
Query to DOEHLG Re: Representational and Gratuity Allowances

For Local Authority Members

General Queries Re: Treatment of Councillors

- 1.) The FEMPI/Haddington Rd agreement reduced public pay for those earning in excess of €65,000 pa. Although Cllrs representational allowances are “linked” to Senators salaries (which were marginally above the threshold), their own representational allowances are well below the threshold to come under the FEMPI agreement. Why/How are Councillors allowances subject to FEMPI reductions?
- 2.) It is LAMA’s view that the stipulation that the gratuity payment is to be made to over 50’s only, may be in breach of the equality legislation. The fact that certain specific conditions already exist where it can be drawn down (death/permanent incapacity) means that age is the only consideration that differentiates who can and cannot draw it down. Can the Dept. confirm that this matter has been reviewed in line with The Equality Act 2004 and the Employment Equality Acts 1998 and 2004, and also under European Council Directive 2000/78/EC Establishing a General Framework for Equal Treatment in Employment and Education (the “**Framework Directive**”) (adopted in 2000) which requires Member States of the EU to ban direct discrimination, indirect discrimination and harassment in employment on the ground of age? Can the Dept. clarify why the view has been established that it is not discriminatory by age?
- 3.) In light of some Cllrs suffering financially due to the proposed reduction in pay in June 2015 under the FEMPI agreement, is it not appropriate that a similar provision be provided in the legislation similar is provided for other public servants so that to allow Councillors to take retirement until 30 June 2015 at no financial loss to themselves?
- 4.) Borough Cllrs/Town Commissioners have in effect been made redundant due to the introduction to the most recent local govt. legislation. Are these individual’s not entitled to a redundancy

payment as due to the abolition of these positions, they were no longer given the opportunity to continue in office? It would be at least be more equitable if the gratuity payment could be paid to those who were not elected to any local govt. body and whose positions were abolished.

Specific Queries Re Gratuity Allowance

- 5.) Under the current legislation, at the age of 50 former Cllrs. will be entitled to the gratuity allowance. Please confirm that this money will be payable on the day he/she reaches 50?
- 6.) Please confirm there is no requirement on Cllr/Dept. to inform/request the local authority the year prior to receiving their individual payment so that a figure would be provided in the annual estimates?
- 7.) Please confirm how the Gratuity amount is calculated i.e. County Cllrs will be entitled to 1/5 of each of the current salary for each year of service at the time the individual Cllr reaches 50. Using the methodology above, pls confirm how this will be calculated for Borough Cllrs/Town Commissioners? $\frac{1}{2}$ & $\frac{1}{4}$ of County Cllrs entitlements respectively.
- 8.) Have the Dept. clarified to each local authority how the payment should be treated in terms of Revenue/tax deductions? Some local authorities have applied very different methodologies. Some members have also informed the Association that their local authorities' have withheld a portion of the gratuity payment pending clarification from Revenue, and Revenue have stated to the individual that they will only make judgement on the appropriate tax liability at YE. Therefore Cllr are not receiving their due entitlement on time. Can you please confirm how this can be resolved?
- 9.) Are there any arrangements being made to safeguard Cllrs entitlements (those who have retired but not yet 50) and who may be exposed to financial loss due to reductions in the representational allowance under the FEMPI agreement or by any other legal instrument. Are there plans to amend legislation to resolve this?

10.) The true value of the gratuity payment will be worth significantly less now than it will be at time of drawdown for those below 50 (15+ years in certain situations). Will there be any recognition of this through the sum being inflation or CPI linked?

11.) If legislation is introduced in the future to amend the age (50 – 65) that an individual can draw down the gratuity allowance, is it likely that it will be introduced retrospectively only? I.e. will the payment be deferred for individuals already awaiting their gratuity allowance? or will it just apply to members who are awaiting their payment but continue to be a public representative?

12.) The only accentuating circumstances to which the gratuity allowances is payable is upon death or permanent incapacity. This in LAMA's opinion is highly restrictive for those members who may be in difficult financial circumstances some of which may not be entitled to social welfare assistance due to the PRSI K Class classification for local elected members. We would request consideration whereby if an elected member can be demonstrated to be in difficult financial circumstances by an independent body i.e. MABS, CIB, the payment would be paid prior to 50 years of age in those circumstances.

We look forward to your response and thank you for your co-operation on these matters.

Sincerely,

Jude Devins

**Vice- Chair LAMA
On behalf of LAMA Executive Committee**