

# Members remuneration

Models, issues, incentives and barriers

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## Summary

Remuneration should not be an incentive for service as a councillor. Nor should lack of remuneration be a barrier. The basic allowance should encourage people from a wide range of backgrounds and with a wide range of skills to serve as local councillors. Those who participate in and contribute to the democratic process should not suffer unreasonable financial disadvantage as a result of doing so. Councillors should be compensated for their work and that compensation should have regard to the full range of commitments and complexity of their roles.

The present system results in wide and unjustifiable disparities and discriminates against many people. The time involved in being a councillor is bound to put off many people. Steps are recommended which will remove some of the financial disincentives to serving as a councillor.

# Contents

<b>Summary</b>	3
<b>1. Introduction: the debate on allowances</b>	7
<b>2. The historical pattern</b>	9
<b>3. The principles of member allowance schemes</b>	11
<b>4. The basic allowance</b>	14
<b>5. Special responsibility allowances</b>	17
<b>6. Quantum of allowances – the emerging model</b>	20
<b>7. The impact of party politics on special responsibility allowances</b>	25
<b>8. Members’ allowances in the four countries</b>	26
<b>9. Performance related pay</b>	29
<b>10. Failure to perform</b>	33
<b>11. Towards consistency on purpose, functions and levels</b>	35
<b>12. The joint authorities</b>	40
<b>13. Parish and town councils</b>	41
<b>14. The other allowances and expenses</b>	43
<b>15. Pensions for councillors</b>	50
<b>16. Taxation, national insurance and benefits</b>	53
<b>17. Statutory sick pay, maternity and paternity leave</b>	57
<b>18. Severance payments and term limits</b>	58
<b>19. Parachute payments</b>	60
<b>20. Public reaction to schemes of allowances</b>	62

# Chapter 1

## Introduction: the debate on allowances

There is a lack of consensus on the remuneration of elected members. Different views are held by councillors, officers and the public. The current framework, like our constitution, is an historical accident rather than a tool to support and enhance local representative democracy. But there is some agreement (shared by respondents to the Commission's consultation), that pay for councillors should be neither an inducement nor a barrier to service as a councillor.

There is a general perception that councillors are unrepresentative of the population they represent. This perception is true, but in a number of ways that are not always fully understood. If the aim of the current remuneration system is to make councillors more representative of the population they serve, then it has been a failure. Indeed it could be argued that the recent increases in allowances have enhanced the current representative imbalance. But if the remuneration schemes for councillors are designed to attract a higher calibre of councillors then there are signs that this may be happening. With the possible exception of London boroughs, however, it seems that allowances have not reached a level sufficient to attract young professionals.

Since 1945 there has been a succession of debates on councillors' allowances and it has proven particularly challenging to reach consensus on this issue. The evidence collected by the Commission confirms that the views of officers, councillors and activists remain "extremely mixed and usually firmly held, but at the same time, few respondents are able to suggest a clear way forward without substantial reservations" (Hands et al., 2007, p.63). Opinions range over a spectrum. At one end lies the view that councillors should be unpaid public servants. At the other is the view that they should be regarded in the same way as Members of Parliament and paid a proper salary related to the responsibilities they carry.

The 'public service' approach emphasises that councillors entered politics to serve the community, not for financial gain. As such, the councillor role should not attract levels of remuneration that could encourage people to stand for 'the wrong reasons'. Related to this argument is the fear that higher remuneration could encourage people to become full time 'career' councillors, thereby limiting the amount of life and work experience accumulated by members (Hands et al., 2007).

The 'professional' approach emphasises the view that the current basic allowances do not represent a living wage sufficient to allow anyone without independent means to serve as a councillor and may even cause young and dynamic councillors to leave the council and return to work (Hands et al., 2007). This leads to the contention that councillors' remuneration should be enhanced until it does represent a living wage. A variation is the view that councillors who hold executive posts should be full time professionals and remunerated accordingly (DETR, 1998). In other words, they should receive a salary. Even amongst those who are essentially in favour of higher allowances, however, the evidence suggests that they "are unable to embrace the idea without some serious reservations" (Hands et al. 2007: vi).

