

GOOD PRACTICE NOTE

Local councils and payment of a chairman's allowance

Legislation

If the council agree a Chairman may be paid to meet his expenses of fulfilling the role.

According to the Local Authorities Members Allowances Regulations 2003 a Chairman maybe paid a higher allowance than another member but not a parish basic allowance as well as the Chairman's allowance. Although not a salary, these allowances are subject to tax, but are not pensionable. See Legal Topic Note 33 for detail of Councillors' Allowances.

Another method, if the council have not agreed to an allowance for members, is for the council to resolve to pay an allowance to the Chairman and make use of s15 of the 1972 Local Government Act to pay an expenses lump sum to the Chairman. This was not repealed by the Local Authorities Members Allowances Regs 2003. It may also be paid to a Chairman who is a co-opted member.

The council decision must be shown clearly in the minutes as to which power is being used.

Types of Expenditure to be Reimbursed

Guidance is provided by Charles Arnold Baker on the types of expenditure which a Chairman might wish to use the allowance for, and divides the types of expenses into two types:

Duties Arising from Ordinary Business

For example regular communication with the clerk, and committee chairmen, by telephone, email, post.

Duties Arising from being the public face of the Council and a local figure, ie Civic Duties

These tend to be associated with a Mayor of a large council and include attendance at ceremonies and civic dinners, and to entertain in the name of the council, ie host of an awards dinner. This may be more appropriate to a large community and seldom necessary in a small village.

The public face of the council also includes good public relations and could include the awarding of community or voluntary effort within a community, for example a gift for a retiring councillor to recognise his outstanding contribution to the parish

Amount

Every council should make a decision on the amount according to local circumstances, what he might reasonably be expected to do in the future and should be reasonable to meet the expenses of the office. Some councils pay it quarterly or half yearly in advance or on request. The council should decide whether the allowance includes all mileage incurred whilst in office.

This allowance is not available to the Vice-Chairman

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Taxation of Chairman's Allowance

The Chairman, holds office for tax purposes and so any payments are potentially subject to PAYE (probably not NICs unless the payments are very large). The payment of a round sum allowance counts as taxable earnings. The council will need to include the Chairman in its PAYE scheme and apply PAYE just as it would with an employee. The Chairman can claim a deduction for any expenses incurred "wholly, exclusively and necessarily, in the performance" of his or her duties as Chairman. This would include, for example the actual costs of phone calls to the clerk, but not any part of the phone line or broadband rental, and not attributable to the chairman's personal circumstance such as childcare. Note that the cost of entertaining cannot be claimed as a deduction if it is paid out of a round sum allowance.

Method of Payment

The PAYE complexities and the lack of transparency are reasons for not paying the allowance as a lump sum, but to be paid against actual expenditure incurred or to be incurred with the requirement for receipts to be supplied. The examples given above would not give rise to any tax consequences if reimbursed or advanced against actual expenditure.

A note on Travel and Subsistence Payments for Councillors

Under the Local Authorities Members Allowances Regulations 2003, the parish remuneration panel of the District Council may make recommendations about levels of travel and subsistence allowance for travel on approved duty both in and outside the parish. A parish council would be expected to follow these recommendations but they are not obliged to do so. A council should contact the District Council for latest amounts, the take up by District Councils of their obligation to set rates for parishes has been patchy, it may be best to ask for rates that they pay their members and use these as guidelines. A council may decide, having considered the remuneration panel recommendation to pay the basic rate of 45 p per mile which maybe paid without having to pay tax.

A reminder on claiming VAT on petrol receipts

For many years the employer (the Council) has been able to reclaim VAT paid on the petrol content of a mileage allowance for staff and by implication councillors. There has been a complex formula for the calculation but once undertaken for a petrol price this need not be re-worked. The Salary Circulars have for many years shown the Essential and Casual User Mileage Rates and the VAT content based on petrol. Following a legal case which went into the European Courts it is now necessary to supply with the claim for mileage some evidence of the price paid for the petrol concerned.

To ensure compliance with new requirements from 1st January 2006 staff (and councillors) will be required to attach a VAT invoice (full or simplified) for at least the petrol content of the mileage claim. The Council will be required to retain these VAT invoices to support any VAT claim whether, within a registered trader's Return, or, within a section 33 (VAT 126) non-business claim.

There is no need to attach it to Form 126 unless HMR&C ask for sight of the invoices (i.e. supporting evidence for VAT claim). Then the Council should send in the Mileage Claim and attached petrol invoice.

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