

BRIEFING NOTE BY THE CHIEF EXECUTIVE

ALLOWANCES FOR MEMBERS OF LOCAL AUTHORITIES

THE STATUTORY FRAMEWORK - A SUMMARY

Introduction

1. On 7th April 2003, the Secretary of State, made and laid before Parliament the Local Authorities (Members Allowances) (England) Regulations 2003. These replace six existing sets of Regulations and put in place a consolidated and simplified regime for allowances.
2. The Regulations come into force on 1st May 2003, and provide for a transitional period until 30th September 2003, during which the new schemes of allowances must be established.
3. The Regulations make no significant changes relating to the payment of basic and special responsibility allowances. They make a number of changes to other aspects of the system of allowances, as follows:-
 - (a) Local Authorities will now determine their own travel and subsistence allowances having regard to the recommendation of their Independent Remuneration Panels, without the Secretary of State being involved in setting maximum levels;
 - (b) Bodies such as Combined Fire Authorities will be able to establish their own scheme of allowances rather than members being paid by their constituent authorities;
 - (c) Councils will be able to pay co-opted and appointed members of principal councils a "co-optees' allowance" to be determined by the local authority, having taken into account the recommendations of their Independent Remuneration Panel;
 - (d) Authorities will be able to make provision for the withdrawal of allowances where a member has been wholly or partially suspended because of an alleged breach of the Code of Conduct;
 - (e) The Council's local Independent Remuneration Panel will make recommendations on which councillors are to be eligible for access to the Local Government Pension Scheme. (The Council will only be able to make membership of the pension scheme available to those members who are recommended for membership by the Independent Remuneration Panel but the Council can decide not to offer membership to some or all of the recommended members).
4. Further details of the Regulations are summarised below.

Allowances

5. 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.
6. A scheme may provide for the payment to members of an authority of a dependant carers allowance in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred to cover certain categories of duty. (The County Council made representations to the Government to extend this facility to co-opted members as well as elected members. Unfortunately, the Government has not seen fit to incorporate this suggestion in the Regulations.)
7. A scheme may provide for the payment to members of an authority of an allowance in respect of travelling and subsistence including an allowance in respect of travel by bicycle. This provision extends to co-opted members as well as elected members. Categories of duties are specified for which payments can be made. These do not include the attendance by members of the County Council at meetings of Parish Councils within their Division (despite representations made by the County Council to the Government to the effect that they should).
8. A scheme may provide for the payment of allowances for each year to co-opted members of committees in respect of attendance at conferences and meetings (a "co-optees' allowance"). Where a co-opted member presides at a meeting of an Overview and Scrutiny Committee carrying out education functions the co-opted members' allowance must not be less than the minimum amount of any special responsibility allowance payable under the authority's scheme to a person who presides at meetings of any other of the authority's committees or subcommittees.
9. There is provision for the scheme to specify that where a member is suspended or partially suspended from his or her responsibilities or duties the payment of allowances may be withheld.

Schemes

10. The Regulations provide that before the beginning of each year, commencing 1st April, each authority should make its scheme covering the payment of basic allowances for the year and such other allowances it intends to pay. The scheme may be amended at any time but may only be revoked with effect from the beginning of a year.
11. A scheme may make provision for an annual adjustment of allowances by reference to such index as may be specified by the authority. Where the only change made to the scheme is an annual adjustment in accordance with that index, the scheme can be regarded as not having been amended.
12. Where an authority relies on an index for the purpose of annual adjustment of allowances it must do so for no longer than a period of four years before seeking a further recommendation from its Independent Remuneration Panel on the application of that index to the scheme.

13. Where an amendment is made which affects an allowance payable for the year, the scheme may provide for that amendment to be backdated to the beginning of the year.
14. Where a scheme is revoked, an authority must make a further scheme for the period beginning with the date on which the revocation takes effect.
15. A scheme must make provision to ensure that where a member of an authority is also a member of another authority that they may not receive allowances from more than one authority in respect of the same duties.
16. A scheme made by a District Council, County Council or London Borough Council shall set out:-
 - (a) which members of the Authority are to be entitled to pensions in accordance with the scheme made under Section 7 of the Superannuation Act 1972; and
 - (b) whether the basic allowance or the special responsibility allowance, or both, are to be treated as amounts in respect of which such pensions are payable.

In making such provision an authority may only include someone who had been first recommended by the Independent Remuneration Panel of the authority.

17. The scheme must provide that a person may, by notice in writing, elect to forego his or her entitlement or any part of his entitlement to allowances. It must also specify a time limit during which a claim for allowances must be made in respect of dependent carers allowances, travelling and subsistence allowances and co-optees' allowances.
18. Each authority must keep a record of the payment made by it in accordance with the scheme and such record must:-
 - (a) specify the name of the recipient of the payment and amount and nature of each payment;
 - (b) be available at all reasonable times for inspection at no charge; and
 - (c) be supplied in copy to any person who requests it.
19. As soon as reasonably practicable after the end of the year to which the scheme relates, each authority must make arrangements for the publication within the authority's area of the total sum paid by it in the year under the scheme to each recipient in respect of the various allowances paid.
20. Local authorities are under a duty to publish a notice in at least one newspaper circulating in the area setting out the recommendations put forward by their Independent Panel about their scheme of allowances. They must also as soon as reasonably practicable 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.

21. In terms of transitional provisions, existing schemes are to continue in force up to and including 29th September 2003, or until a new scheme in accordance with the Regulations is made by the authority, if sooner. Authorities must make a scheme in accordance with the Regulations on or prior to 30th September 2003.

Independent Remuneration Panels

22. Each authority is required to establish and maintain an Independent Remuneration Panel comprising at least three members, with the functions of providing the local authority with advice on its scheme, the amounts to be paid and which members in an authority should be entitled to pensions. Local authorities must have regard to their Panel's advice.
23. Secondary authorities, such as Combined Fire Authorities, which set up allowances schemes for their members, will be required to have regard to the recommendations of the panels of those authorities which make nominations to the secondary authority.
24. A local authority is able to pay allowances to Panel members and the Regulations leave it as a matter for the local authority to determine the level of such payments.

Parish Councils

25. The Regulations make provision for Parish Councils to make payments to their members, where they wish to do so, but in doing so they must have regard to the recommendations of a local Independent Remuneration Panel. There is no requirement upon Parish Councils to pay allowances.
26. Parish Councils may pay an allowance known as a "parish basic allowance" (a) to the Chairman only, or (b) to each of its members. The amount of allowance must be the same for each member except the Chairman's allowance may differ from that payable to other members. Parishes will also be able to pay allowances in respect of travelling and subsistence for certain categories of duty.

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