# Chapter 2

## The historical pattern

Before the Second World War there was a general view that councillors should not be paid, but should be entitled only to some expenses. The Local Government Act 1948 (following the recommendations of the Lindsay Committee (1948)) introduced for the first time a provision for financial loss. The Maud Committee (1966 p.31) proposed that senior members should receive part time salaries 'related to the salaries paid to part-time members of a public board of a commercial character'. In 1977 the Robinson Committee concluded that 'membership of local authorities should be truly open to all sectors of society without fear that it will involve financial hardship.'

In 1986 the Government set up The Committee of Inquiry into the Conduct of Local Authority Business chaired by David Widdicombe QC which investigated the time commitment of councillors. It enunciated criteria (Paragraphs 6.99 to 6.106, 1986) for a new system of remuneration, still relevant today:

- the 'system should be simple to operate and understand, and not susceptible to faulty claims'. They felt that this argued against the attendance and financial loss allowances
- the 'system should not encourage the proliferation of meetings or councillors spending more time on council business than is necessary', arguing against the attendance allowance
- the level of remuneration should relate to 'the non-manual worker at the average male wage if he worked one day per week', a benchmark currently recommended by the Local Government Association and widely adopted as a result
- the 'system should recognise that some councillors have much greater calls on their time than others (depending on their responsibilities)'
- allowances 'should be available as of right to all councillors meeting the statutory criteria for payments', ie local discretion should be limited; and
- the 'levels of allowances should be regularly reviewed'.

The Government responded through the Local Government Act (1989) and the Local Authorities (Members' Allowances) Regulations (1991) by setting a prescriptive system. Greater freedom was introduced by the Local Authorities (Members' Allowances) (Amendment) Regulations 1995. They gave discretion to local authorities to determine the form and amount of their scheme of allowances (save for travel allowances), subject to the retention of a minimum basic allowance for every



councillor. Local authorities were thus free to pay allowances at the level they saw fit. Many councillors were diffident in setting their own pay levels at the time.

Following the Government White Paper *Local Leadership: Local Choice* (DETR 1999), the Local Government Act 2000 changed the governmental arrangements of local authorities, requiring all main authorities to abandon the committee system which had hitherto characterised local government and to govern themselves either by:

- a directly executive mayor with a cabinet; or
- a directly elected mayor with council manager; or
- a leader and cabinet model.

Smaller authorities (with a population of less than 85,000) were allowed to retain the committee system. In a referendum to set up an elected mayor system, the alternative of the committee system could be offered. Thus, after such a procedure Brighton and Hove Council has, for example, retained the committee system. Stoke-on-Trent has opted for a directly elected mayor with council manager. Eleven authorities have held a positive referendum to opt for the directly elected mayor with cabinet executive model. They are Bedford, Doncaster, Hartlepool, Hackney, Lewisham, Newham, Mansfield, Middlesbrough, North Tyneside, Torbay and Watford. All other local authorities with a population of more than 85,000 are governed by a leader and cabinet. The nature of a council's constitution clearly imposes requirements on its remuneration scheme, which the government recognised by linking the development of new roles and powers for councillors to the requirement for all councils to review their allowances and the institution of a new regime for setting allowances.

# Chapter 3

## The principles of member allowance schemes

The continuing debate on councillors' allowances has not produced a definitive set of principles. Are they merely to ensure that members are not out of pocket? Are councillors' allowances to provide remuneration for time and responsibility? Or are they to reduce barriers to public service? This debate must be resolved if a consensus on remuneration is to be achieved.

Such definitive principles for allowance schemes should clarify the function and purpose of such a scheme. Rao et al (2007 p. 15) note in their international literature review, that:

“in all the countries considered, it appears to be a universal principle that elected members should not suffer financial loss. In some, far more substantial compensation schemes have been introduced, sometimes with the explicit aim of widening access to council office.”

Using the 'universal principle' that elected members should not suffer financial loss, Box 1 below suggests a set of principles to govern allowance schemes:

### Box 1: Suggested principles for allowances schemes

- The basic allowance should encourage people from a wide range of backgrounds and with a wide range of skills to serve as local councillors
- Those who participate in and contribute to the democratic process should not suffer unreasonable financial disadvantage
- Councillors should be compensated for their work and the compensation should have regard to the full range of commitment and complexity of their roles
- The system should be transparent, simple to operate and understand
- The system should not encourage the proliferation of meetings or provoke councillors into spending more time on council business than is necessary
- The level of remuneration should relate to a commonly accepted benchmark, such as the median male non-manual salary.

