



Department of the
Environment

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District Councillors' Allowances and Multiple Mandates

Consultation Document

October 2011

**DISTRICT COUNCILLORS' ALLOWANCES
AND MULTIPLE MANDATES**

CONSULTATION ON POLICY PROPOSALS

The Department of the Environment is seeking views from consultees about the allowances payable to Northern Ireland district councillors who are also Members of the Legislative Assembly, Members of Parliament and/or Members of the House of Lords,

Comments should be sent by 16 December 2011 to:

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The following persons will be able to answer queries in relation to these policy proposals:

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DISTRICT COUNCILLORS' ALLOWANCES AND MULTIPLE MANDATES

CONSULTATION ON POLICY PROPOSALS

PURPOSE OF THE CONSULTATION DOCUMENT

1. The Department of the Environment is seeking views from consultees about the allowances payable to Northern Ireland district councillors who are also members of the Legislative Assembly (MLAs) and/or members of Parliament (MPs) and/or members of the House of Lords (multiple mandate councillors).
2. There are 582 councillors in Northern Ireland and of these, 35 (6%)¹ hold a multiple mandate.

BACKGROUND

3. The main allowances that make up the current system of councillors' remuneration in Northern Ireland are set out in two sets of regulations, made under section 36 of the Local Government Act (Northern Ireland) 1972 (the 1972 Act). These are:
 - the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999 (as amended²); and
 - the Local Government (Travelling and Subsistence Allowances to Councillors) (No. 2) Regulations (Northern Ireland) 1973 (as amended³).

¹ As at May 2011

² As amended by SR 2007 No.168

³ As amended by SR 1973 No. 366; SR 1979 No. 25; SR 1981 No.144; SR 1997 No. 431 and SR 2003 No.125

4. Section 36 of the 1972 Act will be repealed and replaced by section 31 of the Local Government Finance Act (Northern Ireland) 2011 (the 2011 Act), which received Royal Assent on 16 March 2011. Section 31 is expected to come into operation with effect from 1 April 2012.
5. In December 2010, the Department issued the draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011 for consultation. Although these Regulations, to be made under section 31 of the 2011 Act, will revoke and replace the regulations referred to in paragraph 3, the types of allowances to be paid to councillors will, however, remain the same.
6. The Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999 (as amended) allow councils to pay a basic allowance, special responsibility allowance and dependants' carers' allowance. The Department determines the maximum level that may be paid for each of the allowances.

BASIC ALLOWANCE

7. The basic allowance is paid in recognition of a councillor's representational role and to assist with other incidental costs such as the use of their homes and private telephones. It recognises the time commitment of all councillors, including such calls on their time as meetings with constituents and council officers, as well as approved duties (see Annex A). Each council determines the amount of basic allowance it will pay but it must be within the maximum set by the

Department (currently £9,738). At present, a council must pay the same level of basic allowance to each councillor of that council.

SPECIAL RESPONSIBILITY ALLOWANCE (SRA)

8. SRA is a payment in addition to the basic allowance where a council is satisfied that a councillor has special responsibilities in relation to the discharge of the functions of the council. The Department determines the maximum amount (banded by the size of the district council population) that the council may spend on SRA. It is for each council to decide which responsibilities attract an SRA and the amount of payment for each SRA.
9. The number of responsibilities which attract an SRA varies from council to council. Examples of responsibilities which might attract an SRA would include being the mayor/deputy mayor or chairperson/vice-chairperson of the council, chairperson of one of the committees of the council or a member of a joint committee. The Department recommends that, because an SRA should be paid for significant further responsibilities in addition to the normal duties of a councillor, no more than half of the total number of councillors in a council should receive this allowance. The proposed Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011 will provide that (unless approved by the Department on a case by case basis) SRAs should not be paid to more than half of the councillors in a council.
10. Where a council decides to award SRAs, the council may not necessarily use the permitted maximum in a year. Drawing from the

2009-10 return to the Department on councillors' allowances, two councils used less than half of the permitted maximum and another three councils used 75% or less of the maximum. The current maximum levels are set out in the table below.

