

THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 2002

EXPLANATORY MEMORANDUM

INTRODUCTION

- 1. This draft Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 (“the Order”) will be made under paragraph 2 to the Schedule to the Northern Ireland Act 2000 after it has been approved by each House of Parliament.**

BACKGROUND

- 2. The main purpose of the Order is to put in place a new methodology for distribution of the resources element of general grant, payable to district councils. The existing statutory formula is complex and frequently results in wide variations year-on-year, making effective long-term financial planning difficult for councils. The Order provides a legislative framework to introduce a new methodology which would address the complex nature of the current formula and would also provide for regular payments to facilitate good financial planning. In addition, it would take account of relative socio-economic disadvantage between districts, in accordance with New Targeting Social Need (TSN) principles.**
- 3. Options considered included models used in Great Britain (GB) for distribution of grant to local authorities. Variations on the GB models were examined and efforts were made to determine the standard cost of ‘core services’ across district councils here. It was concluded, however, that reliable figures for standard costs were not attainable.**
- 4. The option selected is a formula designed to measure the wealth of a council against its estimated needs. Wealth is determined by the gross penny rate product of a district council, relative to the Northern Ireland gross penny rate product. Needs are measured by population of a district council, again relative to the total for Northern Ireland. To take account of councils’ specific needs, (which have been identified as deprivation; the influx of population; and sparsity), population data have been refined. Adjusted population figures then replace base**

population data in the calculation. Councils whose needs exceed their wealth are entitled to a share of the grant.

- 5. This Order would also be used to extend the existing powers of district councils to promote the economic development of their areas. It would remove the financial limit placed on councils and would allow them to engage in a broader range of activities. In addition, provisions are made in the Order to provide powers to district councils to engage (if they so wish) in community safety activity through community safety partnerships.**

CONSULTATION

- 6. Two consultation papers issued on the subject of ‘Proposals for a New Formula for Distribution of the Resources Element of General Grant’. The first paper outlined a suggested new methodology for distribution of the grant. Following this exercise, many of the comments put forward, which were mainly from district councils, were taken on board and adjustments were made to preliminary proposals. On completion of an Equality Impact Assessment, a second consultation paper was circulated widely, to fulfil the Department’s statutory requirements under section 75 of the Northern Ireland Act 1998.**
- 7. Amendment of economic development powers of district councils were contained in a Proposal for a Draft Order in Council – The Regeneration and Development (Northern Ireland) Order, which was prepared during 1997/1998 by the former Department of the Environment for Northern Ireland. District councils were aware of the proposed amendments and were consulted at that time. There was overwhelming support for the proposed extension of economic development powers.**
- 8. Extensive consultation was undertaken by the Northern Ireland Office (NIO) on community safety in the context of the Criminal Justice Review. All district councils and other interests, such as the Society of Local Authority Chief Executives, (SOLACE) were offered the opportunity to comment. A number of councils responded positively to the NIO proposals and SOLACE, on behalf of all councils, sought statutory powers to engage in community safety activity. No council raised any objections to the NIO proposals. The detailed community safety strategy, devised by the NIO, is also undergoing an extensive consultation process.**

THE PROVISIONS OF THE ORDER

The Order contains 10 Articles. Articles 1 and 2 are introductory provisions; Articles 3 to 7 make provision for the payment of grants to district councils; Article 8 confers powers on district councils in relation to economic development; Article 9 confers powers on district councils in relation to community safety; and Article 10 contains supplementary provisions. Where an Article or part of an Article does not seem to require any explanation or comment, none is given.

10. Article 3 makes provision for the general grant. It empowers the Department to make payments of general grant to district councils each year. It identifies the two distinct elements which make up the general grant, ie

- the resources element of general grant, which is only payable to those district councils whose needs exceed their wealth base; and**
- the de-rating element of general grant, which compensates district councils for loss of rate income due to the statutory de-rating of certain properties,**

In addition, it empowers the Department to determine the timing of grant payments, e.g. quarterly instalments.

11. Article 4 contains provisions relating to the resources element of general grant. It introduces an enabling power to make regulations, to determine the amount of the resources element of grant to district councils. These regulations would detail the formula for calculation of the grant; specify the timing of the exercise; and determine the sources of data required for the purpose of the calculation. This Article clarifies that not all district councils will qualify for the resources element of the grant, but only those whose needs exceed their wealth. It defines the meaning of the term 'formula'; enables the Department to include any supplementary or additional requirements in the regulations, a draft of which must be laid before and approved by resolution of the Assembly. It also requires the Department to consult with district councils and interested bodies or persons, before regulations are made.