The present legislative framework for members' allowances is contained in the Local Authorities (Members' Allowances) (England) Regulations 2003 ('the Regulations'). These provide a consolidated regime for members' allowances. The scheme will or may include:

- the basic allowance
- special responsibility allowances
- a dependants' carers' allowance
- a co-optees' allowance; and
- travel and subsistence allowances.

The Regulations (2003) require that in determining their allowances scheme English local authorities are required to set up and have regard to the recommendations of an independent remuneration panel. The panel must consist of at least three members, none of whom may be a member of the local authority in question, or of its committees, or an employee of the council. It does not preclude participation by parish councillors within the council area. Independent remuneration panels may make recommendations in respect of more than one authority and there is specific provision for a panel to cover the London boroughs.

Publicity must be given to the recommendations of the panel: the council must advertise the scheme which it has made, specify its main features and describe the responsibilities which will attract a special responsibility allowance. The Government has issued statutory guidance on the Regulations (ODPM, 2003). The Guidance suggests that the information should be published on the authority's website and in the authority's newspaper, if it has one. The recommendations of the panels are not binding on the authorities in respect of which the recommendations are made, save that an authority can extend membership of the local government pension scheme only to those members recommended by the panel (Local Authorities Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003). The panel may recommend that all or only some members should have access to the pension scheme, subject to their age being less than 70. The panel may recommend that the basic allowance or the special responsibility allowance, or both, may be treated as amounts in respect of which pensions are payable.

The *Statutory Guidance on the Regulations for Local Authority Allowances* (ODPM, 2003) suggests ways of selecting a panel, attaching proper importance to the need to ensure the independence of the panel and the public perception of its independence. The panel must be required to make recommendations whenever the council decides to revoke or amend its members' allowances scheme.

After considering its panel's recommendations, a council can decide (for up to four years) on automatic indexation of members' allowances without the need for a review by the independent remuneration panel. Many councils use the Retail Price Index. Others use the annual local government pay settlement, which has the advantage of taking into account not only RPI but also what local government can (in theory) afford to pay. It also ensures that councillors do not have the embarrassment of receiving an annual pay increase greater or less than that of the Council's employees.

Before 1995 the payment of members' allowances was severely constrained by central prescription. There is now little central prescription. Currently the main constraints are:

- attendance allowances are prohibited
- the basic allowance has to be paid equally to all members
- where one or more groups on a council form an administration, a special responsibility allowance must be paid to a member of the opposition – usually paid either to the leader of the opposition (where such a post exists) or to a chair of a scrutiny committee.

Allowances can be backdated to the beginning of the financial year and can be withheld where a councillor is suspended for misconduct.

# Chapter 4

## The basic allowance: a time-based model

The Statutory Guidance on the Regulations for Local Authority Allowances (ODPM, 2003) assists independent remuneration panels in determining appropriate allowances. The basic allowance, it said:

“is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meeting with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes.” (paragraph 10)

‘Incidental costs’ can be many, ranging from telephone calls to visiting constituents.

Independent remuneration panels must take a view on a financial link to the time spent on the job of councillor. Though there is ample evidence of the time actually spent by councillors, there is no common view on the time commitment required. Although the general view is that removal of the attendance allowance has had little or no impact on councillors’ attendance (Local Government Association to the Councillors’ Remuneration Working Group in Northern Ireland, June 2006), there can be problems in procuring the attendance of councillors at some unpopular ‘approved duties’. The Regulations lay out what may be regarded as an approved duty so that members can see the type of meetings which they are expected to attend.

In its guidance for independent panels in setting the basic allowance, the Government states that

“it is important that some element of the work of members continues to be voluntary – that some hours are not remunerated. This must be balanced against the need to ensure that financial loss is not suffered by elected members, and further to ensure that, despite the input required, people are encouraged to come forward as elected members and that their service to the community is retained.” (ODPM, 2001, para 68)

The exhortation that some work of members should remain voluntary is often known as the public service principle. The guidance suggests that, in fixing the basic allowance, regard could be had to the Local Government Association daily rate, originally based on the national male median white-collar wage and still weighted to that benchmark. It is currently £138.75 (LGA 7 March 2007). The use of this yardstick was first promulgated by the Local Government Association’s predecessor

organisations, the Association of Metropolitan Authorities, the Association of County Councils and the Association of District Councils, in March 1995 following the issue of the 1995 Regulations. It was subsequently adopted by the Local Government Association and is generally known as the 'LGA daily session rate'.