| District Council Population (Column 1) | Council | Maximum amount payable in a financial year (Column 2) | Maximum payable to individual members (Column 3) |
|---|---|--|---|
| Exceeding 200,000 | Belfast | £82,000 | One fifth of the amount in Column 2 |
| 100,000 – 200,000 | Lisburn and Derry | £61,500 | One fifth of the amount in Column 2 |
| 50,000 – 100,000 | Antrim, Ards, Armagh, Ballymena, Castlereagh, Coleraine, Craigavon, Down, Dungannon & South Tyrone, Fermanagh, Newry & Mourne, Newtownabbey, North Down and Omagh | £30,750 | One fifth of the amount in Column 2 |
| Not exceeding 50,000 | Ballymoney, Banbridge, Carrickfergus, Cookstown, Larne, Limavady, Magherafelt, Moyle and Strabane | £20,500 | One fifth of the amount in Column 2 |

DEPENDANTS' CARERS' ALLOWANCE (DCA)

11. DCA is designed to help councillors who incur expenses for the care of children or dependants while they carry out approved duties (see Annex A). A councillor receives the actual cost incurred or the level of allowance determined by the council, whichever is the lesser. The current maximum levels set by the Department, are given below.

| Standard Care | Specialised Care |
|---|-------------------------|
| £6.08 per hour | £12.16 per hour |
| £158.00 per month | £316.00 per month |
| Maximum payments per member, per month, shall not exceed £316.00 | |

TRAVEL AND SUBSISTENCE

12. The Local Government (Travelling and Subsistence Allowance to Councillors) (No. 2) Regulations 1973 (as amended) set out the framework of travel and subsistence allowance. In general, these follow the system of travel and subsistence allowances for local government officers. The Department sets the maximum amount payable.

COUNCIL CHAIR AND VICE-CHAIR

13. In addition to the allowances payable to councillors' under section 36 of the 1972 Act, sections 12 and 13 of that Act make provision for a council to pay the chair and vice-chair of the council such allowances as it considers reasonable to meet the expenses of these offices. There is considerable variation in practice regarding the allowances of chairs and vice-chairs of councils. Some councils award allowances under sections 12 and 13 of the 1972 Act, while others apply these provisions to receipted expenses only. Some councils allocate an SRA to the chair and vice-chair and others split the allowances between SRA and expenses.

AMENDING THE SYSTEM OF COUNCILLORS' ALLOWANCES

14. Section 36 of the 1972 Act gives the Department the power to make regulations which "...may provide for the making by councils, subject to and in accordance with the regulations, of payments to councillors for, or in relation to anything done in connection with, service as councillors". The Department can, in exercising this power, make

provision for different classes of case and in doing so may lessen the full extent to which it is exercised. It would, therefore, be possible for the Department to amend the existing regulations to make different provision for multiple mandate councillors, to set a lower maximum level of allowances payable.

SCOPE OF THE REVIEW

15. DCA was introduced to help remove barriers to public service for traditionally under-represented groups, such as those with caring responsibilities. In addition to this, section 75 of the Northern Ireland Act 1998 requires the Department to have due regard to the need to promote equality of opportunity between persons with dependants and persons without dependants. In view of this, the Department has decided to exclude DCA from this review.

16. As travel and subsistence allowances for councillors are meant to compensate them for expenses incurred in carrying out their official duties, the Department does not consider that it would be appropriate to include these allowances in this review.

17. As there are differences in approach to the payment of allowances to council chairs and vice-chairs under sections 12 and 13 of the 1972 Act, the Department does not consider that it would be appropriate to include these allowances in this review. The Department does, however, intend to carry out a review in due course of how the provisions of sections 12 and 13 are working in practice.

18. Therefore the scope of this review only takes into account the basic allowance and special responsibility allowance which may be payable to multiple mandate councillors.