12. Article 5 contains provisions about the determination of the de-rating element of general grant. Rating/de-rating policy is a matter for the Department of Finance and Personnel. However, the calculation and payment of the de-rating element of the grant is handled by the

Department of the Environment. The formula for calculating the de-rating element, which is unchanged, is contained in Part II of Schedule 1 to the Local Government &c. (Northern Ireland) Order 1972 (S.I. 1972 No. 1999 (N.I. 22)). This Article is included in the Order, so that the formulae for both the resources and the de-rating elements remain together. The wording of the Article is as before.

- 13. Article 6 enables the Department to make reductions in the amount of general grant payable to a district council, in particular circumstances. It allows the Department to reduce the amount of grant payable to a district council, where a council has failed to achieve or maintain a reasonable standard of economy, efficiency and effectiveness, in the discharge of its functions or where a council's expenditure appears to be excessive. The Department should base its case on a report of a local government auditor and is required to lay before the Assembly a draft order, together with a document, setting out the circumstances and specifying the amount to be deducted. Should the Assembly fail to approve the original draft order, provision is made for the laying of a further draft order.**
- 14. This Article also provides the Department with a power to make payments to certain bodies, on behalf of district councils, for services rendered. An adjustment is made to each council's general grant allocation in the same financial year, to recover this expenditure. The organisations/bodies to whom this arrangement relates are listed in the Local Government (Specified Bodies) Regulations (Northern Ireland) 2001. If any change to this list is proposed, district councils and other interested bodies or persons must be consulted, before these regulations are amended. The power to defray and recover district council expenditure is currently contained in Article 4(3) of the Local Government &c. (Northern Ireland) Order 1972.**
- 15. Article 7 provides the Department with a general power to pay (other) grants to district councils. This applies to any grant connected with a function of a council, other than general grant, e.g. in respect of food safety; construction products; and energy efficiency. The power to pay these grants is currently contained in Article 5A of the Local Government &c. (NI) Order 1972.**
- 16. Article 8 empowers district councils to promote the economic development of their districts. It enables councils to make payments; to acquire, hold and develop land and to acquire land otherwise than by agreement (ie to vest land) for this purpose. It also requires district**

councils to have regard to any guidance, drawn up and issued by the Department of Enterprise, Trade and Investment.

- 17. Article 9 empowers district councils to engage (if they so wish) in community safety activity within a relevant community safety partnership; it empowers the Department of the Environment to confer or impose on district councils, by order, any functions aimed at enhancing community safety; it stipulates that no order can be made unless a draft of the order has been laid before and approved by a resolution of the Assembly; and it defines "community safety partnership", the terms "enhancement of community safety" and "relevant community safety partnership".**

FINANCIAL EFFECTS OF THE ORDER

- 18. The requirements of the Order, insofar as general grant and economic development powers are concerned, will involve no additional public expenditure and will not affect public service staffing. The amount of the resources element of general grant does, however, have a bearing on the level of district rates a council needs to strike to determine its total annual income. The community safety provision will involve new public expenditure, which is being provided through the NIO.**

EFFECTS ON EQUAL OPPORTUNITY

- 19. This Order will not unlawfully, unfairly, or unjustifiably discriminate, directly or indirectly, against specified sections of the community.**

EUROPEAN CONVENTION ON HUMAN RIGHTS

- 20. The provisions of the Order are compatible with the Convention on Human Rights.**

EQUALITY ASSESSMENT

- 21. The Department of the Environment carried out an Equality Impact Assessment on the proposed formula for distribution of the resources element of general grant to district councils. A full assessment was completed to identify whether the policy under consideration creates differential impacts between groups.**

22. The most significant differential impact of the proposed formula is on the categories of religious belief and political opinion. The formula tends to favour those district councils with predominantly Catholic and Nationalist communities. Those councils which lose weighted population (whilst still receiving resources grant), have a larger proportion of Protestants and Unionists than NI as a whole. This result links directly to one of the key objectives of the proposed new methodology, that is, to target areas of greater social need. It is generally accepted that there is a significant correlation between deprivation indicators and religion. The deprivation indicators incorporated in the formula are the Noble indices of income and employment deprivation, which have very recently replaced the Robson indicators and the use of unemployment factors. The correlation coefficient between religion and deprivation at district council level is 0.8, which is statistically significant. Copies of the Equality Impact Assessment can be downloaded from the Internet at the following web address -

www.doeni.gov.uk/lgd/generalgrant/consultation.htm

23. An equality screening exercise on the economic development provisions concluded that the proposed extension of economic development activity and the abolition of the financial limit should not have a differential impact on the categories listed under section 75 of the Northern Ireland Act 1998.

24. An equality screening exercise on the community safety provisions concluded that community safety activity, as devised by the NIO, should not impact differently on the groups identified under section 75 of the Northern Ireland Act 1998. In engaging in community safety activity, councils are expected to comply with obligations under their individual Equality Schemes.

IMPACT ASSESSMENT

25. The provisions of the Order have no implications in terms of cost to business, as they are connected solely to the public sector. A full Regulatory Impact Assessment is, therefore, not considered necessary.