Alternatively, the guidance suggests, regard could be had to local wage rates and the remuneration paid to members of other local bodies, such as health trusts. Where the LGA daily session rate is not used a more localised benchmark is used (usually lower). Thus the Birmingham independent remuneration panel uses the West Midlands non-manual salary as its benchmark.

Responding to this guidance, panels have often used a formula expressed as:

- [expected hours input minus voluntary discount for public service] x hourly /daily rate
- eg [15 hours per week minus one third public service discount] x 52 weeks x £10 per hour = £5,200.

The public service discount most often used (when the process is explicitly followed) is 30–33 per cent, but can vary between 25 and 50 per cent. Thus in the formulaic example used above, five of the 15 hours per week notional input should be given voluntarily.

The London Panel, finding the Local Government Association daily rate yielded too high a level of basic allowance for its taste, argued that the time expected of councillors should be diminished to 60 hours per month. The time commitment of 94.9 hours per month revealed by the 2006 Survey of Allowances (LGAR, 2007), undiscounted, would produce a basic allowance of £22,573 at a daily rate of £138.75. A discount of 50 per cent would be required to reduce it to £11,286, almost exactly twice the current national average basic allowance but not too far from the average basic allowance paid in London boroughs.

When considering members' allowances, independent remuneration panels and councils have an explicit duty to have regard to the statutory Government guidance. But apart from the broad parameters mentioned above, independent remuneration panels may recommend the quantum of a basic allowance on any grounds they feel appropriate. Some independent remuneration panels appear to have little or no regard to the guidance or even to the statutory provisions which underpin it.

Some members put in substantially longer hours in committee than do their fellows. A minority of councillors may shirk their obligations. However, the basic, special responsibility and co-optees' allowances must be expressed as specified amounts, usually as annual allowances. They cannot relate to actual attendance (though authorities can make payment for a part year only).

It would be helpful to make the duties of councillors explicit in order that councillors should be in no doubt as to what is expected from them. We believe that those obligations should be clearly articulated.

Since the amount of the basic allowance is unrelated to the commitment of an individual councillor, there can be problems in procuring members to undertake civic duties outside their expectation, eg the excessive temporary workload imposed on licensing committee members as a result of the transfer of alcohol licensing to councils.

The provision in the Regulations permitting payment of a special responsibility allowance in such cases mitigates the problem. Planning committees, for example, usually have a particularly heavy workload. For such committees, councils may typically establish a pool of members upon whom the whips or business managers can draw. Inevitably, the work falls more heavily on some than others. Those in employment, for example, will find it neither easy nor congenial to attend daytime meetings to deal with such matters. Those bearing the brunt of the work may feel justified resentment if they believe that they are inadequately rewarded. A simple special responsibility allowance (SRA) may not be adequate to recognise such commitments. When dealing with the alcohol licensing transfer, councils used a variety of strategies to reward the most industrious, typically batching allowances according to the number of panels attended. We do not recommend reintroduction of the attendance allowance because of the problems it would cause – although it is not uncommon for SRAs to be paid as a daily allowance particularly in relation to planning and licensing committees. We do suggest, however, that in making their members' allowances schemes, councils should take advantage of the relevant provision in the Regulations and have explicit regard to the workload involved in different roles, even if they do not carry an individual responsibility. We believe that the political parties have a responsibility to ensure that workloads are shared reasonably and to take action against councillors who fail to make a fair contribution to the work of the council.

# Chapter 5

## Special responsibility allowances

Before 2000 some councils paid no special responsibility allowances, believing that they represented a step towards the professionalisation of councillors. Today, however, all councils pay a special responsibility allowance to at least some leading members. The Regulations (ODPM, 2003) provide that:

“a special responsibility allowance may be paid to those members of the council who have significant additional responsibilities, over and above the generally accepted duties of a councillor. These responsibilities must be related to the discharge of the authority’s functions.” (paragraph 68)

The Regulations list the categories of responsibilities which might call for a special responsibility allowance. They include acting as a member of a committee or sub-committee which meets with exceptional frequency or for exceptionally long periods or acting as a member of a licensing committee.