OPTIONS

19. The Department has identified and is seeking views on two possible options for dealing with the issue of councillors' allowances for those councillors who hold multiple mandates. Option 1 would involve no change whilst Option 2 would reduce certain allowances payable to multiple mandate councillors.

Option 1 – No Change.

20. Under this option the current arrangements where multiple mandate councillors receive a basic allowance and, if appropriate, an SRA, would be retained.

Question 1

Do you think that multiple mandate councillors should continue to receive a basic allowance and, if appropriate, an SRA without any reduction being applied?

Option 2 – Reduce the level of certain allowances for multiple mandate councillors.

21. Option 2 would involve a reduction in the level of both the basic allowance and, if applicable, a reduction in SRA payable to multiple

mandate councillors. It is proposed that a two-thirds reduction should be considered for both.

22. It is recognised that councillors, MLAs and MPs have some responsibilities which are quite distinct from each other. For example, MLAs and MPs have a role in respect of the legislature, whilst councillors have a role in respect of planning, provision and delivery of key services within a council.
23. However, in some cases there is an overlap in the geographical area a person represents as an MLA, MP and as a councillor, and there will be circumstances where there is an overlap of responsibilities between councillors, MLAs and MPs, particularly in respect of representing and assisting constituents.
24. Where the district council area forms part of the Assembly or Westminster constituency of a multiple mandate councillor, it could be argued that there is risk of double payment due to this overlap. To reduce the possibility of someone being paid twice for carrying out what could be perceived as a possible duplication of some work, the Department proposes that a reduction should be applied to both the basic allowance and SRA payable to a councillor who is also an MLA and/or MP.
25. This Option would be similar to the reduction which was applied by Westminster to the salaries of MLAs who were also MPs before the

Northern Ireland Assembly Members Act 2010¹ came into operation in April 2010. In Northern Ireland the salary of an MLA who was also a MP was reduced by two-thirds, although other allowances, such as those payable to an office-holder, were not affected.

26. If the Westminster model which applied prior to April 2010 (i.e. a reduction by two-thirds) were followed, the maximum basic allowance payable to a multiple mandate councillor would be £3,246.
27. The level of SRA differs between councils and it is for a council to determine the amount of SRA which should be payable for each special responsibility within a permitted maximum per council set by the Department. Option 2 proposes that a reduction of two-thirds should be applied to any SRA payable to a multiple mandate councillor.
28. As an SRA is only paid where the council considers that the councillor is carrying out an additional responsibility to the normal duties expected of a councillor, it may be argued that it is unfair to expect them to do so without suitable monetary recognition of the additional workload. Also, the proposed reduction in SRA could act as a disincentive to multiple mandate councillors agreeing to undertake such additional responsibilities.
29. However, it could also be argued that a councillor who does not hold a multiple mandate and is prepared to undertake the duties that would attract the full SRA allowance, could more readily devote the

¹ The Northern Ireland Assembly Members Act 2010 made provision to remove the Assembly salary of an MLA (though not a Ministerial salary) where he or she sits as a member of the House of Commons or European Parliament.

time necessary to take on such a post that warrants special responsibility. If Option 2 was accepted, it could act as an incentive to encourage these councillors to put themselves forward for these positions.

30. The House of Lords is the second chamber of the UK Parliament and complements the work of the House of Commons. It plays a role in making laws, holds government to account and investigates policy issues. Members, who are mostly appointed rather than being elected, do not have a representative role. Members of the House of Lords are paid an allowance in respect of the days they attend the House (currently up to £300 per day). No reduction is applied to the salary of a member of a devolved government who is also a member of the House of Lords.
31. Unlike MLAs or MPs, who are councillors, it cannot be argued that there is possible duplication of representation role for councillors who are also members of the House of Lords. However, as with MLAs and MPs, it could be argued that it is not appropriate for someone to simultaneously hold two paid for, public offices.
32. The Department would welcome views on whether the basic allowance and SRA of councillors who are also members of the House of Lords should be similarly reduced by two-thirds.

Question 2

Do you agree that reductions should be applied in respect of councillors who are also -

- 1. MLAs; and/or**
- 2. MPs; and/or**
- 3. Members of the House of Lords.**

Please give reasons for your views.

