



Department of the
Environment

www.doeni.gov.uk

Severance Arrangements for Councillors

Consultation Document

April 2009



Department of the
Environment
www.doeni.gov.uk

PROPOSED SEVERANCE ARRANGEMENTS FOR DISTRICT COUNCILLORS

This Consultation Document seeks views on the Department's proposals for a severance scheme for district councillors

Comments should be sent by 31 May 2009 to:

**Julie Broadway
Local Government Policy Division
Department of the Environment
6th Floor, Goodwood House
44-58 May Street
Belfast, BT1 4NN**

**E-mail: julie.broadway@doeni.gov.uk Fax No. 02890 256080
Textphone 02890 540642**

The following persons will be able to answer queries in relation to the proposed scheme:

Name	E-mail	Telephone
Marie Cochrane	marie.cochrane@doeni.gov.uk	02890 256093
Julie Broadway	julie.broadway@doeni.gov.uk	02890 256094

Crown Copyright 2009

This material may be freely reproduced except for sale or advertising purposes.

CONTENTS

	Page
Purpose of the Consultation Document	3
Background	3
Councillors' Remuneration Working Group	4
Details of the Proposals	6
Human Rights	17
Equality	17
Regulatory Impact Assessment	17
Rural Proofing	17
Freedom of Information Act 2000 – confidentiality of consultations	18
Alternative format	18
Consultation	18
Annex A – Previous Severance Schemes	20
Annex B – Table 3: Estimated Cost by Council – eligibility minimum of two terms	22
Annex C – Table 4: Estimated Cost by Council – eligibility minimum of three terms	23
Annex D – The Freedom of Information Act 2000 – confidentiality of consultations	24
Annex E – List of Consultees	26

PROPOSED SEVERANCE ARRANGEMENTS FOR DISTRICT COUNCILLORS

PURPOSE OF THE CONSULTATION DOCUMENT

1. The Department of the Environment is seeking views from consultees on its proposals to introduce severance arrangements for Northern Ireland district councillors.

BACKGROUND

2. In a statement to the Assembly about the Review of Public Administration on 31 March 2008, and against the background of the planned reduction in the number of councils and councillors, Arlene Foster, then Minister of the Environment, said she would introduce a severance scheme to recognise the contribution of long-standing councillors who opt not to stand for re-election. She also said that the development of the detail of the scheme would be informed by the report of the Councillors' Remuneration Working Group.
3. Currently the Department does not have the legislative authority to enable severance payments to be made to councillors. Sammy Wilson, Minister of the Environment, with the Executive's approval, has agreed that provision should be made in a future Local Government Bill to enable severance arrangements to be made for district councillors.

4. Currently there are 26 district councils in Northern Ireland which have a total of 582 councillors. When the Review of Public Administration is implemented there will be 11 district councils with an estimated 462 councillors.¹

COUNCILLORS' REMUNERATION WORKING GROUP

5. The Councillors' Remuneration Working Group (CRWG) was set up in August 2005 to make recommendations to the Minister of the Environment on the options for a system of remuneration for district councillors, taking into consideration schemes of remuneration in other jurisdictions in the United Kingdom and the Republic of Ireland. The proposed options were to be flexible enough to take account of the current responsibilities of district councillors and future arrangements following the implementation of decisions on the Review of Public Administration and the reduction in the number of councils.
6. As part of the CRWG's remit, it was asked to consider severance arrangements for councillors.
7. The CRWG looked at the severance schemes which were offered in the Republic of Ireland in 1998, in Wales in 2003 and the one Scotland was planning to offer in 2007. Details of the three schemes are given at Annex A.

¹ This figure is based on the Review of Northern Ireland Local Government Boundaries, Revised Recommendations Report – Local Government Boundaries Commissioner for Northern Ireland February 2009.

8. The CRWG issued its report in June 2006² which included recommendations in relation to severance arrangements. The CRWG recommended that a severance scheme should have the following provisions:

- only councillors who have served more than one term should be eligible for an award;
- should a councillor apply for an award and subsequently put his/her name forward as a candidate for the next local government elections³, the application for a severance award would be invalidated;
- if an individual received a severance payment and was subsequently elected (or co-opted) as a councillor, he/she should be required to repay the full sum before taking up office;
- there should be a provision to allow the award to be paid to the councillor's next of kin in the event that he/she dies between applying for the scheme and an award being made; and
- councillors who are also members of the Northern Ireland Assembly, the UK Parliament or the European Parliament should not be eligible for an award.

Question

Q1 Do you have any comments about the proposal to introduce a severance scheme for district councillors?

