

CONSTITUTION COMMITTEE – 26 SEPTEMBER, 2001

ALLOWANCES FOR MEMBERS OF LOCAL AUTHORITIES

REPORT OF THE CHIEF EXECUTIVE

Purpose of the Report

1. The purpose of this report is to inform the Committee of the final guidance issued by the Government on Members' Allowances and particularly regarding the need to establish an independent remuneration panel to put forward recommendations on members' allowances.

Background

2. In February 2001 the Government consulted local authorities about its draft statutory guidance on Members' Allowances which proposed changes to the current allowances regime. Following consultation with Group Leaders, representations were made on two issues, namely:-
 - (i) the County Council's wish to retain a simple mechanism whereby allowances could continue to be increased in line with inflation as a matter of routine without additional and unnecessary bureaucracy; and
 - (ii) seeking to extend the deadline by which existing schemes could be replaced from the end of March 2002 to the end of May 2002.
3. The Government has since issued final guidance on Members' Allowances and has made the Local Authorities (Members' Allowances) (England) Regulations 2001. The Government has not seen fit to alter its original proposals to accommodate (i) above. On (ii) however, the formal guidelines allow schemes to continue until they "require amendment or replacement" (provided they have already anticipated the adoption of a new Constitution and make no provision for the payment of attendance allowance).
4. The main proposals remain as set out in the Government's draft statutory guidance, details of which were reported to the County Council in April 2001. They are as follows:-

Main Statutory Provisions

5. Each local authority will be required to establish and maintain an independent remuneration panel which will broadly have the functions of providing the local authority with advice on its scheme and the amounts to be paid. Local authorities must have regard to this advice.

6. Local authorities must include in their scheme of allowances a basic allowance, payable to all members and may include provision for the payment of special responsibility allowances. They can now also allow the inclusion of a childcare and dependant carers allowance within an allowances scheme.
7. The Government has recently issued a consultation paper regarding changes to arrangements for travel and subsistence allowances, which is the subject of a separate report.
8. Although the guidance does not cover expenses for Chairmen and Vice Chairmen payable under Sections 3 and 5 of the Local Government Act 1972, there is a suggestion that a Council may wish to ask its panel for informal advice on these matters.
9. The Government intends to make regulations under Section 7 of the Superannuation Act 1972 to make provision for pensions allowances or gratuities to be paid to certain members of the local authority. It also intends to make regulations in connection with the role of independent remuneration panels in advising Councils about which of their members should be entitled to pensionable remuneration. A consultation paper has been issued on detailed proposals for these regulations and again this is covered by a separate report.
10. The approval of a Members' Allowances scheme has to be determined by the full Council and cannot be delegated to the Cabinet or a Committee.

The Independent Remuneration Panel

11. Under the 2001 Regulations a local authority is required to establish and maintain an independent remuneration panel. The regulations came into force on 4th May 2001 and from that date local authorities are under a duty to have regard to the recommendations of an independent remuneration panel when paying allowances.
12. A scheme for Members' Allowances may be amended at any time but may only be revoked at the end of a year (i.e. 31st March) or in circumstances where the local authority is adopting a new constitution or changing the form of its executive arrangements. A further scheme must be available to replace the revoked scheme.
13. Where a local authority has anticipated the adoption of a new constitution in their scheme of allowances, the Council may consider it is not necessary to amend or revoke and replace the scheme. In such cases the scheme can continue until it requires amendment or replacement. Councils will need however, under the 2001 Regulations to begin the process of establishing and appointing its panel from 4th May 2001.

14. The regulations require that the independent remuneration panels should have at least three members. The guidance does not specify how a local authority may go about appointing members of its panel but indicates that *“a local authority will need to consider carefully and plan its appointments process having regard to this guidance and the need to ensure that this process commands public confidence throughout all the communities in the local authority’s area”*. The guidelines go on to say that *“the Council should adopt an appointment process which it considers is best able to result in the membership of its independent remuneration panel being truly independent, well qualified to discharge the functions of the panel and representative of the diversity of the communities in the local authorities area”*. *“In all cases the local authority will need to ensure that its appointment process is open to public scrutiny”*.
15. The regulations provide that the local authority is able to pay allowances to panel members and leave it as a matter for the local authority to determine the level of such payments. Similarly the guidelines give advice but do not prescribe matters relating to the term of office of members of the panel and associated issues.
16. Consultation Papers issued by the DTLR on 12 September on (i) travel, subsistence and other allowances; and (ii) pensions for elected members, contain proposals for independent remuneration panels to advise on a variety of matters in addition to basic and special responsibility allowances which have the potential to make the task of panel members substantially more demanding. They include the proposal that at least one member should have knowledge of the operation of pension schemes.

Publicity

16. The 2001 Regulations place certain duties on local authorities in connection with publicising the arrangements made by their independent remuneration panel, their scheme of allowances and the actual allowances paid to members in any given year. These replace the provisions in the 1991 Regulations.
17. The 2001 Regulations place a duty on local authorities to publish a notice in at least one newspaper circulating in the area setting out the recommendations put forward by the independent panel about their scheme of allowances.
18. Local authorities must also as soon as reasonably practical after determining the scheme, publish a notice in at least one newspaper circulating in their area stating that the authority will be adopting a scheme of allowances, describing the main features of the scheme and describing the main features of the panel’s recommendations which the Council has considered (but not necessarily agreed with) in arriving at its decision.

