



Briefing 11/66 December 2011

Response to consultation – Draft guidance on councillors’ allowances in Northern Ireland.

To: All NI Contacts
For information: All contacts in England, Scotland and Wales

Key issues

Consultation Paper on councillor allowances.
Clarification of different allowances and relevant circumstances.
Example templates and form provided.

1. Introduction

The main aim of the Guidance is to provide information to councils to assist them in preparing and administering their schemes of allowances. It will replace the current Guidance on Councillors’ Allowances in Northern Ireland, issued in 2007, with updated information to provide for changes, including those arising from the Finance Act.

Part 3 of the Finance Act updates the legislative framework for councillors’ remuneration by re-enacting, with amendments, the provisions of sections 12 and 13(2A) and sections 36 to 38 of the Local Government Act (Northern Ireland) 1972.

Section 31 of the Finance Act makes provision for regulations concerning the payment of allowances and expenses to councillors, and will come fully into operation on 1 April 2012. The Finance Act also makes provision for councils to make schemes of the allowances they intend to pay to councillors.

Consultation on the proposed Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012 (“the Regulations”) took place from 17 December 2010 to 24 February 2011.

The Department is seeking views from consultees on the draft guidance which can be found at <http://applications.doeni.gov.uk/publications/document.asp?docid=18089>

The document provides a range of templates and forms.

2. Specific regulations

2.1 Regulation 3

- The 2012 Regulations provide that, from 1 April 2012, each council must have in place a scheme for the payment of any allowances it intends to make to its councillors in respect of each year. Payments to a member of a committee or sub-committee should be included whether that person is a member of the council or not.

- A scheme must include details of all the allowances paid to councillors.
- Before a scheme becomes effective, a council must decide upon its contents, the amounts to be paid and its commencement date. The commencement date might not be the start of a financial year, and so it will need to clarify its duration.
- A scheme can be amended or revoked at any time but, if it is revoked, it must be replaced with a further scheme, with no intervening period.
- Basic allowance provisions in the scheme - To recognise the time commitment of all councillors and the incidental costs incurred, each council must make provision in its scheme of allowances for a basic allowance, payable at the same rate to all of its councillors.
- Special responsibility allowance provisions in the scheme - Where a council decides to pay a special responsibility allowance, in recognition of any significant additional responsibilities undertaken by individual councillors, it must make provision in its scheme for this allowance. The council must identify the special responsibilities for which the allowance is to be paid, and the amounts to be paid for each responsibility.
- Dependants' carers' allowance provisions in the scheme - Where a council decides to pay a dependants' carers' allowance, to recompense councillors for costs incurred regarding the care of children or dependent relatives when approved duties are carried out, it must make provision in its scheme for the payment of this allowance
- Travel and subsistence allowances provisions in the scheme - Where a council decides to recompense councillors for travel and subsistence costs incurred whilst on council business, it must make provision in its scheme of allowances for the payment of travel and subsistence allowances.
- Other provisions in the scheme - A council may wish to make provision in its scheme of allowance for other issues regarding payments to councillors, for example, the allowances for the chairperson and vice-chairperson, councillors' support services, and the means of calculating part-year entitlement.

2.2 BASIC ALLOWANCE

Regulation 11

- Publication of the scheme of allowances payable to councillors - A copy of the scheme should be published on its website, as soon as possible after the council makes or amends any scheme of allowances payable to councillors. It must also make arrangements for its publication, within its district, as it considers appropriate.
- Publication of the payments made under the scheme of allowances payable to councillors - As soon as possible after the end of a year to which a scheme relates, a council must arrange for the amounts of basic allowance, special responsibility allowance, dependants' carers' allowance and travel and subsistence allowances it has paid to each councillor to be published on its website.

2.3 Regulation 4

- The 2012 Regulations provide that a council must make provision in its scheme of allowances for a basic allowance, payable to all of its councillors and it must be the same for all councillors. Each council determines the amount of the basic allowance it will pay, but it must be within the maximum set by the Department. No council may pay more than one basic allowance to each councillor.

- Basic allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents, including approved duties. A list of approved duties should be included in each council's scheme of allowances. (A site visit or a meeting arranged for a similar planning purpose are not recognised as approved duties).
- Basic allowance is also intended to cover incidental costs incurred by councillors in their official capacity, such as the use of their homes and the cost of any telephone calls, including mobile phone calls
- It is for the council to decide at what intervals payment of basic allowance should be made. The Department suggests payment on a monthly or quarterly basis, but under no circumstances should payment be made in advance.

