

# Chief Executive's Department



Your reference

Our reference SW/AS/8.14

Date 15 August 2014

Mr John Murphy  
Local Government Policy Division 1  
Department of the Environment  
Level 4, Causeway Exchange  
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Dear Mr Murphy

## **BELFAST CITY COUNCIL RESPONSE TO THE CONSULTATION ON THE DRAFT LOCAL GOVERNMENT (STANDING ORDERS) REGULATIONS (NORTHERN IRELAND) 2014 AND MODEL STANDING ORDERS**

In relation to the above consultation I would like to submit the following officer response from Belfast District Council for which I will subsequently be seeking Council approval in early September 2014. The following comments have been gathered from initial meetings between officers and the Party Groups in the Council but each of the comments provided below are submitted as **informal** at this stage. The response will be discussed in detail at the Council's Shadow Strategic Policy & Resources Committee on 29 August 2014 and full Council on 9 September 2014 and a **formal response** will be submitted to the Department thereafter.

I note that the consultation deals primarily with those mandatory elements which the Standing Order Regulations state must be included in each of the new council's standing orders. I am also aware that aside from these specified mandatory elements, the draft model standing orders will be open to review by the Council. For that reason, the comments provided below focus on the mandatory elements of the Standing Order Regulations only.

### **Schedule 1**

#### **Paragraph 1 – Standing Order: Decisions to be taken by a qualified majority**

The Parties consulted to date have indicated that they are of the view that no further categories of decisions should be subject to QMV, otherwise the decision making processes of councils could be frustrated.

Those councillors consulted to date would appear to have no substantive difficulties with the proposal that decision (a) - the exercise of the general power of competence be subject to a qualified majority vote.

In relation to decision (b) – a call-in made under section 41(1)(b) of the 2014 Act (disproportionate adverse impact grounds), most Parties consulted highlighted the need for further detail and clarification around definitions etc.

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IN PEOPLE**

However, notably the proposals in respect to decision (b) – a call-in made under section 41(1)(b) of the 2014 Act (disproportionate adverse impact grounds) or decision (c) – the suspension of standing orders, one of the political parties raised a number of queries in relation to whether these should in fact be subject to quality majority voting.

It is not therefore possible for a definitive officer response to be given at this stage on both these matters as there was no agreement and strong views expressed across the parties consulted. These matters will be discussed at the Council's Shadow SP&R Committee on 29 August. The Department may wish to consult directly with Party Groups on such matters.

### **Paragraph 3 – Standing Order: Decisions subject to call in**

I note that Section 41(4) of the 2014 Act defines a decision for the purposes of call in as “a decision of the council or a committee of the council and includes a decision to make a recommendation”. The proposed Standing Order in Paragraph 3 does not make reference to a decision of the council (only a committee) and I would recommend that the standing order is amended to deal with this discrepancy and ensure consistency with the 2014 Act.

### **Decisions not subject to call-in**

I note that Paragraph 3(2) indicates those decisions that shall not be subject to call in: Within a Traditional Committee system, these include decisions on a regulatory or quasi-judicial function which is subject to a separate appeal mechanism; and, a decision where an unreasonable delay could be prejudicial to the council's or the public's interests.

Whilst the first reason is relatively straightforward, I would recommend that the regulations or guidance are clear as to who would have the authority to 'deem' that an unreasonable delay could be prejudicial to the council's or the public's interests. It is anticipated that this would be the responsibility of the Committee making the decision.

### **Paragraph 4 – Standing Order: Call in admissibility**

I note that this Standing Order requires councillors submitting a call in request under Section 41(1)(b) of the 2014 Act to specify the community affected and the nature and extent of the disproportionate adverse impact. The 2014 Act refers to a “section of the inhabitants of the district” and provides that “section” will be “specified in standing orders”. In this Standing Order “section” has been specified as “community” and I would recommend that further detail is provided around the definition of 'community' in order to assist councillors when making a request for call in.

Whilst the Council appreciate that the Standing Order Regulations are mainly geared towards procedural issues, the absence of clarity around the meaning of the phrase “disproportionately affect adversely” remains a concern.

It is therefore strongly commended that the Standing Orders, or supporting guidance, include a clear framework and definition around the two cases in which decisions can be called (i.e on the grounds of 'disproportionately adverse affect' or under 'undue process').

### **Paragraph 5 – Standing Order: The call in process – committee arrangements**

This paragraph sets out the practicalities of the call in process with respect to a council operating under committee arrangements. The process includes a requirement to establish an

ad-hoc committee comprised of the chairperson and deputy chairperson of each of the committees of the council to deal with decisions called in under Section 41(1)a of the Act (undue process).

The Council would be of the view that legal advice should be provided, as appropriate, to any such committee to inform their considerations of those decisions.

Notwithstanding, I would seek further clarification as to how the Chairperson and Deputy Chairperson of the ad-hoc committee would be determined and appointed, and whether the Chairperson would have a casting vote. Clarity is also sought in relation to the situation whereby a member of the ad-hoc committee is also a signatory on a request for call in – would such a councillor be permitted to sit on the ad-hoc committee and if so, would there be any impact on their voting rights?

**Paragraph 7 – Standing Order: Positions of responsibility – time limits**

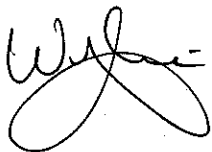
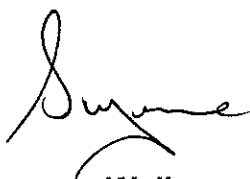
This paragraph specifies a time limit of 15 mins between the nominating officer selecting a position of responsibility and the person nominated accepting the position.

It is recommended that whilst the positions of responsibility will be allocated to parties on a term basis (all positions of responsibility allocated for each of the four years), it would be more practical if the actual names of the nominated persons were provided on an annual basis at the relevant Annual General Meeting for that coming year – and not at the outset of the full four year term. It is felt to be unreasonable to expect a party to name the specific councillor to fill a position which would not commence for at least another year.

In summary, the Council welcome the opportunity to respond to the consultation and I trust that this initial feedback will assist the Department in the consultation process. I would however remind the Department that the response is subject to ratification by full Council on 9 September 2014.

In the meantime, I intend to seek the views of Members in relation to this response through the appropriate Committee and will inform you of any amendments to the response once the Council has had an opportunity to formally consider the consultation.

Yours sincerely



**Suzanne Wylie**  
Chief Executive