due to owner inaction, it would be unreasonable to prohibit cost recovery for these expenses. Furthermore, in cases where fencing remains necessary following remediation (for example, to secure a vacant site), it is Council's view that the associated costs should be recoverable from the owner rather than borne by ratepayers.

Clause 12(5) may inadvertently deter Council's from using emergency powers. Councils must retain flexibility to act swiftly in urgent situations without being constrained by procedural limitations that could delay intervention and put public safety at risk.

Throughout the Bill, Councils are empowered to act when it "appears that" a defect or issue exists. However, in the event of challenge, a Council must justify and defend the decision and action taken. This creates a potential contradiction in the standard to be met to act, as this wording suggests the initial decision can be made on a lower threshold of evidence, yet the Council may later be required to provide full justification, potentially exposing Councils to substantial financial risk and deter use of the powers within the Act.

## **Clauses 16 – 20 Miscellaneous functions of district councils**

### **Clause 16 - Information**

**Clause 17 - Consultation with planning department**  
**Clause 18 - Power of entry**  
**Clause 19 - Fixed penalty**  
**Clause 20 - Guidance**

**Information:**

**Clause 16 – Information - gives district councils the power to require information with regard to ownership, other persons having an interest in the premises, use to which the property is being put, etc. The clause also provides for two offences and penalties.**

**Clause 17 - Consultation with planning department (Heritage Sites) and relevant officers of DfC if the Heritage Site is a Historic Monument - requires a district council to consult relevant colleagues before issuing a notice in relation to a heritage site. It also provides that regulations may be made by the Department amending the definition of “heritage site” in subsection (2).**

**Clause 18 - Power of entry - provides for occasions where an authorised officer of the council may enter land in the council’s area for the purposes of the Act. There are various notice periods provided for in the Bill. It also covers compensation and inserts a relevant offence provision of obstructing an authorised officer.**

**Clause 19 - Fixed penalty - provides for a discretionary £500 fixed penalty to be issued by councils to discharge liability for conviction for breach of a maintenance notice and for failure to provide information without reasonable excuse. The Department may amend the fixed penalty amount by regulations - Schedule 1 makes further provision regarding fixed penalties.**

**Clause 20 – Guidance - provides that a district council must have regard to any guidance issued by the Department.**

**12. Please provide comment on any of the miscellaneous functions of district councils to be found in Clauses 16 to 20.**

**Consultation with planning regarding heritage sites (Clause 16).**

Clause 17 is the relevant section relating to consultation with the Planning Department. This clause requires Councils to consult with officers responsible for heritage sites but does not specify the purpose of such consultation. In practice, many dangerous structure incidents occur outside normal working hours, often at night or weekends. Council officers anticipate difficulties in contacting the relevant officers of the Historic Environment Division if the heritage site is a listed building or within a conservation area. This could be particularly problematic where there is an imminent risk to public safety and immediate action is required.

Council is of the view that there must be suitable legislative arrangements to facilitate timely consultation in such circumstances. It is therefore recommended that Section 17(1) be amended to introduce an additional requirement to ensure that emergency consultation procedures are clearly established.

**The powers of entry or an authorised officer of a district council (Clause 17).**

Clause 18 is the relevant section relating to powers of entry. Council would suggest inclusion of a procedure for obtaining a warrant from a magistrate in cases where entry is refused or obstructed.

The fixed penalty provided for in Clause 18 when an authorised officer of a district council has reason to believe that a person has, in relation to land in the council's district, committed an offence under section 3(2) (breach of maintenance notice), or an offence under section 16(4) (failure to provide information without reasonable excuse).

Clause 19 is the relevant section relating to fixed penalties. Council welcomes the inclusion of fixed penalty notices in the Bill however they must be set at such a level to incentivise compliance and provide sufficient deterrent.

The guidance for the time being issued by the Department for the purposes of this Act. A draft of the guidance, or a proposed revision of the guidance, must be laid before the Assembly.

The full suite of Department guidance is required by before Council can provide a full and comprehensive response to this consultation. Development of any guidance should be undertaken in consultation with Councils as the enforcement authority.

#### **Clauses 21 – 23 General procedural matters etc.**

- 21. Notices**
- 22. Appeal**
- 23. Offences: defendant**

**Clause 21 – Notices - provides for general issues relating to notices issued under the Act by district councils, such as variation and withdrawal.**

**Clause 22 - Appeal - provides that an appeal against a notice issued under the Act will suspend that notice being appealed until the appeal is concluded or withdrawn. However, this does not apply to an appeal against works under clauses 10 or 11.**

**On the determination of any appeal under the Act, the court must give directions for giving effect to its determination. A subsequent appeal to the County Court may be brought against the original appeal decision.**

**Clause 23 - Offences: defendant - provides for the procedures in cases where proceedings have been brought but the defendant ceased to be the owner/occupier before the end of the notice period.**

**13. Please provide comment on any aspect of the general procedural matters provided for in Clauses 21 - 23, including notices served under this Bill (Clause 21); appeals against a notice brought under this Bill (Clause 22) and for the procedures in cases where proceedings have been brought but the defendant ceased to be the owner/occupier before the end of the notice period (Clause 23). General procedural matters Clauses 21 - 23.**

Clause 22(1) – This clause effectively means that if an appeal is lodged, all works specified by the Notice must await the outcome of the court. Consequently, the timely removal of dangers becomes dependent on court efficiency, which may delay necessary interventions to protect public safety.