Question 3

Do you think a reduction should be applied to the amount of:

- 1. basic allowance; and/or**
- 2. special responsibility allowance payable to multiple mandate councillors?**

Please give reasons for your views.

Question 4

If you agree that a reduction should be applied to the allowances of multiple mandate councillors, do you agree that a two-thirds reduction would be appropriate for both basic allowance and special responsibility allowance?

Please give reasons for your views

Question 5

Do you think that the reduction should be set at a level other than the proposed two-thirds reduction? If so, please indicate how much, and your reasons for this.

Legislative Amendment

33. The Department proposes to amend the 1999 Regulations as set out in Annex C. Also, as the 1999 Regulations will be repealed and replaced when Part 3 of the 2011 Act comes into operation in April 2012, we would propose to make a similar amendment to the draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011, which were consulted on in December 2010.

HUMAN RIGHTS

34. The Department believes that the proposals are compatible with the Human Rights Act 1998.

EQUALITY

35. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups. A copy of the screening form can be viewed on the Department's website http://www.doeni.gov.uk/index/information/equality_unit.htm.

REGULATORY IMPACT ASSESSMENT

36. The Department has not conducted a regulatory impact assessment as the proposed legislation does not give rise to any associated costs or savings on business, charities, social economy enterprises or the voluntary sector.

RURAL PROOFING

37. The Department has assessed the proposed measures and considers that there would be no differential impact in rural areas or on rural communities.

FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

38. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read Annex B on the confidentiality of consultations. It gives guidance on the legal position about any information given by you in response to this consultation.

ALTERNATIVE FORMAT

39. This document is available in alternative formats. Please contact us to discuss your requirements.

CONSULTATION

40. Comments should be sent by 16 December 2011 to Local Government Policy Division at the address below or by e-mail to: LGPDConsultations@doeni.gov.uk.

41. If you have any queries in relation to these policy proposals, you should contact:

Mylene Ferguson mylene.ferguson@doeni.gov.uk 02890 256086

Tommy McCormick tommy.mccormick@doeni.gov.uk 02890 256038

42. This Consultation Document is being circulated to persons and bodies listed in Annex D, and is also available to view at:

http://www.doeni.gov.uk/index/local_government/local_government_consultations.htm.

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Approved Duties

An approved duty is defined in the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999 as any of the following:

- attendance at a meeting of the council, or of any of its committees or sub-committees, or at a meeting of a joint committee or any of its sub-committees, or at a meeting of a group committee established under the provisions of the Local Government (Employment of Group Building Control Staff) Order (Northern Ireland) 1994¹ or the Local Government (Employment of Group Environmental Health Staff) Order (Northern Ireland) 1994²;
- the doing of anything approved by the council or, as the case may be, by the joint committee, 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;

and shall not include a site visit³.

¹ S.R. 1994 No. 497

² S.R. 1994 No. 498

³ "site visit" means a visit made by a councillor in connection with an application for planning permission—

(a) which has been referred to a district council for consultation under Article 15(a) of the Planning (General Development) Order (Northern Ireland) 1993; or

(b) at the request of the applicant for that planning permission, or his agent, or at the request of an objector to that application.

The Freedom of Information Act 2000 – confidentiality of consultations

1. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

4. For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: <http://www.informationcommissioner.gov.uk>).

Proposed Extract of Draft legislation:-

Amendment of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999

2.—(1) The Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999⁽¹⁾ shall be amended in accordance with paragraphs (2) to (3).

(2) In regulation 3—

- (a) for the words “The amount of basic allowance” in paragraph (2), substitute “Subject to paragraph (5), the amount of basic allowance”.
- (b) for the words “The amount of the basic allowance ” in paragraph (3), substitute “Subject to paragraph (5), the amount of the basic allowance”.
- (c) for the words “Where the term of office” in paragraph (4), substitute “Subject to paragraph (5), where the term of office”.
- (d) After paragraph (4) insert—
 - “(5) For any period, in relation to any year, during which a councillor who is also—
 - (a) a Member of the Northern Ireland Assembly;
 - (b) a Member of the House of Lords; or
 - (c) a Member of Parliament,

is entitled to receive basic allowance, by virtue of paragraphs (1) to (4); the amount of basic allowance payable to the councillor shall be reduced by [two-thirds].”.

