



Subject:	Revision of the Council's Scheme of Allowances
Date:	21 st June 2019
Reporting Officer:	Stephen McCrory, Democratic Services Manager
Contact Officer:	Stephen McCrory, Democratic Services Manager

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider an amendment to the Council's Scheme of Allowances to provide for the withholding of allowances to a Member who is disqualified, suspended or partially suspended following an adjudication by the Local Government Commissioner for Standards in relation to a breach of the Northern Ireland Local Government Code of Conduct for Councillors.
2.0	Recommendations
2.1	It is recommended that the Committee: 1. Approve the amendment to the Scheme of Allowances as set out in the report;

3.0	Main report
3.1	<u>Key Issues</u>
3.1.1	The Council is required, under the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012, to publish a Scheme of Allowances, which sets out the allowances, and support services that apply to a Councillor.
3.1.2	The Council’s current Scheme does not cover what should happen if a Councillor is disqualified, suspended or partially suspended following an adjudication by the Local Government Commissioner for Standards in relation to a breach of the Northern Ireland Local Government Code of Conduct for Councillors.
3.1.3	The Committee has previously considered reports on this matter and deferred consideration until the Local Government Commissioner for Standards had provided information on her role in the issue. However, the Council has received an addendum to circular LG 23/2016 from the Department for Communities requiring the Council to update its Scheme of Allowances in relation to the payment of basic allowance to provide that:
3.1.4	<i>“In circumstances where a councillor is suspended from carrying out the duties of a councillor, in accordance with section 59(5) or section 60(1) of the Local Government Act (Northern Ireland) 2014, the part of the basic allowance payable to the councillor in respect of the period for which the councillor is suspended should be withheld.”</i>
3.1.5	The addendum also requires the Council to update its Scheme of Allowances, as it applies to Special Responsibility Allowances, to provide that:
3.1.6	<i>“In circumstances where a councillor is suspended from carrying out the duties of a councillor, in accordance with section 59(5) or section 60(1) of the Local Government Act (Northern Ireland) 2014, any SRA payable to the councillor in respect of the period for which the councillor is suspended should be withheld.”</i>
3.1.7	As the Council receives its lawful authority to make any payments from the Department under the Payments to Councillors Regulations, then it must abide by any instructions from the Department in relation to those Regulations.

3.1.8	<p>The advice of the Department for Communities was sought on the practical application of these changes and Mr Jeff Glass from DfC has commented as follows:</p> <p><i>“The basic allowance is not hypothecated to a certain number or level of duties, and it is not related to a certain time commitment by councillors in carrying out their approved duties, it is however payable to councillors for carrying out the role of a councillor. If a councillor is suspended from a particular duty/role but is still carrying out duties as a councillor the basic allowance may still be payable. If a councillor is suspended from carrying out a role that attracts a SRA within the council’s scheme, the council should consider withholding the element of SRA payable for that duty. If a councillor is suspended from carrying out the role of a councillor by the Commissioner for Standards under section 59(5) and as basic allowance is payable for carrying out the role of a councillor then that allowance should be withheld for the relevant period. Similarly, if a councillor is suspended from carrying out the role of the councillor under section 60(1) of the 2014 Act then payment of all allowances should be withheld. If the suspension under section 60(1) is not withheld the council can subsequently consider paying allowances for the period that was originally withheld. It is for each council to seek its own legal opinion on any issues it may have.”</i></p>
3.1.9	<p>Accordingly, in line with the guidance issued in the circular and in line with the advice provided by Mr Glass, the Committee is requested to agree to the amendment to the Scheme of Allowances as follows:</p>
3.1.10	<p><u>“Basic Allowance</u></p> <p><i>In circumstances where a councillor is wholly suspended from carrying out the duties of a councillor in accordance with section 59(5) of the Local Government Act (NI) 2014, the whole of the basic allowance payable to the councillor in respect of the period for which the councillor is suspended shall be withheld.</i></p> <p><i>In circumstances where a councillor is wholly suspended from carrying out the duties of a councillor in accordance with section 60(1) (Decisions on Interim Reports) of the Local Government Act (NI) 2014, the whole of the basic allowance payable to the councillor in respect of the period for which the councillor is suspended shall be withheld, subject to the provision that the allowance withheld shall be payable to the councillor concerned should</i></p>

the final adjudication of the Commissioner for Standards exonerate the councillor concerned.

In circumstances where a councillor is partially suspended from carrying out the duties of a councillor in accordance with section 59(5) or section 60(1) of the Local Government Act (NI) 2014, the basic allowance payable to the councillor in respect of the period for which the councillor is partially suspended shall continue.

3.1.11 Special Responsibility Allowance

In circumstances where a councillor is wholly suspended from carrying out the duties of a councillor in accordance with section 59(5) of the Local Government Act (NI) 2014, the whole of any special responsibility allowance payable to the councillor in respect of the period for which the councillor is suspended shall be withheld.

In circumstances where a councillor is wholly suspended from carrying out the duties of a councillor in accordance with section 60(1) (Decisions on Interim Reports) of the Local Government Act (NI) 2014, the whole of any special responsibility allowance payable to the councillor in respect of the period for which the councillor is suspended shall be withheld, subject to the provision that the allowance withheld shall be payable to the councillor concerned should the final adjudication of the Commissioner for Standards exonerate the councillor concerned.

In circumstances where a councillor is partially suspended from carrying out the duties of a councillor in accordance with section 59(5) of the Local Government Act (NI) 2014, that part of any special responsibility allowance (to which the partial suspension relates) payable to the councillor in respect of the period for which the councillor is partially suspended shall be withheld.

In circumstances where a councillor is partially suspended from carrying out the duties of a councillor in accordance with section 60(1) (Decisions on Interim Reports) of the Local Government Act (NI) 2014, that part of any special responsibility allowance (to which the partial suspension relates) payable to the councillor in respect of the period for which the councillor is partially suspended shall be withheld, subject to the provision that the allowance withheld shall be payable to the councillor concerned should the final adjudication of the Commissioner for Standards exonerate the councillor concerned.”

3.2	<u>Financial & Resource Implications</u>
3.2.1	There would not be any adverse impact on the Council's budgets. Any individual Councillor who is disqualified, suspended or partially suspended may be affected adversely.
3.3	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.3.1	There are not any Good Relations, Equality or Rural Needs issues associate with this report.
4.0	Appendices – Documents Attached
	None