

# PART 6

## **MEMBERS' ALLOWANCES SCHEME**

### **1. Introduction**

- 1.1 The Government introduced new arrangements for the payment of allowances to members of local authorities with effect from 1<sup>st</sup> April 1991. The Regulations were amended in 2001 and 2003. The purpose of this guidance is to explain those arrangements and to provide advice on Members' entitlement to allowances and expenses.
- 1.2 It is extremely important, both from the Member's personal point of view and for the Council, that entitlements under these arrangements are fully understood and that the possibility of erroneous claims is avoided.
- 1.3 Set out in Annex 1 below is the Council's Scheme for the payment of Members' Allowances covered by the 1991 Regulations, as amended by the 2001 and 2003 Regulations.
- 1.4 This guidance addresses the various aspects of allowances payable to Members. It replaces all previous guidance issued by the Council on this subject.
- 1.5 Members may obtain further information, if necessary, from the Chief Executive and/or from the Executive Director – Resources and Support Services.

### **2. Statutory Requirements**

- 2.1 Five provisions in the Local Government Act 1972 relating to councils remain in force:
  - Sections 3 and 5 respectively authorise the payment of allowances to the Mayor and Deputy Mayor of the Council;
  - Section 173 authorises the payment of financial loss allowances to co-opted Members, but to no-one else;
  - Section 174 authorises the payment of travelling and subsistence allowances in respect of 'approved duties'; and
  - Section 175 authorises the payment of travelling and subsistence allowances in respect of attendances at conferences or meetings convened to discuss matters relating to the interests of the area or its inhabitants.
- 2.2 The primary legislation under which the main allowances are now paid is Section 18 of the Local Government and Housing Act 1989. The Local Authorities (Members' Allowances) Regulations 1991, as

amended by the Local Authorities (Members' Allowances) (Amendment) Regulations 2001 and 2003, issued under that Act, prescribe the detailed controls and require authorities to make a scheme covering the payment of certain allowances to Members.

### **3. Different Types of Allowance**

The allowances to which Members may be entitled are listed below:

Basic allowance  
Special responsibility allowance  
Travelling allowance  
Subsistence allowance  
Financial loss allowance (for co-opted Members only)  
Carer's Allowance.

### **4. How the Allowances are Determined**

- 4.1 The Borough Council is required by law to pay a basic allowance, the amount of which is at the Council's discretion. The Borough Council pays a basic allowance which takes all aspects of the role of a Member into account, other than special responsibilities, and does not pay attendance allowances.
- 4.2 In respect of the payment of allowances covered by the previous paragraph, the Borough Council makes financial provision for these allowances within the revenue estimates.
- 4.3 Travelling allowance, subsistence allowance and, in relation to co-opted Members, financial loss allowance are all controlled by regulations which specify the maximum rates that can be paid. The Borough Council will pay those allowances within the statutory limits in the case of all approved duties without budgetary limitation.
- 4.4 Periodically an independent panel appointed by the Council will review all allowances that Members are entitled to and will report their recommendations to Council, who will then decide whether or not to accept their recommendations. Each year the Council must publish a list of the amounts each Member has received.

### **5. Basic Allowance**

- 5.1 An elected Member is entitled to receive a basic allowance for each year from 1<sup>st</sup> April to 31<sup>st</sup> March. By law the amount of basic allowance has to be the same for each Member during that period. A Member who is not a Member for the whole of the financial year receives an allowance reduced proportionately as provided for in the Scheme. For ease of administration the Council's Scheme covers the Municipal Year, i.e. from the first Monday following the day of Council elections in May.
- 5.2 The Borough Council has decided that the annual basic allowance will be paid by 12 monthly instalments in advance on the 20<sup>th</sup> day of each

month. There may be a small delay in making the first payment following the election of a new Member.

## 6. Special Responsibility Allowances

- 6.1 The Regulations permit the Borough Council to pay an allowance to certain councillors who have special responsibilities which must be defined in the Scheme. Those special responsibilities have to fall within certain categories defined in the Regulations.
- 6.2 The amounts paid to individual councillors can differ and the annual allowance is reduced proportionately for any period during the year when a councillor does not have special responsibilities.
- 6.3 The special responsibility allowance is paid by 12 monthly instalments in advance on the 20<sup>th</sup> day of each month. The first payment will be made after the Annual Council Meeting when the various roles and responsibilities have been determined.