² The Review of Councillors' Remuneration in Northern Ireland.

³ When the CRWG prepared its report it was expected that the next local government elections would be held in 2008.

DETAILS OF THE PROPOSALS

Eligibility

9. It is proposed to adopt the CRWG recommendation that MLAs, MPs, Members of the House of Lords and MEPs would not be eligible for a severance award as they would be remaining in public office. Both the Welsh and Scottish severance schemes excluded members of the respective devolved government, the UK Parliament and European Parliament.

Question

Q2 Do you agree that MLAs, MPs, Members of the House of Lords and MEPs should not be eligible for a severance award?

10. The CRWG recommended that only councillors who had served more than one term should be eligible for an award. The Department does not hold information on how long individuals have served as councillors. To give some indication of the possible numbers of councillors involved and the potential cost of the scheme, the estimated length of service as a councillor was derived from available information from local government election and by-election results.⁴ It is estimated that 347 (60%) of councillors (excluding MLAs etc.) would have served two or more terms by May 2009.⁵ Service would be on a cumulative basis and would not have to be with the same council for the whole period.

⁴ Local government elections from 1973-2005.

⁵ May 2009 would have been the end of the current term of office for councillors.

11. Eligibility for the severance schemes in other jurisdictions has varied:

- councillors in Scotland had to have at least four years' service;
- for the 1998 Past Service Award Scheme in the Republic of Ireland, councillors had to have served at least five years by the end of the next ordinary term for that council; and
- in Wales, councillors had to have at least 15 years' service.

12. All three schemes used cumulative service to determine eligibility and the level of award. All of the schemes permitted service with any local authority to count but, where there were periods of concurrent service with another local authority, only one period of service could be counted. It is not possible to serve concurrently on more than one council in Northern Ireland.

Question

Q3 Should the eligibility criteria include a minimum period of service? If yes, what should that period be?

Death of an Applicant for a Severance Award

13. The CRWG recommended that provision should be made in the severance scheme to enable a councillor's next of kin to receive the award in the event of the councillor dying after applying for a severance award but before the award is made. A similar provision was included in the Welsh scheme. The 1998 scheme in the Republic of Ireland allowed the council to pay a gratuity to the legal representative of a member with at least 5 years' service, who died

before the end of the application period without having made an application. No such provision was included in the Scottish scheme.

Question

Q4 Do you agree that a provision allowing a councillor's next of kin to receive the award should be included in the severance scheme?

Timing of the Scheme

14. The reorganisation of local government in 2011 will see a reduction in the number of district councils to 11 and a reduction in the number of councillors from 582 to around 462.
15. The timing of the severance scheme may affect or be affected by the decision on whether the legislation on co-option can be amended.

Co-option

16. The Electoral Law Act (Northern Ireland) 1962 (the 1962 Act) provides the legislation that governs elections and the term of office of members (i.e. councillors) of district councils. This legislation is an excepted matter and outside the competence of the Assembly.
17. Elections to district councils are normally held every four years. The next local government elections were scheduled to be held in 2009. The Secretary of State, however, agreed to the request from the Minister of the Environment to postpone the next council elections to

2011 so that they may be held under the new local government structure.

18. The 1962 Act provides for the filling of casual vacancies in a district council, also known as co-option. A casual vacancy includes the death, resignation or disqualification of a member. A casual vacancy may be filled by co-option if, at a meeting of the council held to fill the vacancy, a person who is qualified to fill the vacancy is chosen by the council and no one else who attends the meeting objects to their appointment. If the council meeting fails to choose a person to fill the casual vacancy, a by-election will be held to fill the vacancy. If a vacancy arises in an election year between 1 January and the date of the election it will not be filled until the local government election.

Timing Options

19. The Department has identified 3 possible options for when the scheme should be made available.

Option 1 - Introduce the scheme in January 2010

20. The earliest date that the primary legislation giving the Department the power to make a severance scheme will be in place is October 2009. The subordinate legislation which will provide the detail of the severance scheme could then be introduced by January 2010. This would allow those councillors who are planning to stand down, to do so at the earliest opportunity. It would also:
 - allow capacity building for elected members to be concentrated on those members who intend to stand at the next local government elections; and

- give new councillors more than 12 months in which to gain experience and knowledge of the role of a councillor prior to the reorganisation of local government.

21. A potential drawback to this option is that (unless the legislation on co-option is amended) if the council cannot agree to fill each of the vacancies by co-option, a by-election or a series of by-elections would have to be held. The cost of a local government by-election is met by the council. As an indication of cost, the by-election for the Enniskillen District Electoral Area in September 2008 cost £30,953. Also this option does not take account of the reduction in the total number of councillors in 2011, with the reorganisation of local government.