Clause 23 – With respect to offences, Councils would support measures that compel those responsible to comply with the terms of the Notice. In addition, the introduction of a daily fine for non-compliance would provide a stronger incentive for prompt action.

## **Clauses 24 – 25 Interpretation**

- 24. Meaning of “interested person” etc.**
- 25. Other definitions**

### **Information:**

**Clause 24 - Meaning of “interested person”, etc. - provides for the definition of “interested person” and also defines “owner” in relation to land.**

**Clause 25 - Other definitions - provides for definitions in respect of “building”, “land”, “authorised officer”, “use” and “the Department”.**

**14. Please provide comment on any aspect of the interpretation clauses provided for in Clauses 24 and 25, regarding the meaning of ‘interested person’ and other definitions. Interpretation Clauses 24 and 25**

Clarification is sought on whether the definition of “building” in Clause 25(2) could be applied to structures such as free-standing retaining walls, lamp posts, or railway gates. The Council would also welcome clarification on whether the proposed legislation is intended to apply to Crown buildings, military facilities, mining facilities, and similar sites.

## **Clauses 26 – 28 Supplementary**

- Clause 26 - Repeals and consequential amendments**
- Clause 27 - Savings**
- Clause 28 - Regulations**

### **Information:**

**Clause 26 - Repeals and consequential amendments provides for the repeals set out in Schedule 2 and allows the Department by regulations to make consequential amendments.**

**Clause 27 - Savings - preserves the effect of a notice served under any legislation being repealed by the Act, therefore allowing a district council to complete works which it has begun under such a provision before its repeal.**

**Clause 28 - Regulations - provides the Department with a power, when making regulations under the Act, to make incidental, supplementary, consequential, transitional, transitory or saving provisions. Regulations under the Act will be subject to the negative resolution procedure unless they amend a fixed penalty amount or amend the definition of “heritage site” in which case they will be subject to the draft affirmative resolution procedure.**

**15. Please provide comment on any aspect of the supplementary clauses provided for in Clauses 26 to 28. Supplementary Clauses 26 to 28.**

Council has no comment on to make at this time.

## **Clauses 29 - 31 General Interpretation, Commencement & Short Title**

- Clause 29 - General Interpretation**
- Clause 30 - Commencement**
- Clause 31 - Short Title**

### **Information:**



**Clause 29 - General interpretation - contains general interpretation provisions.**

**Clause 30 – Commencement - concerns the commencement of the Act.**

**Clause 31 - Short title - provides for the short title of the Act.**

**16. Please provide comment on any aspect of Clauses 29 – 31 regarding general interpretation. General Interpretation Clauses 29 – 31.**

Council has no comment on to make at this time.

## **Schedules**

### **Schedule 1 Fixed Penalties**

### **Schedule 2 Repeals**

**Schedule 1 - Fixed Penalties sets out the form and content, etc. of fixed penalty notices issued under clause 19. It also contains information regarding the use of fixed penalty receipts by district councils and gives the Department powers to make regulations regarding the use of receipts.**

**Schedule 2 – Repeals lists the necessary repeals.**

**17. Please provide comment on any aspect of Schedule 1 regarding the fixed penalties, fixed penalty receipts and the power to make regulations regarding the use of receipts. Schedule 1**

The Council would welcome the retention of all fixed penalty payments for use in discharging its functions under the legislation. However, it should be noted that any income generated from fixed penalties is unlikely to meaningfully offset the costs of delivering the functions under the Act.

Accordingly, the provision of dedicated funding to Councils would assist in the effective delivery and meaningful outcomes.

**18. Please provide comment on any aspect of Schedule 2 regarding the necessary repeals. Schedule 2**

Council has no comment on to make at this time.

## **Additional Information/Comments**

**19. Please provide any additional information or comments on any aspect of the Bill that you feel is relevant. Additional information or comments.**

A full suite of Departmental guidance to accompany the proposed legislation is essential, due to the inclusion of subjective definitions, to ensure consistency of approach and avoid potential legal challenges that could undermine the intent of the legislation. Council will also require the guidance to undertake a full and comprehensive financial and resource appraisal as part of the consultation process.

In cases of abandonment, if the costs to carry out works in default exceed the value of the property or site, and the property is not in use, it would be beneficial for district councils to have the power to declare the property or site as abandoned and vest it in the council. The Council would also welcome a power of sale over such abandoned or vested property, if

necessary, with any vested land covered under general local government legislation, primarily Section 96 of the Local Government Act 1972.

Where a property falls under bona vacantia or escheat rules and costs are owed to a district council, the property should, at the council's discretion, revert to the council before reverting to the Crown, with the council retaining the right to disclaim.

In the absence of Departmental guidance at this stage, the Council has grave concerns that the proposed legislation may have significant financial and resource implications which will be burdensome to ratepayers. As the consultation progresses, due consideration will be given to these implications, including an assessment of the Council's ability to recover costs associated with default works.

To enable a full and comprehensive financial and resource appraisal, Council would require access to the complete suite of Departmental guidance that will accompany the Bill, including:

- Detailed operational guidance
- Clear definitions and scope of responsibilities
- Evidence from other jurisdictions regarding the resource and financial impact of similar legislation

### **Proposed Additions and Amendments**

20. Please provide information on any potential amendments that you feel would enhance the Bill and the rationale for those. Information on any potential amendments

Information on potential amendments have been included throughout this response. Council has no further proposed amendments to suggest at this time.