



Belfast City Council

Report to:	Strategic Policy and Resources Committee
Subject:	Local Government (Finance) Bill Regulations and Guidance
Date:	4 th February 2011
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1.0	<u>Relevant Background Information</u>
1.1	Members will recall that in October 2009, the Strategic Policy and Resources Committee approved a corporate response to the Department of the Environment consultation on the ' <i>The Draft Local Government (Finance) Bill</i> ' which set out high-level proposals to modernise the legislative framework for local government finance in Northern Ireland.
1.2	The Local Government Finance was introduced to the Assembly on 19 th April 2010 with the Environment Committee concluding the 'Committee Stage' consideration on 2 nd December 2010. It is understood that the Bill will come into operation on 1 st April 2011.
1.3	<p>The essence of the financial element of the Bill is to modernise the existing local government financial framework to ensure councils, as autonomous bodies, have increased financial flexibility and responsibility and therefore greater accountability for their own affairs. In broad terms, the Bill seeks to:-</p> <ul style="list-style-type: none"> ▪ remove the requirement for district councils to gain DOE approval for borrowings and the application of their funds or any proceeds from the sale of capital assets; ▪ introduce a prudential regime for capital finance (refer to para 2.7 below), along similar lines to that which operates in England and Wales; ▪ Introduce a code of practice on Treasury Management (refer to para 2.7 below) ▪ introduce new financial powers including the power to invest; ▪ seek to replace the general grant currently received by councils with a rates support grant and de-rating grant; ▪ sets out proposals in respect to the circumstances and rates by which councils can make payments to Councillors; and ▪ the creation of a Councillors' Remuneration Panel.
1.4	In its response to the initial Finance Bill proposals, the Council requested that as part of a due diligence process, local government should be afforded the opportunity to review and comment on the detailed subordinate legislation (i.e. Regulations) which are to underpin the Local Government (Finance) Bill.
2.0	<u>Key Issues</u>
2.1	Subsequently, correspondence has been recently received, dated 17 th December 2010, from the DOE setting out proposals for consultation on the draft technical regulations and guidance which will underpin three important parts of the Local Government (Finance) Bill including:

	Part 1 – Financial Administration
2.2	<p>The proposals as set out under these regulations seek to:</p> <ul style="list-style-type: none"> - introduce a new financial management regime which is based on the CIPFA Prudential Code on Capital Finance and the CIPFA Treasury Management Code; which seeks to liberalise the ability of councils to both borrow and invest within appropriate affordability limits; - relax the Departmental controls for the financial management of council affairs; - update the circumstances whereby expenditure can or cannot be treated as capital expenditure; - provide for certain sums received by a council to be treated, or not to be treated, as capital receipts; and - outline the circumstances whereby capital receipts can be used.
	Part 2 – Grants to Councils
2.3	<p>The proposals as set out under these regulations seek to:</p> <ul style="list-style-type: none"> - replace the general grant currently received by some councils with a rates support grant and a de-rating grant.
	Part 3 – Payments to Councillors
2.4	<p>The proposals as set out under these regulations seek to:</p> <ul style="list-style-type: none"> - specify the circumstances in which councils can make payments to Councillors; and - make provisions for the creation of a Councillors' Remuneration Panel and the composition and operation of such a panel.
2.5	<p>Members will note that in terms of DoE seeking comments on the draft proposals, general comments have been sought on the draft regulations and guidance as set out under Part 1 and 2 above, whereas, a series of specific questions have been posed as part of Part 3. Comments on the draft proposals are to be submitted to the DoE by 24 February 2011. Part 3 is attached at Appendix 2 for Members' information.</p>
	<u>Belfast City Council Draft Response</u>
2.6	<p>Whilst a detailed draft response to the proposed regulations and guidance is attached at Appendix 1, for Member's consideration, the following key issues raised in the response should be noted:</p> <ol style="list-style-type: none"> i) Belfast City Council is supportive of the need to modernise the legislative framework relating to local government finance and welcomes the opportunity to comment on the regulations and guidance. ii) Implementing new Financial Regime: The Council would be concerned that it would be the intention that the Finance Bill would be implemented from 1 April 2011 and that, in the first year, capital budgets and the rates will have already been set for 2011/12 in the absence of the guidance and regulations. The Council would highlight that the proposed lead in time is too short to have all aspects of the Prudential Code in place before April 2011 e.g. medium term financial plan, treasury management strategy, capital financing strategy etc iii) The Council would therefore ask that DOE recognises this in the regulations and guidance and treats 2011/12 as a year of transition, with full implementation of the new financial regime, as set out within the draft regulations and guidance (e.g. Prudential Code etc) being implemented from 2012/13 onwards. iv) Capital Finance: Members will be aware that the Council is currently investigating alternative methods of financing its capital investment in the city. It will therefore be important that the content of any new legislation that is passed in relation to local government finance takes account of the need to facilitate and not preclude novel capital financing methods currently

under consideration.