## 7. Travelling Allowance

- 7.1 A Member is entitled to claim travelling allowance when expenditure is incurred on travelling to attend an approved duty. The rates applicable to this allowance are shown on the claim form.
- 7.2 If a Member is using his own transport, the mileage claimed should be that taken on the shortest practicable route, though time taken as well as distance can be taken into account. The mileage claimed for must, if necessary, be properly justified, for example by the Member recording a detailed description of his route, particularly if additional mileage results from, for example, authorised visits to other sites on the route.
- 7.3 When it is financially advantageous to the Council to do so, Members should use any transport arranged by officers to travel to meetings or site visits etc.
- 7.4 If the Member uses public transport facilities, then the following rates apply:

MODE OF TRAVEL	MAXIMUM RATES
Public transport (within Borough)	Standard rail fare or ordinary or any available cheap bus fares
Public transport (outside Borough)	Ordinary or any available cheap bus fares. Insofar as concerns standard or first class rail fares, expenditure on: <ul style="list-style-type: none"> <li data-bbox="628 1892 1356 1966">▪ Pullman car or similar supplements, reservation of seats and deposit or portorage of luggage</li> <li data-bbox="628 2004 1356 2072">▪ Sleeping accommodation engaged by the Member for an overnight journey subject,</li> </ul>

	<p>however, to reduction by one third of any subsistence allowance payable to him/her for that accommodation</p> <p>NOTE: Where convenient, Members travelling by rail to places outside the county should obtain travel warrants from Democratic Services.</p>
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<p>Taxi cab or cabs</p> <ul style="list-style-type: none"> <li>▪ In cases of urgency or where no public transport is reasonably available</li> <li>▪ In other cases</li> </ul>	<p>Actual fare and reasonable gratuity</p> <p>Not exceeding the amount of the fare for travel by appropriate public transport.</p> <p>NOTE: In claims relating to the hire of taxis or cabs, Members should indicate on the claim form, or in an accompanying letter, the circumstances in which the expenditure was incurred; whether it was incurred on grounds of urgency or because there were no public facilities available.</p>
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## 8. Subsistence Allowance

8.1 A Member is entitled to claim subsistence allowance at the rates adopted by the Borough Council from time to time which have to be within the limits prescribed by regulations. The current rates will be printed on the forms issued by Democratic Services on which Members have to make claims. In calculating the period of absence, time properly spent in travelling to and from the meeting can be taken into account (see section 9 below).

8.2 To be entitled to claim, a Member is required to certify that expenditure has actually been incurred by him on subsistence. The actual expenditure may be more or less than the allowance claimed. The appropriate charge for all meals taken at premises owned or administered by the Council should be paid. However, if a meal is made available free of charge from any source during the period to which the allowance relates, then the appropriate amount must be deducted from the claim. The amount of the reduction should be:

For one free meal the equivalent of the prescribed subsistence allowance for a period of over 4 and up to 8 hours;

For two free meals as above but for a period of over 8 and up to 12 hours;

For three free meals as above but for a period of over 12 and up to 16 hours.

- 8.3 Where main meals (i.e. breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT) may be reimbursed in full, provided the time on duty meets the conditions set out on the reverse of the claim form. In such circumstances, reimbursement of the reasonable cost of a meal would replace the entitlement to the day subsistence rate for the appropriate period.
- 8.4 There may be times when a Member is required to be away overnight. On those occasions, special overnight allowances apply.
- 8.5 If a Member travels abroad on Council business the standard subsistence allowance does not apply. In those circumstances, a Member is entitled to expenses reasonably incurred together with a small daily allowance for personal out of pocket expenses.
- 8.6 The Democratic Services Manager will supply details of these allowances on request.

## **9. Carer's Allowance**

The Borough Council will pay an amount of £5.15 per hour (or the national minimum wage hourly rate) to those Members who incur expenditure in paying someone to look after a relative in order that they may attend a meeting of the Council. Reasonable travelling time may be taken into account in calculating the time.

## **10. Calculating the Time Allowed**

- 10.1 Reasonable travelling time is allowed for in calculating the period of absence for the purpose of claiming subsistence allowances.
- 10.2 It occasionally happens that a Member of the Council moves home to somewhere outside the Borough but remains as a councillor until the next Council election. Additionally, a Member may be required to work outside the Borough area on a temporary basis. In either of these circumstances the councillor is requested to discuss the arrangements for travelling and subsistence claims with his Group Leader and the Chief Executive.

## **11. Overseas Visits**

- 11.1 Members may occasionally be required to make overseas visits on Council business in connection with one or other of the specific functions of the Council. In those circumstances, travelling and subsistence costs can be reimbursed provided they are 'reasonable'.