Option 2 - Introduce the scheme from January 2011, before the local government elections in 2011 to the 11 councils

22. This would allow councillors to step down a little before the end of their term in office. The vacancies would not be filled, as elections to the new councils would be held later that year.

23. While this option avoids the need for co-options or by-elections and allows councillors to step down before the end of the local government term, there is a risk that in some councils half or less of the total number of councillors would remain in office.

Option 3 - Introduce the scheme at the end of the local government term in 2011

24. This was the model used for the severance schemes in Wales and Scotland. As with Option 2, there is no need for co-option or by-

election as all the councillors, whether seeking re-election or standing down, would leave office at the same time.

25. This option does, however, mean that councillors who may have a limited interest in reorganisation of local government, will be expected to help lead their council through the transition period to 2011. Neither Wales nor Scotland was undergoing a major reorganisation of local government when the severance schemes were made available, although they coincided with the introduction of the single transferrable vote for local government elections in Scotland.

Question

Q5 Which of the three options do you consider most suitable?

Q6 Is there another more suitable time to make the scheme available?

Calculation of Award

Option 1 – a set amount for each year of service as a councillor

26. The CRWG considered that the severance scheme should be calculated on the basis of cumulative service at a set amount for each year, up to a maximum number of years. It did not comment on the issue of part years. This method was used in the past service scheme held in Wales in 2003 which was calculated on the basis of £1,000 for each complete year of service up to a maximum of £20,000.

27. The 1998 scheme in the Republic of Ireland also calculated the award by using a set amount for each year, but the amount paid varied according to the type of council. A member of a county borough council, for example, received IR£750 for each year of service up to 20 years and IR£500 for each successive year up to a maximum of 40 years. Part years were included on the basis of the total number of days served divided by 365.
28. If service is counted from the 1973 elections, the maximum time a councillor could have served by May 2009 would be 36 years or nine local government terms. If the severance scheme is offered for councillors who stand down in January 2011 or alternatively at the time of the elections, the maximum service would increase to 37.5 years and 38 years respectively.
29. If the eligibility is set at a minimum service of two terms and the award is calculated on the basis of a minimum of £1,000 per year and the maximum qualifying period of service is 36 years (i.e. a maximum award of £36,000) the total cost of the scheme is approximately £5.25m. This would be an average payment of £201,808 per council. The total cost for each council is estimated to range from £88,000 (Limavady) to £288,000 (Ballymena).
30. If the maximum was set at £25,000 for those who had served 25 or more years, the cost would be approximately £5m and the average cost per council £190,961. The actual cost for each council would range from £88,000 (Limavady) to £262,000 (Belfast).

31. If the maximum qualifying period of service is set at 20 years i.e. £20,000 for those who had served twenty or more years the cost would be approximately £4.65m and the average per council £179,038. The actual cost per council would range from £88,000 (Limavady) to £257,000 (Belfast).
32. Capping the award does, however, mean that those councillors who have the longest service receive a lower payment per year than other councillors. For example, if the award was capped at £25,000 the value per year for councillors who had served seven terms (16) would be £892; for those who had served eight terms (11) £791 and those who had served nine terms (8) £694.
33. If the award is capped at £20,000 the value per year to councillors who had served six terms (29) would be £833 and for those who had served seven (16), eight (11) or nine terms (8) £714, £625 and £555 respectively.
34. If the minimum service eligibility criterion is increased to three terms the total number of eligible councillors is 222 (38%) and the total cost of an award calculated at £1,000 per year up to a maximum of 36 years would be £4.2m. The actual cost per council would vary from £40,000 (Limavady) to £264,000 (Ballymena).

Option 2 – level of award grouped by a number of bands according to length of service

35. This method was used in the scheme held in Scotland in 2007. In calculating service, a continuous period of 6 months or more within a complete year was rounded up to a complete year. Service of less than 6 months was disregarded. The amount of the award was grouped into three bands as shown in Table 1.

Table 1- Severance Awards in Scotland 2007

Years of Service	£
4 to 10	10,000 (plus £3,000 to cover tax and national insurance deductions)
more than 10 but under 15	15,000 (plus £4,500 to cover tax and national insurance deductions)
15 or more	20,000 (plus £6,000 to cover tax and national insurance deductions)

33. If the minimum period of service is set at two terms (8 years) the awards could be banded as in Table 2.

Table 2 - Possible Banding of Awards

Years of Service	£
8 to 10	10,000
more than 10 but under 15	15,000
more than 15	20,000

34. The Department has insufficient information on the service of councillors to cost this option properly but based on available information it is estimated that 155 councillors would have served 15

years or more by May 2009, a total cost of £3.1m. An estimated 67 councillors would have served more than 10 years but less than 15, a total cost of £390,000 and 126 councillors between 8 to 10 years, a total cost of £1.26m. The estimated overall cost would be £4.75m

Question

Q7 Which of the two methods for calculating the scheme do you consider most suitable?

