



Department for

Communities

www.communities-ni.gov.uk

**Draft Local Government
(Payment to Councillors) Regulations
(Northern Ireland) 2016**

Consultation Document

27th September 2016

DRAFT LOCAL GOVERNMENT (PAYMENT TO COUNCILLORS) REGULATIONS 2016

This Consultation Document seeks views on the draft Regulations provided in Annex A.

Comments should be received by 30th November 2016 at the address below:

**Local Government Policy Division
Department for Communities
4th Floor, Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast, BT2 7EG**

or by email to:

lgpdfinance@communities-ni.gov.uk

The following person will be able to answer queries in relation to the draft Regulations:

Name	E-mail	Telephone
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Draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2016

PURPOSE OF THE CONSULTATION DOCUMENT

1. The Department for Communities is seeking views from consultees on revocation and remaking of the draft regulations, The Local Government (Payments to Councillors) Regulations (Northern Ireland) 2016 (**Annex A**), which the Department proposes to make under the powers conferred by section 31(1), (3) and (4) and 43(2) of the Local Government Finance Act (Northern Ireland) 2011, “2011 Act”.

BACKGROUND

2. The draft regulations are required to give effect to:
 - (a) the revision of councillors’ allowances; and
 - (b) other legislative changes resulting from local government reform.

Due to the number of amendments required to the existing regulations it was decided that for clarity a new set of regulations would be made.

DETAILS OF THE CONSULTATION PROPOSALS

3. These draft Regulations will replace the existing Local Government (Payment to Councillors) Regulations (Northern Ireland) 2012 SR No. 85), “2012 Regulations”.

Under section 31(1) of the 2011 Act, the draft Regulations state the types of allowances that may be paid to councillors: basic; special responsibility; dependants' carers'; and travel and subsistence. They also make provision for related issues such as how and when such payments are to be made, and how and when details of such payments are to be made available to the public.

In connection with these Regulations the Department determines the maximum amount/rates of allowances payable to councillors by councils. Details of the current maximum amounts/rates can be found in Local Government Circular 14/2016 at:

[Circular LG 14/16 – Consolidated Councillor Allowances Circular updated July 2016](#)

The draft Regulations are in three parts:

Part 1 deals with the title and the commencement of the regulations, and provides an interpretation of some of the terms used within. A number of definitions have been updated as occasioned by the Local Government Act (Northern Ireland) 2014, "the 2014 Act" and there is a new definition for approved duty.

Part 2 deals with the overarching scheme and provides details on each allowance payable to councillors: basic; special responsibility; dependants' carers'; and travel and subsistence. The references in the 2012 Regulations regarding allowance reductions related to

councillors being members of other institutions are now redundant and have been removed.

Part 3 deals with the administrative arrangements for the allowances and restate the provisions of the 2012 Regulations with some refinement. The regulations in this part relate to how and when payments are to be made and how and when details of such payments are to be made available to the public. Information provided in Schedules 1 and 2 of the 2012 Regulations has been removed and a revised version will be provided in guidance.

HUMAN RIGHTS

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

EQUALITY

5. 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: <https://www.communities-ni.gov.uk/dfc-equality>

REGULATORY IMPACT ASSESSMENT

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

RURAL PROOFING

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

FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

8. 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

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

CONSULTATION

10. Comments should be received by the Department by 30th November 2016 at the address below or by e-mail to:
lgpdfinance@communities-ni.gov.uk
11. This consultation document is being circulated to persons and bodies listed in **Annex C** and is also available to view at:
<https://www.communities-ni.gov.uk/consultations>

If you have any queries in relation to the guidance, you should contact:

Lizanne Kennedy

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STATUTORY RULES OF NORTHERN IRELAND

2016 No. ***

LOCAL GOVERNMENT

**Local Government (Payments to Councillors) Regulations (Northern
Ireland) 2016**

Made - - - - -

Coming into operation -

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The Department for Communities makes the following Regulations in exercise of the powers conferred by section 31(1), (3) and (4); and section 43(2) of the Local Government Finance Act (Northern Ireland) 2011⁽¹⁾.

In accordance with section 44(1) of that Act the Department has consulted councils, such associations representative of councils, such associations representative of officers of councils and such other persons or bodies as appear to be appropriate.

PART 1 GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2016 and shall come into operation on XXX 2016.

(2) Any allowances payable by virtue of the revised definition of approved duty in these Regulations shall take effect from 1st April 2015.

Interpretation

2. In these Regulations—

“the Act” means the Local Government Finance Act (Northern Ireland) 2011;

“the 2014 Act” means the Local Government Act (Northern Ireland) 2014⁽²⁾

“approved duty” means any of the following duties—

- (a) attendance at a meeting of a council, or any of its committees or sub-committees, or at a meeting of a joint committee or any of its sub-committees; or
- (b) the doing of anything approved by a council or a joint committee, for the purpose of, or in connection with, the discharge of the functions of the council, or any of its committees or sub-committees, joint committees or any of its sub-committees;

“committee” or “joint committee” means a committee or joint committee appointed under section 11(1) of the 2014 Act;

“committee member” means a person who is a member of a committee appointed under Section 11 or 12 of the 2014 Act; but is not a member of the council that appointed that committee;

“year” means the period of 12 months ending on 31st March in any year after the coming into operation of these Regulations.