2.4 SPECIAL RESPONSIBILITY ALLOWANCE

Regulation 5

- Each council may also make provision for the payment of special responsibility allowance ("SRA"). This is in addition to the basic allowance.
- As elected representatives, councillors are expected to undertake responsibilities in the course of their duties which include representation on external bodies. SRA should only be paid to those councillors who have significant additional responsibilities, over and above the generally accepted duties of a councillor. Councils should carefully consider the additional roles of councillors and the significance of those roles, both in terms of responsibility and time commitment before deciding which will warrant the payment of an SRA.
- It is entirely a matter for individual councils to identify the responsibilities and also the level of SRA to be awarded to councillors. However, to achieve some consistency in the level of allowance payable for certain special responsibilities, e.g. involvement with individual local government organisations or joint committees, the bodies concerned may wish to provide a steer. Examples of positions or responsibilities that might attract an SRA are:
 - mayor/deputy mayor or chairperson/vice-chairperson of the council;
 - chairperson of a committee;
 - members of a joint committee (e.g. arc21 and SWaMP2008);
 - members of non-departmental public bodies (NDPBs) or other public bodies that do not make payments to their members, subject to the level of responsibility that they hold; or
 - such other activities in relation to the discharge of the council's functions as require an amount of time and effort equal to or greater than would be required by any one of the activities referred to above.
- The amount a council may spend on SRA will be subject to a maximum rate determined by the Department and will be banded by the size of the council population. The population figures are updated each year by the Northern Ireland Statistics and Research Agency and it is the duty of each council to operate within the total maximum rate appropriate to its population band.
Population bands are as follows:
 - 200,000 or more
 - 100,000 to 199,999 (inclusive)
 - 50,000 to 99,999 (inclusive)
 - less than 50,000
- It is for the council to decide at what intervals payment of SRA should be made. The Department would suggest payment on a monthly or quarterly basis, but under no circumstances should payment be made in advance.

- A council may wish to retain a portion of its SRA allocation to distribute later in the year, as a councillor's performance may not always be recognised at the beginning of a year.
- The 2012 Regulations restrict payment of SRA, so that no councillor should be paid more than one SRA, and no more than 50% of councillors (excluding the council chairperson and vice-chairperson) should receive SRA.
- The 50% figure is calculated against the total number of seats on the council (excluding the chairperson and vice-chairperson) and where there is an odd number, the figure may be rounded up to the next whole number.
- There may be circumstances where it may be appropriate to pay the SRA to more than half the councillors. The 2012 Regulations make provision allowing councils to apply to the Department for approval. This will not affect the maximum amount of SRA available to a council, only its distribution among the councillors of that council. If a council decides to apply to the Department for approval to pay its SRA allocation to more than half of its councillors.
- The distribution of responsibilities and posts (which may inform decisions on the payment of SRA) is a matter for each council to determine. The Department would encourage councils, as good practice, to adopt safeguards to ensure a fair distribution of the duties which would attract an SRA across a representative sample of political parties

2.5 DEPENDANTS' CARERS' ALLOWANCE

Regulation 6

- Each council may also make provision in its scheme for the payment of a dependants' carers' allowance ("DCA"). This is an allowance open to all councillors who are the main carers of a dependant where care is required to enable the councillor to perform an approved duty.
- The allowance may be paid for a dependant who requires full-time care and who resides with the councillor as part of that household.
- A carer, a specialist carer and a dependant are defined in the paper.
- The Department determines hourly rates of DCA for both standard care and specialist care and sets maximum monthly amounts, capped at the equivalent of 26 hours per month.
- DCA will reflect a contribution to the care of dependants not the actual costs incurred.
- Councillors wishing to claim DCA should be asked to complete a claim form and sign a declaration and for specialist care must obtain and submit receipts.
- Councillors may claim only one DCA for each instance of childcare or carer service.
- In most cases, to allow for essential travel time, councillors may claim for a period up to a maximum of one hour before the approved duty starts and up to one hour after it finishes. In exceptional cases, with council prior approval, a greater travel time may be considered.
- Councillors must disclose any financial support provided under DCA, when applying for other care services offered by another public body.
- Councils are encouraged to provide councillors with information as to where they might access advice on caring facilities and services. Councils should also review whether their family-friendly policies and practices cater for the needs of councillors, as well as staff.

2.6 TRAVEL AND SUBSISTENCE ALLOWANCES

Regulation 7 and Schedules 1 & 2

- Each council may also make provision in its scheme of allowances for the payment of travel allowance and subsistence allowance. These are open to all councillors who incur expenditure for travel and subsistence in relation to any approved duties.
- The maximum rates of travel and subsistence are determined by the Department and reviewed annually after consultation with the NI Joint Council for Local Government Services.
- Any claim for payment of travel allowance or subsistence allowance other than mileage-based claims, must be accompanied by appropriate receipts, and submitted within three months.
- Payment of travel allowance shall not exceed the rate applicable to the mode of travel specified. Also, payment of subsistence allowance shall not exceed the rate as applied to the time the approved duty is carried out.
- The rates of travel allowance and subsistence allowance must be determined by the council, subject to a maximum determined by the Department.
- The rates of travel allowance and subsistence allowance must be the same for each councillor.