- v) **The draft Local Government (Payments to Councillors) Regulations (Northern Ireland) 2011** – the consultation on the draft regulations asks whether councils would agree that no Councillor should be paid more than one special responsibility allowance. It is suggested that the Council states its opposition to this unnecessary restriction. In making the appointment of Chairmen and Deputy Chairmen the Council employs the d'Hondt system of proportionality and the level of remuneration paid to the Party Group Officers is based upon the Groups' relative size within the Council. Therefore, there is complete fairness and transparency in the allocation of the Special Responsibility Allowance in the Council. There might be very good reasons why, within a Party Grouping on the Council, it might be considered to be appropriate to pay more than one special responsibility allowance to an individual Member.
- vi) **Members travel allowance** - views are sought as to whether councils would agree to simplify the scheme for Members' travel allowance by the introduction of a single category for all motor cycles and a single category for all motor cars. The response is supportive of the suggestion on the basis that it is likely to benefit more Members than it would disadvantage, is in line with the Council's commitment to seek to reduce carbon emissions and would simplify the administrative arrangements for the Council. Obviously, the introduction of a single category of motor mileage for Members should be followed by the introduction of a similar scheme for Council officers.
- vii) **The draft Local Government (Councillors' Remuneration Panel) Regulations (Northern Ireland) 2011** - seeks to set up an independent panel to make recommendations regarding the framework and level of allowances payable to Members. Currently, the Department determines the rates of allowance payable to Members and this proposal is viewed as being a positive step forward and mirrors schemes which have been in place for several years in Scotland.

The Strategic Policy and Resources Committee, when considering a report recently on planning reform, made the point that the potential for the return of significant planning powers to local Councils should be accompanied with a review of the level of allowance payable to elected Members. The proposed response to the consultation asks that the Remuneration Panel give urgent consideration to the level of allowances paid to elected Members.

Organisational Considerations

- 2.7 Members will note that the proposals as set out within the draft regulations and guidance will result in a number of organisational consequences which the Council will need to prepare for and manage. For example:

Implications of the Prudential Code

- The need to revise/update the Council's **Standing Orders and/or financial regulations** that enact the provisions of the Bill when it becomes law
- Requirement for the **Chief Financial Officer** to submit a report to Council on the robustness of the estimates of the Council, the adequacy of the financial reserves and affordable borrowing limits.
- The Council will need to consider **indicators of affordability** in relation to the authority's capital plans, capital expenditure, external debt and treasury management.
- The Council will need to put in place a **medium-term financial plan, an agreed capital programme and financing strategy and a treasury management strategy**.
- The Chief Finance Officer is required to establish procedures to **monitor performance** against all forward-looking prudential indicators and to highlight significant deviations from expectations.

Implications of the Treasury Management Code

- The code recommends that local authorities adopt four clauses as part of their standing

	<p>orders/financial regulations. This will result in the local authority having to:</p> <ol style="list-style-type: none"> 1. Create and maintain a treasury management policy statement, stating the policies, objectives and approach to risk management if its treasury management activities 2. Create and maintain treasury management practices, setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities 3. The Council will receive reports on its treasury management policies, practices and activities, including an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, with the scrutiny role delegated to a committee. 4. Delegation of responsibility for implementation and reporting to an office of the Council, usually the Director of Finance and Resources <p>-</p>
2.8	<p>Further, the Treasury Management Code requires all this to be in place prior to the start of the financial year. As the budget approval process is already nearing completion for 2011/12, there will therefore be transition issues for 2011/12.</p>

3.0 Resource Implications

The financial and human resource implications attached to the effective implementation of the Local Government Finance Bill are being considered and a further report will outline the resource implications in due course. In order to support this process, there may be a requirement to enlist some independent specialist advice and support.

4.0 Equality and Good Relations Implications

There are no Equality or Good Relations implications contained within this report

5.0 Recommendations

Members are asked to:

- i) note the contents of this report; and, in particular, the proposed organisational consequences which are to result from the Finance Bill;
- ii) consider the draft response attached at Appendix 1 and agree that it can be submitted, subject to any amendments proposed by Members, to DoE by 24th February 2011; and
- iii) approve the commission of independent advice/support, up to a maximum value of £30,000, in regards to assisting with implementing certain elements of the Finance Bill.

6.0 APPENDIX

Appendix 1 – Draft Council response to Finance Bill Regulations and Guidance

Appendix 2 – Part 3, Payments to Councillors