Councils can and do pay more than one special responsibility allowance to individuals who hold two or more posts. This practice was common before 2000 when the total amount that could be spent on special responsibility allowances was capped at a relatively low level – so that the total level of the special responsibility allowances remained constant. A consequence was that allowances schemes were not transparent. The practice is diminishing but still exists. In consequence it is difficult to deduce from the members’ allowances scheme the amount paid to any one individual. It may also produce the anomaly of the executive leader receiving a lower total allowance than another councillor.

On the appropriate quantum for a leader’s special responsibility allowance, the 2003 guidance suggests consideration of the following approaches:

- The factor approach – this determines special responsibility allowances as a multiple of the basic allowance. This model is becoming more popular. Three is the common multiple often used to arrive at the leader’s special responsibility allowance. This method has the advantage of being an understandable, simple and transparent method. However it has the disadvantage of building into the special responsibility allowances a public service discount which is not suggested in the statutory guidance. Nor is it easy to establish a rationale for the multiple selected.
- The time based approach – this assigns a notional amount of time to the leader’s post in addition to the time notionally rewarded by the basic allowance. The extra time is



often rewarded at a higher rate than that used to arrive at the basic allowance. For instance, the Birmingham independent remuneration panel uses the top 10 per cent of non-manual salaries in the West Midlands as one way to arrive at an appropriate special responsibility allowance for the Leader. This approach has the advantage of a stronger logic than the factor approach. However, the special responsibility allowance selected can impute to the leader a notional weekly workload of 50-60 hours, implying that the leader's job is (more than) full-time.

- The analogy approach – this draws an analogy between the post of leader and another public sector role, such as a backbench Member of Parliament or the chair of the local primary care trust.

The 2003 guidance suggests that a way of calculating other special responsibility allowances is to rate them as a percentage of the leader's special responsibility allowance, so that the deputy leader's post could be set at 50-75 per cent of the leader's special responsibility allowance, other executive members at 45-65 per cent and so on. This is a quick, transparent and easily understood means of determining other special responsibility allowances.

Civic heads are entitled to a 'civic allowance' under the 1972 Local Government Act to help meet the costs associated with holding the office. They are not precluded from receiving, in addition, a special responsibility allowance for chairing the council.

Chairs of planning committees usually attract a substantial special responsibility allowance in deference to the importance which they often assume in local decision-taking and to their workload. Members of other regulatory committees with particularly onerous responsibilities may also receive a special responsibility allowance. When the transfer of alcohol licensing to local authorities by the Licensing Act 2003 imposed a particularly heavy, though temporary, burden on licensing committees, many authorities paid a temporary special responsibility allowance to reflect the workload. In the absence of an attendance allowance, many scaled the temporary special responsibility allowance according to the workload assumed by the individual member.

Although the Regulations do not limit the number of special responsibility allowances, the 2003 guidance (ODPM, 2003) points out that it does not necessarily follow that a particular responsibility is a significant additional responsibility for which a special responsibility allowance should be paid.

"If the majority of members of a council receive a special responsibility allowance the local electorate may rightly question whether this was justified."  
(paragraph 72)

Yet, the 2006 Survey of Allowances (LGAR 2007) shows that almost half (49.5 per cent) of all councillors do receive a special responsibility allowance – although some of this relatively high figure can be attributed to many district councils paying their members a small special responsibility allowance to serve on development control and licensing committees (as a result of the new liquor licensing regime). But since 2000 there has been a steady increase in the number of special responsibility allowances. Independent remuneration panels are used to requests to recommend special responsibility allowances for new posts, such as chair of the audit committee, members of a shadow executive, aides to portfolio holders or member champions. Payment of special responsibility allowances are consistently made to certain posts, such as leaders, members of the executive, chairs of major committees and opposition group leaders. But they are also paid to many other postholders. The following are all examples of special responsibility allowances currently payable:

**Box 2:** Range of SRAs payable in England

Business Manager	Executive Assistants
Group Whips	Shadow Executives
Group Secretaries	Member Champions
Cabinet Secretary	Area Chairs
Aide de Camp	Group Spokespersons
Members of Licensing Committees	Scrutiny Spokesperson
Members of Planning Committees	Lead Member
Vice Chairs of Committees	Two or more Vice Chairs of same Committee

# Chapter 6

## Quantum of allowances: the emerging model

As well as differing ranges of posts attracting special responsibility allowances, there are marked differences in quantum. The 2006 Survey of Allowances (LGAR, 2007) presents a reasonably accurate snapshot of levels of allowances in England: two-thirds of authorities responded.