Q8 Should there be a maximum amount for an individual award? If yes, what sum should that be?

Meeting the Cost of the Awards

35. There are two options for meeting the costs of the awards i.e. the cost should be met by district councils or by Central Government. It could be argued that because the reorganisation of local government is a Central Government initiative the cost of the associated severance scheme should be met by Central Government.

36. Equally it could be argued that as the scheme is designed to acknowledge service as a councillor, the cost should be met by local government. A potential disadvantage of this is that the impact of any scheme will vary according to the numbers of councillors who decide to stand down and some councils will be able to accommodate the cost more easily than others.

37. For illustrative purposes the tables at Annex B and C show the possible numbers and cost per council for a scheme with an eligibility of two terms and three terms respectively with a cap of 36 years.

Question

- Q9 Who do you think should meet the cost of a severance scheme?**

Repayment of Awards

38. It is expected that the councillors who apply for and accept a severance award would never stand again for election as a councillor. The CRWG recommended that in the event that a councillor who had accepted an award stood and was elected or co-opted at a later date, the individual should be required to repay the award, in full, before taking up office. A similar provision was included in the 1998 gratuity award scheme in the Republic of Ireland.
39. In the past service scheme held in Wales in 2003 councillors who applied for an award and then stood for election in the 2004 local government elections were not paid an award. In Scotland councillors who received an award were disqualified from standing for election as a councillor.

Question

- Q10 Should a recipient of an award be required to repay it in full in the event that he/she is elected or co-opted to a council at a future date?**

HUMAN RIGHTS

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

EQUALITY

41. 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

42. 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

43. 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

44. 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 D 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

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

CONSULTATION

46. Comments should be sent by 31 May 2009 to Julie Broadway at the address below or by e-mail to julie.broadway@doeni.gov.uk.

47. If you have any queries in relation to the proposals, you should contact:

Marie Cochrane

marie.cochrane@doeni.gov.uk

Tel: 2890 256093

48. This Consultation Document is being circulated to persons and bodies listed in Annex E and is also available to view at:

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

Local Government Policy Division

Goodwood House

6th Floor

44-58 May Street

Belfast

BT1 4NN

Fax: 02890 256080

Textphone: 02890 540642

Previous Severance Schemes

There have been two previous severance schemes in the UK (Wales in 2003 and Scotland in 2007) and one in the Republic of Ireland. The schemes were made available to councillors who met the scheme criteria which included not standing at the next local government election.

The Welsh scheme was unconnected to any changes in local government and was aimed at encouraging some of the longer serving councillors to stand down. Councillors who had served at least 16 years in office could receive a payment of £1,000 for each complete year of service up to £20,000 (gross). A total of 76 councillors (6% of the total number of councillors) received a past service award. Most of the recipients (55) were over 65 years of age. The respective council had to approve the application but the total cost of the awards (£1.7m) was met by the Welsh Government.

The Scottish scheme was introduced just before Scotland introduced the single transferable vote system for local government elections and a new remuneration package for councillors. Councillors had to have at least four years' service to be eligible. The payments were banded:

- £10,000 for councillors who had served between 4 and 10 years;
- £15,000 for those who had served more than 10 years but less than 15; and
- £20,000 for councillors who had served more than 15 years.

A total of 434 (35.5% of the total number of councillors) received an award. The total cost (£7.2m) was met by the Scottish Government.

In both the Scottish and the Welsh schemes, councillors who were also members of the relevant devolved government, either House of the UK Parliament or the European Parliament were not eligible for an award. Also both schemes were made available before councillors in the respective jurisdiction were able to join the Local Government Pension Scheme.

A gratuity scheme was made available in the Republic of Ireland in 1998 for local authority members who decided not to stand for re-election. To be eligible, a member had to have at least five years' service and apply in writing between 1 July and 15 September 1998. Up to 40 years' service could be taken into account in determining the amount of the gratuity. The payment for each year of service varied according to the type of local authority. Members of county councils and county borough corporations received IR£750 per year for up to 20 years and IR£250 for each year thereafter.