PART 2 SCHEMES FOR COUNCILLORS’ ALLOWANCES

Scheme of allowances

3.—(1) A council shall make a scheme in accordance with these Regulations for the payment of allowances to councillors and committee members in respect of each year.

(2) A scheme must specify in respect of any year to which it relates the amount of, or means to ascertain the amount of,—

- (a) basic allowance; and

⁽¹⁾ 2011 c.10 (N.I.), now vested in the Department for Communities S.R. 2016 No.76

⁽²⁾ 2014 c.8 (N.I.)

(b) special responsibility allowance and, where different amounts apply to different responsibilities, the amount or means to ascertain the amount applicable to each.

(3) The scheme shall also make provision for the following allowances if the council intends to make such payments in respect of that year—

(a) dependants' carers' allowance; and

(b) travel and subsistence allowances.

(4) A scheme may provide for payments of allowances to be made at such times as may be specified in it and different times may be specified for different allowances.

(5) A scheme may be amended or revoked at any time.

(6) When a scheme is revoked in accordance with this regulation, a council shall, before the revocation takes effect, make a further scheme for the period beginning with the date on which the revocation takes effect and ending at the end of the year in question.

Basic allowance

4.—(1) A council may make a payment to each councillor by way of an allowance ("basic allowance") for carrying out the duties of a councillor.

(2) The amount of basic allowance shall be determined by the council and shall be the same for each councillor.

(3) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement to payment of such part of the basic allowance shall be the relevant proportionate amount of the yearly rate.

Special responsibility allowance

5.—(1) A council may, in addition to any allowance under regulation 4, make a payment to a councillor by way of an allowance ("special responsibility allowance"), if the council is satisfied that the councillor has special responsibilities in relation to the discharge of the functions of the council.

(2) The amount of special responsibility allowance paid to each councillor shall be determined by the council; but shall not exceed one fifth of the department's limit on special responsibility allowances for that council.

(3) Where any period, for which the councillor is entitled to a special responsibility allowance, is less than a year, the amount payable for the period shall be the relevant proportionate part of the yearly rate.

(4) Subject to paragraph (5), a special responsibility allowance may not be paid to more than fifty per cent of the councillors of the council (calculated using the total number of seats on the council and by rounding up the number of councillors to the next whole number when, in calculating the percentage, the number is not a whole number).

(5) A council may, where it considers it necessary to do so, apply to the Department for permission to pay a special responsibility allowance to more than fifty per cent of its councillors.

(6) A council may not pay more than one special responsibility allowance to a councillor.

Dependants' carers' allowance

6.—(1) Subject to paragraphs (2) to (4), a council may, in addition to any allowance under regulations 4 and 5, make a payment to a councillor by way of an allowance ("dependants' carers' allowance"), in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in respect of the performance of any approved duty.

(2) The amount of dependants' carers' allowance shall be determined by the council.

(3) The amount of dependants' carers' allowance payable by the council shall be the lesser of—

(a) the actual expenses of arranging care of their children or dependants as are necessarily incurred in respect of the performance of any approved duty; or

(b) such amount as is determined by the council.

(4) The council shall not make any payment under this regulation —

- (a) in respect of any child over the age of fifteen years, or any dependant, unless the councillor satisfies the council that the child or dependant required supervision which incurred expenses that were necessary in respect of the care of that child or dependant in the carrying out of an approved duty;
- (b) to more than one councillor in relation to the care of the same child or dependant; or
- (c) of more than one dependants' carers' allowance to any councillor for each performance of approved duty.

Travel and subsistence allowances

7.—(1) Subject to paragraph (2), a councillor or committee member shall be entitled to receive payment by way of travel and subsistence allowance as determined by the council where expenditure on travel or on subsistence is necessarily incurred in the carrying out of an approved duty.

(2) The rate of allowance determined under paragraph (1) by a council shall be the same for all councillors or committee members entitled to the relevant allowance.

(3) Any claim for payment of travel and subsistence allowances in accordance with these Regulations (excluding claims for travel by means of a private motor vehicle) shall be accompanied by appropriate receipts proving actual expenses, subject to any requirement or limitation that a council may determine.

(4) For the purpose of paragraph (3), a councillor or committee member's private motor vehicle includes a vehicle belonging to a family member or otherwise provided for use by the councillor or committee member.

PART 3

ADMINISTRATIVE ARRANGEMENTS

Claims for allowances

8.—(1) A councillor entitled to an allowance under regulation 6 shall make a claim for dependants' carers' allowance, in such form as the council may direct, and shall make a declaration that—

- (a) there has not been and will not be any claim submitted to any other body in respect of the dependants' carers' allowance to which the claim relates;
- (b) the amounts claimed are strictly in accordance with these Regulations;
- (c) the care to which the claim relates has been provided;
- (d) the costs to which the claim relates have necessarily been incurred; and
- (e) the costs to which the claim relates have been paid by the councillor.