Councillors receive an average of £5,648 in basic allowances (see Box 3 below). There are substantial differences between different types of authorities and within the same type of authority.

**Box 3:** Average allowances paid in English local authorities by type

<b>Council licensing type</b>	<b>Basic allowance</b>	<b>Leader's SRAs</b>	<b>Cabinet SRAs</b>	<b>Scrutiny Chairs SRAs</b>	<b>Planning Chairs SRAs</b>	<b>Chairs SRAs</b>
<b>London Boroughs</b>	£9,227	£31,784	£17,634	£10,738	£9,978	£8,066
<b>Met Councils</b>	£9,512	£25,690	£12,161	£8,394	£7,787	£6,001
<b>Shire Counties</b>	£8,941	£25,665	£14,912	£9,929	£6,070	£4,074
<b>Shire Districts</b>	£3,991	£11,065	£5,944	£3,721	£3,824	£3,034
<b>Unitarities</b>	£7,406	£20,338	£11,748	£5,311	£6,962	£5,818
<b>All types</b>	£5,648	£16,356	£9,243	£5,686	£5,172	£4,064

Source: 2006 Survey of Members' Allowances (LGAR, 2007)

There is a marked differential between special responsibility allowances paid to the leader and those paid to other members. Cabinet members have special responsibility allowances which cluster around 60 per cent of the leader's special responsibility allowance. In some authorities the allowances vary according to the portfolio assumed by the recipient. Some cabinet members have no portfolio. In some cabinets there is collective decision-taking; in others, members take both individual and collective responsibility for decisions. Such differences could reasonably account for local variations in special responsibility allowances.

But there is wild variation in the special responsibility allowance accorded to the chair of overview and scrutiny. Even in London, which has consistent guidance from the London Panel, there are substantial variations – from £40,927 to £4,492 (London

Councils, 2007). This compares with the London Panel's recommendation of a range between £32,705 and £38,801 (London Councils, 2007). As a rule, shire counties attach more importance to the role of chairs of overview and scrutiny, in general paying them more than metropolitan districts, even though their basic allowance is lower than that paid in metropolitan districts. But in one county council (where the leader's special responsibility allowance is £35,000) the special responsibility allowance for the chair of overview and scrutiny is £4,245. In one unitary authority the special responsibility allowance for the chair of overview and scrutiny is less than £2,000. These differences may reflect local scepticism about the role of overview and scrutiny. Alternatively they may reflect other local factors, such as whether the post-holder has a responsibility for policy development as well as for scrutiny.

The average basic allowance in a shire district council is £3,991, with some smaller shire district councils paying less than £2,000. In metropolitan district councils the average basic allowance is £9,512. In Birmingham City Council the basic allowance for 2006/07 was £15,147, the highest in the country. Next door Solihull paid the lowest basic allowance among metropolitan district councils. Box 4 demonstrates the lack of consensus as to an appropriate basic allowance. In each type of authority the highest allowance is at least twice that of the lowest. In district councils the differential is 6:1. The two districts cited, Bolsover and South Ribble, are similar in terms of budgets, responsibilities and socio-economic profiles yet their respective basic allowance differs by a ratio of 6:1.