Annex B

Table 3 - Estimated cost of awards at £1,000 per year up to a maximum of 36 years (excluding MLAs, MEPs, MPs & Lords) – eligibility minimum two terms

Council	Total No. Councillors	Total No. Eligible	£
Antrim	19	10 (53%)	179,000
Ards	23	15 (65%)	252,000
Armagh	22	13 (59%)	212,000
Ballymena	24	17 (71%)	288,000
Ballymoney	16	11 (69%)	196,000
Banbridge	17	14 (82%)	196,000
Belfast	51	21 (41%)	273,000
Carrickfergus	17	9 (53%)	132,000
Castlereagh	23	16 (69.5%)	188,000
Coleraine	22	15 (68%)	241,000
Cookstown	16	11 (69%)	156,000
Craigavon	26	13 (56.5%)	160,000
Derry	30	16 (68%)	180,000
Down	23	13 (56.5%)	220,000
Dungannon	22	15 (68%)	248,000
Fermanagh	23	14 (61%)	277,000
Larne	15	12 (80%)	196,000
Limavady	15	9 (60%)	88,000
Lisburn	30	12 (37%)	237,000
Magherafelt	16	7 (44%)	108,000
Moyle	15	11 (73%)	183,000
Newry & Mourne	30	20 (67%)	259,000
Newtownabbey	25	14 (56%)	175,000
North Down	25	16 (56%)	233,000
Omagh	21	12 (57%)	156,000
Strabane	16	12 (75%)	214,000
Total	582	348 (60%)	5,247,000

Annex C

Table 4 - Estimated cost of awards at £1,000 per year up to a maximum of 36 years (excluding MLAs, MEPs, MPs & Lords) – eligibility minimum of three terms

Council	Total No. Councillors	Total No. Eligible	£
Antrim	19	7 (37%)	155,000
Ards	23	12 (52%)	228,000
Armagh	22	8 (36%)	172,000
Ballymena	24	10 (42%)	264,000
Ballymoney	16	8 (50%)	172,000
Banbridge	17	8 (47%)	148,000
Belfast	51	12 (23%)	201,000
Carrickfergus	17	6 (35%)	108,000
Castlereagh	23	9 (39%)	132,000
Coleraine	22	12 (54.5%)	189,000
Cookstown	16	8 (50%)	132,000
Craigavon	26	6 (23%)	104,000
Derry	30	7 (23%)	108,000
Down	23	10 (43%)	194,000
Dungannon	22	9 (41%)	202,000
Fermanagh	23	9 (39%)	197,000
Larne	15	8 (53%)	164,000
Limavady	15	3 (20%)	40,000
Lisburn	30	9 (30%)	211,000
Magherafelt	16	5 (31%)	90,000
Moyle	15	9 (60%)	167,000
Newry & Mourne	30	11 (37%)	187,000
Newtownabbey	25	7 (28%)	116,000
North Down	25	13 (52%)	209,000
Omagh	21	6 (29%)	108,000
Strabane	16	10 (62%)	198,000
Total	582	222 (38%)	4,196,000

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>).

List of Consultees

Age Concern NI

All Northern Ireland District Councillors

All Northern Ireland District Councils

An Munia Tober

Association of Local Government Finance Officers

British Chamber of Commerce

Belfast Solicitors Association

Carers NI

Chief Local Government Auditor

Church of Ireland

Civil Law Reform Division

Coalition on Sexual Orientation

Community Relations Council

Confederation of British Industry

Construction and Employers Federation

Disability Action

District Judge - Magistrates Court

Equality Commission for NI

Equality Forum NI

Federation of Small Businesses

Food Standards Agency for Northern Ireland

Gingerbread

Help the Aged NI
HM Revenue & Customs
Human Rights Commission
Irish Bankers Federation
Law Centre (NI)
Law Society of Northern Ireland
Local Government Staff Commission
MENCAP
Men's Project
MEPs
Methodist Church in Ireland
Ministry of Defence
MLAs
MPs
National Association of Councillors
NI Assembly / Committee for the Environment
NI Association of Citizens Advice Bureaux
NI Chamber of Commerce and Industry
NI Chamber of Trade
NI Council for Voluntary Action
NI Gay Rights Association
NI Political Parties
Northern Ireland Court Service

Northern Ireland Judicial Appointments Commission
Northern Ireland Law Commission
Northern Ireland Local Government Association
Participation and the Practice of Rights Project
Presbyterian Church in Ireland
QUB – School of Law
RNIB
RNID
Save the Children
Secretary – Catholic Bishops of Northern Ireland
Society of Local Authority Chief Executives
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
UU – School of Law
Women’s Support Network
Youthnet