19. The Council still has to make arrangements for publication of the total sum paid to each member in respect of allowances as soon as reasonably practical at the end of each year.
20. The publicity requirements are statutory minimum requirements. Local authorities are urged to publicise more widely the report from their panel their scheme of allowances and the sums paid to each member. This should include where possible publishing this information on their website and in the Council's own newspaper (where they have one). Local authorities may also wish to consider including in their notice some detail about the responsibilities of elected members and the duties and time commitment which the basic allowance is intended to remunerate.

Issue for consideration

(a) Independent Panel

21. The County Council is required to establish and maintain an independent remuneration panel and will need to address the following:-

Number of Members

22. The minimum number of members is three which is the same size as the Independent Panel which advised the County Council on its existing scheme. Elected members from any authority are disqualified from membership.

Terms of Office

23. The relevant guidelines are as follows:-

"The local authority will need to consider the term of office of members of the panel. The panel will be required to make recommendations to the council whenever the council decides to, within the limits of the law, either revoke or amend its current scheme. The panel may become more effective as its knowledge and understanding of members' allowances is increased.

Accordingly, local authorities may wish to consider appointing members of the panel for a term of office of several years, perhaps 3-5 years. Local authorities may also wish to consider phasing appointments to ensure that there is always one member of the panel who has some experience. Transitionally, on setting up the independent remuneration panel this would need different periods of office. This could be achieved by differing lengths of appointment. A local authority will also need to consider the relationship between appointment dates and the electoral cycle and the benefits of continuity in the panel's membership."

Allowances to Panel Members

24. The 2001 Regulations provide that local authorities may pay allowances to panel members at levels to be determined locally.

Appointment Process

25. "The Government guidelines made the following points regarding the appointments process:-

"The 2001 Regulations do not specify how a local authority may go about finding members of its remuneration panel. A local authority will need to consider carefully and plan its appointments process having regard to this guidance and the need to ensure that this process commands public confidence throughout all the communities in the local authority's area.

The council should adopt an appointments process which it considers is best able to result in the membership of its independent remuneration panel being truly independent, well qualified to discharge the functions of the panel and representative of the diversity of the communities in the local authority's area.

Local authorities may wish to advertise for candidates in local papers or may wish to ask particular stakeholders, eg the voluntary sector or the local business community, if they wish to put forward candidates. Councils may consider it best to use a combination of advertising and inviting the putting forward of candidates. In all cases the local authority will need to ensure that its appointment process is open to public scrutiny.

A local authority should give very serious consideration not only to ensuring the independence of its independent remuneration panel but also the public perception of this independence. To maintain the credibility of its panel a local authority will need to consider the extent to which some, if not all, of its panel members are recognisable members of the local community. Political appointments, and appointments which are made through friendship or any other personal association of any members of the council, should always be avoided.

Local authorities should consider very carefully the extent of any candidate's connections to a political party and whether these are such as to risk the effective discharge of the panel's functions were the candidate to be appointed.

In appointing its panel, a local authority should consider candidates' knowledge of local government and the way it works although lack of familiarity with the functions of councils should not be a bar to appointment.

The local authority will need to consider whether to appoint one member of the independent remuneration panel as chair, or whether to allow the panel itself to decide which of its members will act as chair."

26. The independent panel which reported on the County Council's present scheme was made up as follows:-

Chairman

- David Wilson, Professor of Public Policy and Head of Department, De Montfort Business School, De Montfort University, Leicester.

Members

- Ashwin Mistry, Director of Brett and Randall, Insurance Brokers; Chairman of MATV; Deputy Chairman, Leicestershire Careers and Guidance Company; Board Member of Leicestershire Chamber of Commerce and Industry; Member of Government Skills Task Force.
 - John Loke, Regional Officer, Amalgamated Engineering and Electrical Union; Board Member of Leicestershire TEC.
27. These people were appointed, having been nominated by the Chief Executive as knowledgeable and independent individuals from different sectors of the local community.
28. In establishing a new panel which meets the requirements of the guidelines and regulations, it was felt that there might be advantages if at least one of the members of the previous panel were to be appointed. Accordingly, Professor Wilson, who acted as Chairman of the Panel in 1999, has been approached and has said that he would be willing to serve on any newly constituted panel.

(b) Other Matters

29. The County Council also needs to consider:-
- whether it would be an appropriate time to review the existing scheme given that it will have been in operation for almost two years. It is suggested that it is an appropriate time to review the scheme and the aim should be to ask the newly constituted panel to put forward recommendations with a view to a new scheme being put in place with effect from 1st April, 2002. Any panel is also likely to have to consider the issue of travel and subsistence allowances and pensions given that the Government appears to be close to issuing new regulations on these matters.
 - whether there is any demand for a childcare and dependent carers allowance to be incorporated in the scheme;
 - what if any publicity requirements over and above the statutory minimum should the Council use to publicise the scheme of allowances and the sums paid to each member. The panel could be asked to advise on this if it was so wished.

Recommendations

30. The Committee is recommended to note the contents of this report and to authorise the Chief Executive to take the necessary steps to establish an independent panel to advise the County Council on Members' Allowances.
31. The Committee is also asked to determine the following particular matters:-
 - the size of the panel
 - the term of office
 - the appointment process
 - chairmanship
 - allowances to panel members
 - the review timetable
 - need for childcare and dependent carers allowance
 - publicity requirements.

Circulation under Sensitive Issues Procedure

None

Background Papers

Letter from DETR dated 9th April 2001 enclosing Guidance on Members Allowances and the 2001 Regulations.

Officer to Contact

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