- 11.2 Section 175 of the 1972 Act authorises attendance at conferences or meetings overseas provided that they are convened by any person or body for the purpose of discussing matters which, in the opinion of the Council, relate to the interests of its area or its inhabitants (but not for trade, business or political purposes).
- 11.3 Section 176 of the 1972 Act authorises the reimbursement of travelling and subsistence expenses reasonably incurred by, or on behalf of, Members in making official or courtesy visits outside the U.K. on behalf of the Council.

## **12. Submission and Payment of Claims**

- 12.1 The Council's scheme requires Members to submit all claims for allowances within two months of the end of the month to which the claim relates. Allowances may be forfeited if not promptly claimed.
- 12.2 The list of events, functions, meetings, outside bodies, conferences and courses at which attendance is authorised by the Council are maintained by the Democratic Services Manager from whom copies can be obtained.
- 12.3 Members are required to complete the claim for travelling and subsistence in respect of attendance at any authorised event, function, meeting, outside body, conference, or course listed on the Council's lists.
- 12.4 If payment is to be made in the month following the performance of the duties, the completed claim form must be received by the Democratic Services Manager by the second working day of the month in which payment is to be made.
- 12.5 If, as an appointee, or nominee, of the Council, a Member is asked to attend a meeting of a body which is not on the Council's lists of authorised events, functions, meetings, outside bodies, conferences and courses, then travelling and subsistence allowances can only be claimed if attendance has been approved by the Council beforehand for this purpose. Such approvals must be given before attendance, otherwise any allowance may not be payable.
- 12.6 If a Member has been appointed to serve on an outside body for which attendance is not regarded by the Council as an approved duty for the purpose of the payment of a Member's allowance, i.e. a body which is not included in the lists of bodies referred to in paragraph 12.2 above, or approved in paragraph 12.5 above, the Member may, in some cases, claim direct from the outside body concerned. In such cases, the Member may wish to consult the body concerned.

## **13. Tax, National Insurance, Sickness and Pensions**

- 13.1 Basic and special responsibility allowances and the allowances paid to the Mayor and Deputy Mayor of the Council are all liable to tax under

Schedule E. The allowances are paid through a payroll which accounts for the tax on the PAYE system using a code number issued by Her Majesty's Revenue and Customs (HMRC). In arriving at the code number, it is a matter for the individual Member to agree direct with the Inland Revenue any allowances/expenses which may help to reduce the tax liability. Subsistence claims for meetings in Council buildings are also taxable. More detailed guidance on HMRC practice is available from the Executive Director – Resources and Support Services.

- 13.2 The same allowances are liable for National Insurance Class I contributions notwithstanding that the Member may be employed elsewhere or be self-employed, unless:
- (a) The allowances due for the month are less than an amount prescribed from time to time by HMRC; or
  - (b) The Member is male and over 65 years old or female and over the State Pension age.
- 13.3 It is understood that the Department for Work and Pensions (DWP) may regard a Member's basic and special responsibility allowances as affecting, for DWP purposes, that Member's entitlement to benefits. Claiming such allowance(s) could, therefore, affect a Member's entitlement to benefits. In these circumstances, he/she should seek advice from the DWP.
- 13.4 Under self assessment regulations, Members are required to declare to HMRC any taxable benefits they receive. Such benefits may arise if Members are deemed to have made a profit on mileage allowances, or if they are provided with certain other facilities, for example with a computer at less than the full cost of provision. Any Member who has received a taxable benefit will be provided with a form P11d by the Head of Human Resources which will provide the information to be declared to HMRC, and from whom further advice is available on request.
- 13.5 It is also possible that the payment of basic or special responsibility allowance(s) or an allowance to the Mayor or Deputy Mayor of the Council could affect a Member's entitlement to an occupational pension or other financial arrangements with previous employers.
- 13.6 Members who are unable to perform duties in that capacity as a result of sickness in some circumstances may be eligible for statutory sick pay.
- 14. What if a Member does not wish to be paid allowances?**

A Member who wishes to forego the right to be paid any of the allowances covered by the Council's scheme may do so in writing to the Chief Executive specifying which allowance(s) the Member elects to forego and the date(s) upon which the election is to become effective.

Such an election may not be revoked until the following 1st April. However, not claiming an allowance may still have an effect on certain DWP benefits.

## **15. Members' Responsibilities**

It is the personal responsibility of the Member to ensure the accuracy of all information entered on his claim forms relating to duties performed. Processes arranged by the Chief Executive are designed to ensure that all claims relate to properly approved duties. The Executive Director – Resources and Support Services will ensure that the correct financial limits on the various allowances are complied with. In all other respects, Members are accountable for the accuracy and reasonableness of their claims.