(3) In regulation 5—

- (a) for the words “The amount of the special responsibility allowance” in paragraph (2), substitute “Subject to paragraph (4), the amount of the special responsibility allowance”.
- (b) For the words “Where a councillor does not have” in paragraph (3), substitute “Subject to paragraph (4), where a councillor does not have”.
- (c) After regulation 5(3) insert—
 - “(4) For any period, in relation to any year, during which a councillor who is also—
 - (a) a Member of the Northern Ireland Assembly;
 - (b) a Member of the House of Lords; or
 - (c) or Member of Parliament,

is entitled to receive special responsibility allowance, by virtue of paragraphs (1) to (3); the amount of special responsibility allowance payable to the councillor shall be reduced by [two-thirds].”.

⁽¹⁾ S.R. 1999 No. 449 as amended by S.R. 2007 No. 168

List of Consultees

Age Concern NI

All Northern Ireland District Councillors

All Northern Ireland District Councils

An Munia Tober

arc21

Archbishop of Armagh and Primate of all Ireland

Association of Local Government Finance Officers

Association for Public Service Excellence

British Chamber of Commerce

Belfast Solicitors Association

Carers NI

Chief Local Government Auditor

Chinese Welfare Association

Church of Ireland

Civic Forum

Civil Law Reform Division

Coalition on Sexual Orientation

Community Relations Council

Community Technical Aid

Confederation of British Industry

Construction and Employers Federation

Courts and Tribunal Service

Disability Action

District Judge (Magistrates Court) – Laganside Courts

Equality Commission for NI

Equality Forum NI

Federation of Small Businesses

Food Standards Agency for Northern Ireland

Gingerbread

Help the Aged NI

HM Council of County Court Judges

HM Revenue & Customs

Human Rights Commission

Irish Bankers Federation

Law Centre (NI)

Law Society of Northern Ireland

Local Government Staff Commission (LGSC)

MENCAP

Men's Project

MEPs

Methodist Church in Ireland

Ministerial Advisory Group for Architecture and the Built Environment (the MAG)

Ministry of Defence

MLAs

MPs

National Association of Councillors (NAC)

NI Assembly / Committee for the Environment

NI Association of Citizens Advice Bureaux

NI Audit Office

NIACRO

NI Chamber of Commerce and Industry

NI Chamber of Trade

NI Committee – Irish Congress of Trade Unions (NIC/ICTU)

NI Council for Voluntary Action

NI Gay Rights Association (NIGRA)

NI Political Parties

NIPSA

North South Ministerial Council – NI Secretariat

North West Region Waste Management Group (NWRWMG)

Northern Ireland Court Service

Northern Ireland Judicial Appointments Commission (NIJAC)

Northern Ireland Law Commission

Northern Ireland Local Government Association (NILGA)

Northern Ireland Local Government Officers' Superannuation Committee

NI Ombudsman

Participation and the Practice of Rights Project

Public Service Commission (PSC)

Presbyterian Church in Ireland

QUB – School of Law

RSPB

RNIB

RNID

Save the Children

School of Law

Secretary – Catholic Bishops of Northern Ireland

Section 75 Groups

Society of Local Authority Chief Executives (SOLACE)

Staff Commission for Education & Library Boards

SWaMP2008

The Executive Council of the Inn of Court Northern Ireland

The General Consumer Council for Northern Ireland

The Law Society of Northern Ireland

The Northern Ireland Council for Ethnic Minorities

The Rainbow Project

Ulster Farmers Union

UU – School of Law

Victims Groups and Individuals

Women's Forum

Women's Support Network

Youth Council for Northern Ireland

Youthnet