(2) A councillor or committee member entitled to an allowance under regulation 7 shall make a claim for travel and subsistence, in such form as the council may direct, and shall make a declaration that there has not been and will not be any claim for allowances from any other body in respect of the travel and subsistence to which the claim relates.

Time for submission of claims

9. A claim for any allowance under regulation 6 or regulation 7 shall be submitted within 3 months from the date on which the approved duty was performed.

Records of allowances

10.—(1) A council shall keep a record of the payments made by it in accordance with these Regulations or any scheme made pursuant to them.

(2) Such record must—

- (a) specify the name of the recipient and the amount and nature of each payment; and

(b) be available, at all times, for inspection (free of charge) by any interested person.

(3) A person who is entitled to inspect a record under paragraph (2) may make a copy of any part of it on payment of such reasonable fee as may be required by the council.

(4) In this regulation, “interested person” means—

- (a) a local elector for the district of the council to which the scheme relates;
- (b) a person liable for rates in respect of any hereditament situated in that district; or
- (c) a representative of a person mentioned in sub-paragraph (a) or (b).

Publicity

11.—(1) A council shall, as soon as practicable after the making or amendment of any scheme of payments made pursuant to these Regulations—

- (a) arrange for a copy of the scheme to be published on its website; and
- (b) make such other arrangements for the publication of the scheme within the district of the council as it considers appropriate.

(2) As soon as practicable after the end of a year to which a scheme relates, a council shall make arrangements for the publication on the council website of the total sum paid in that year to each councillor in respect of each of the following—

- (a) basic allowance;
- (b) special responsibility allowance;
- (c) dependants’ carers’ allowance.

(3) As soon as practicable after the end of a year to which a scheme relates, a council shall make arrangements for the publication on the council website of the total sum paid in that year to each councillor or committee member in respect of travel and subsistence.

Revocations and savings

12.—(1) Subject to paragraph (2) the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012⁽³⁾ are revoked.

(2) The Regulations mentioned in paragraph (1) shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed before these Regulations come into operation.

Sealed with the Official Seal of the Department for Communities on XX

XX
A senior officer of the Department for Communities

(3) S.R. 2012 No. 85

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of allowances to councillors under section 31(1), (3), (4) and section 43(2) of the Local Government Finance Act (Northern Ireland) 2011 (2011 c.10 (N.I.)).

The Regulations are divided into three Parts.

Part 1 deals with citation and commencement of the Regulations, and interpretation of some of the terms used in the Regulations.

Part 2 deals with a council's scheme of allowances and details the allowances payable to councillors.

Regulation 3 requires a council to make a scheme for the payment of allowances to councillors and committee members in respect of each year.

Regulation 4 requires a scheme to provide for the payment of a basic allowance for service as a councillor, within the basic allowance limit set by the Department.

Regulation 5 requires a scheme to provide for the payment of an allowance (in addition to the basic allowance) if the council is satisfied that a councillor has special responsibilities in relation to the discharge of the council's functions. The Department sets maximum limits for the total amount a council may spend on special responsibility allowances and a subsequent limit that any councillor may only receive up to one fifth of that amount. The maximum limits are based on the population size of each council.

Regulation 6 requires a scheme to provide for an allowance to councillors towards expenses for the care of their children or dependants as are necessarily incurred in the carrying out of an approved duty.

Regulation 7 requires a scheme to provide for payment to councillors and committee members for expenditure on travel or subsistence as necessarily incurred in the carrying out of an approved duty.

Part 3 deals with administrative arrangements.

Regulation 8 requires a councillor entitled to a dependants' carers' allowance, or a councillor or committee member entitled to a travel or subsistence allowance, to make a claim for such an allowance as the council may direct.

Regulation 9 requires a claim for dependants' carers' allowance, or travel or subsistence allowances, to be submitted within 3 months from the date on which the approved duty to which the claim relates was performed.

Regulation 10 requires a council to keep a record of the payments made by it in accordance with the Regulations or any scheme made pursuant to the Regulations. The record must provide the name of the recipient and the amount and nature of each payment and be available, at all reasonable times, for inspection free of charge.

Regulation 11 requires a council to arrange for the scheme of payments, as soon as practicable after its making or amendment, to be published on its website and to make such other arrangements for the scheme's publication within the council's district as it considers appropriate. As soon as practicable at the end of the year to which a scheme relates, a council is required to publish on its website the total paid in that year to each councillor in respect of basic allowance, special responsibility allowance and dependants' carers' allowance, and the total paid in that year to each councillor or committee member in respect of travel and subsistence.

Regulation 12 revokes the previous Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012; with the saving that the revoked provisions shall continue to have effect in relation to claims made for allowances or other payments in respect of duties performed before these Regulations come into operation.

**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 view website at: <https://ico.org.uk/>

List of Consultees

All Northern Ireland District Councils

Association of Local Government Finance Officers

Local Government Auditor

Local Government Staff Commission

National Association of Councillors

NI Local Government Association

Public Service Commission

Society of Local Authority Chief Executives

Section 75 Consultees