# Annex 1

## **The Borough Council's Scheme for the Payment of Members' Basic and Special Responsibility Allowances**

The Borough Council of Newcastle-under-Lyme, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 1991, as amended by the Local Authorities (Members' Allowances) (Amendment) Regulations 2001 and 2003, hereby make the following scheme:

1. This Scheme, which contains amendments made in accordance with Section 7 of the 1991 Regulations, may be cited as the Borough Council of Newcastle-under-Lyme Members' Allowances Scheme and shall have effect from the Monday following ordinary elections in May each year.

2. In this Scheme:

'Councillor' means a Member of the Borough Council of Newcastle-under-Lyme who is a councillor;

'Year' means the 12 months ending on the Sunday following ordinary elections in May each year;

'Council Election' means an election for the appointment of all councillors and does not include by-elections.

3. *Basic Allowance*

Subject to paragraph 6, the total amount payable to each councillor for a year is set out in the Schedule below. The basic allowance is payable monthly in advance on the 20th day of each month. The first payment will be paid as soon as practicable following election.

4. *Special Responsibility Allowance*

- 4.1 For each year a special responsibility allowance shall be paid to those councillors who hold special responsibilities in relation to the authority which fall within the categories defined in paragraph 9 of the Regulations and as specified in the Schedule to this Scheme.

- 4.2 These payments will be made on 20<sup>th</sup> of each month except the first payment which will be made as soon as possible after the Annual Council Meeting when roles and responsibilities have been determined.

- 4.3 Subject to paragraph 6, the amount of each such allowance paid in the year shall be the amount specified against that special responsibility in the Schedule to this Scheme.

5. *Renunciation*

- 5.1 A councillor may, by notice given to the Chief Executive elect to forego any part of his or her entitlement to an allowance under paragraphs 3 and 4 of this Scheme.
- 5.2 Any such notice shall specify the effective date of renunciation and once given the notice may not be revoked otherwise than with effect from 1<sup>st</sup> April in any year.

6. *Part-year Entitlement*

- 6.1 The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year:

- (a) this Scheme is amended; or
- (b) that person becomes or ceases to be a councillor; or
- (c) that councillor accepts or relinquishes a special responsibility for which a special responsibility allowance is payable.

- 6.2 In relation to basic allowances and special responsibility allowances:

- (a) if an amendment to this Scheme changes the amount to which a councillor is entitled; or
- (b) where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year; or
- (c) where the special responsibilities of a councillor do not subsist throughout the year; or
- (d) where the Scheme is amended as referred to in (a) above and the term of office and/or the special responsibilities of the councillor do not subsist throughout any part of the periods within the year distinguished by the payment of different amounts for these allowances; then the entitlement to the allowances shall be calculated by reference to the proportion the number of days in each such period bears to the number of days in that year.

7. *Administration*

- 7.1 The Chief Executive shall maintain on behalf of the authority a record of all payments made under this Scheme which shall:

- (a) specify in relation to each payment the name of the recipient and the amount and nature of the payment;

- (b) be kept available, at all reasonable times, for inspection (free of charge) by any local government elector for the area of the authority.

A person entitled to inspect the record may make a copy of any part of it.

8. *Review of Allowances*

The allowances payable under this Scheme shall be reviewed annually.

9. *Revision or Revocation of this Scheme*

This Scheme may only be amended or revoked in accordance with the provisions of paragraph 7 of Part 2 of the Local Authorities' (Members' Allowances) Regulations 1991, as amended.

## **SCHEDULE**

### **Members' Allowances Scheme 2012-13**

<b><u>Role</u></b>	<b><u>£</u></b>
Leader of the Council	13590
Deputy Leader	9510
Cabinet Member with Portfolio	5660
Cabinet Member without Portfolio	2830
Chair of Scrutiny Committees	2830
Chair of Audit and Risk Committee	2830
Chair of Standards Committee	2830
Chair of Planning Committee	4230
Chair of Public Protection Committee	3430
Chair of Licensing Committee	3430
Vice Chair of Scrutiny Committees	1130
Vice Chair of Planning Committee	1410
Vice Chair of Public Protection Committee	1130
Vice Chair of Audit and Risk Committee	1130
Vice Chair of Standards Committee	1130
Vice Chair of Licensing Committee	1130
Minority Party Leaders	1130*
Basic Allowance	3285

\* The Minority Party Leader's allowance is only payable to groups comprising at least 10% of total Council membership (i.e. 6 Members).

### **Carer's Allowance**

£5.15 per hour, or the statutory minimum wage, whichever is the greater.