2.7 CHAIRPERSON'S/VICE-CHAIRPERSON'S ALLOWANCE

- Section 32 of the Finance Act provides that a council may pay to the chairperson and vice-chairperson of the council such allowances as it considers reasonable to meet the expenses of those offices. Where the district of a council is designated as a borough, the chairperson and the vice-chairperson are known as the mayor and deputy mayor of the borough.
- The Department recommends that, where it is feasible, councils should use their SRA allocation for the mayor/deputy mayor and chairperson/vice-chairperson allowances. The Department recommends that expenses for these offices, which should be receipted, should be met under section 32 of the Finance Act.
- Any SRA paid to the mayor/deputy mayor or chairperson/vice-chairperson is excluded from calculations restricting payment of SRA to no more than half of councillors of a council.

2.8 COUNCILLORS' SUPPORT SERVICES

- As there is no specific legislative provision for support services for councillors, where councils have carried out a business case and can justify such expenditure, these arrangements may continue until such time as specific legislative provision has been made.
- On occasion, individual councillors may use their council's secretarial facilities to assist ratepayers to deal with an issue that, presently, is not a function of the council, such as housing or roads matters. In such cases, the scale of the assistance required should be measured carefully and discussed with senior officials of the council. The following advice, however, may be used as a general guide:
 - services available in councillors' party offices should be used in the first instance;
 - council facilities may, with the agreement of officials, be used for small scale exercises (e.g. small volume of photocopying); and
 - under no circumstances should council services be used for party political campaigning.

2.9 PART-YEAR ENTITLEMENT TO ALLOWANCES

- A council may make provision in its scheme of allowances payable to councillors for part-year entitlement to allowances. Provisions for part-year entitlement to basic allowance and SRA may be made to include procedures when:
 - a scheme is amended;
 - a councillor becomes or ceases to be, a councillor; and
 - a councillor accepts or relinquishes a special responsibility.

3 DEFINITION OF AN APPROVED DUTY

Regulation 2 of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012 defines an approved duty as –

(a) attendance at a meeting of:

- the council;
- a committee or sub-committee of the council;
- a joint committee of which the council is a member, or any sub-committee of a joint committee;
- a group committee established under the provisions of the Local Government (Employment of Group Building Control Staff) Order (Northern Ireland) 1994 or the Local Government (Employment of Group Environment Health Staff) Order (Northern Ireland) 1994; or

(b) the doing of anything approved by a council or anything of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the council, or any of its committees or sub-committees, or as the case may be, of the joint committee or any of its sub-committees.

An approved duty does not include a site visit, which is defined in Regulation 2 as a visit made by a councillor in connection with an application for planning permission -

- which has been referred to a council for consultation under Article 15(a) of the Planning (General Development) Order (Northern Ireland) 1993; or
- at the request of the applicant for that planning permission, or the agent of an applicant, or at the request of an objector to that application.

4. General comments

APSE welcomes the regular review of arrangements for councillor allowances to ensure they remain up to date and that a chance is given for consultation. There is no doubt that the issues of accountability and transparency over allowances for all involved in political life have risen up the public's agenda and it is only right that arrangements are formalised within councils.

This is one of a number of areas which should be addressed as part of wider local government re-organisation in Northern Ireland. As more responsibilities transfer to local government and the new councils cover larger areas, greater demands will be placed on each councillor and their role will potentially become more onerous. Clearly this change in the level of responsibility and workload should be reflected in the allowances made available.

There is also likely to be a period when some councillors will be representing their current councils as well as sitting on the shadow councils for the new authorities before they come into being. This will be a period when the call on those councillors will be even heavier than usual and allowances should reflect this.

Many councils will have adequate arrangements in place and are already operating appropriate regimes. However they should take note of the guidance to ensure they are aware of all elements within it. They should also be willing to respond with improvements if they are aware of any.

There is a responsibility on councillors to make sure they know and act within existing rules and they should be given appropriate support to do so. Equally the schemes in operation should be as simple to follow as possible with support offered where appropriate.

Formal involvement in political life should not leave those undertaking duties out of pocket but in times of austerity councils need to keep track of all financial resources and ensure that all areas of spend are monitored adequately.

Councils should also have in place clear and robust policies to deal with cases where the regulations within allowance schemes are not followed, either through genuine error or on purpose. Councils must be willing to deal with all such cases and to do so in a transparent and fair way.

It remains vital that those that sit on councils represent the full spectrum of local society. With this in mind, APSE supports the range of allowances in place for dependent carer's allowance. It is also important that councils are as accommodating as possible when councillors require extra support or guidance due to unusual circumstances, sickness or personal issues.

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