**Box 4:** The widely differing amounts of basic allowance 2006/07

Type of Council	Council	Highest basic allowance	Council	Lowest basic allowance
<b>London Boroughs</b>	Croydon	£11,596	Harrow	£7,245
<b>Met Districts</b>	Birmingham	£15,147	Solihull	£6,613
<b>Shire Counties</b>	Nottinghamshire	£12,135	Norfolk	£6,763
<b>Shire Districts</b>	Bolsover	£9,198	South Ribble	£1,500
<b>Unitary Districts</b>	Kingston upon Hull	£11,643	Winsdor and Maidenhead	£3,750
<b>Mayoral Councils</b>	Doncaster	£11,614	Bedford	£4,770

Source: 2006 Survey of Allowances bar Doncaster – own allowances scheme (LGAR, 2007)

There is even less consensus on the appropriate responsibility allowance for a leader. The average leader's special responsibility allowance is £16,356. However, there are substantial differences. The Leader of Birmingham City Council received £52,080 (2006/07) which, together with the basic allowance (£15,147), amounted to £67,227, similar to the salary paid to a backbench Member of Parliament. In contrast,

the Leader of Newcastle City Council received a special responsibility allowance of £16,215 which, coupled with the basic allowance of £8,107, gives a combined allowance of £24,322, less than the median white collar male wage in 2007. The Leader of Luton Unitary Council has a total remuneration package lower than the vast majority of full time Council employees. The average special responsibility allowance for the leader of a shire district council is £11,065, with the lowest allowance £2,660 (Tandridge), and the highest just under £30,000 for the Leader of Allerdale; a differential of over 11:1.

There is much greater consistency in the special responsibility allowances paid to elected mayors. In 2006/2007 no elected mayor received less than £47,000 per annum. The spread between the highest and lowest paid is under 50 per cent (other than the Mayor of London). Clearly, councils and independent remuneration panels share a consensus on the nature of the post and its monetary worth. It is seen as a full time post requiring a professional salary, a standpoint supported by the government.

The only elected Mayor whose salary is determined centrally, Ken Livingstone, receives a salary of £137,579 as Mayor of London – but that post carries a responsibility more regional than local government.

#### Box 5: The special responsibility allowances for leaders 2006/07

Type of Council	Council	Highest SRA	Council	Lowest SRA
<b>London Boroughs</b>	Islington	£48,436	Hounslow	£15,554
<b>Met Districts</b>	Birmingham	£52,808	Solihull:	£13,226
<b>Shire Counties</b>	Buckinghamshire	£37,053	Lincolnshire	£18,702 <sup>1</sup>
<b>Shire Districts</b>	Allerdale	£29,859	Tandridge	£2,660 <sup>2</sup>
<b>Unitary Districts</b>	Plymouth	£38,157	Portsmouth	£7,100
<b>Mayoral Councils</b>	Newham	£71,856	Bedford	£47,694

Source: 2006 Survey of Allowances bar Newham – own scheme (LGAR, 2007)

- 1 The 2006 Survey of Allowances reports the lowest special responsibility allowance for a leader of a county as being Oxfordshire at £6,763. However, the special responsibility allowance for the Leader of Oxfordshire as reported in the 2006 Survey of Allowances is paid in addition to the special responsibility allowance (£11,435) for the cabinet members. It is not certain whether the Oxfordshire Leader picks up other SRAs so the authors has listed the next lowest reported Leader's SRA for counties; Lincolnshire
- 2 The 2006 Survey reports that the Leader of East Staffordshire has the lowest Leader's special responsibility allowance in the district councils at £2,450. This is a data input error. The Leader of East Staffordshire received a special responsibility allowance of £17,543 in 2006/07 (IRP, East Staffordshire Borough Council, The Fourth Report, May 2007). As with all surveys the 2006 Survey of Allowances should not be regarded as definitive. Many authorities choose not to reply for their own reasons, eg, Luton, which in 2006/07 paid the lowest leader's special responsibility allowance for any English Unitary Council, at £6,600. For consistency purposes we have used the 2006 Survey of Allowances data unless it is clearly wrong or misleading.

The evidence gathered for the Councillors' Commission from the Forum consistently shows that members' allowances are not the prime factor in motivating them to stand and remain on council. The main reason councillors cited for standing for election was "'to serve the community' (86.9 per cent), followed by 'to change things' (52.3 per cent) and 'political beliefs' (51.5 per cent)." (LGAR, 2007). Even those councillors, officers, employers, and members of the public who feel that enhanced allowances would permit a wider range of candidates to stand and remain on council often have "nagging concerns about whether this is the 'right' thing to do." (Hands et al, 2007 p.63) Indeed it would be most unfortunate if the disinterested wish to serve the community were replaced by avarice. Nevertheless, there is no doubt that members' allowances make service as a councillor possible for those who otherwise would not be able to afford it. If it is important to avoid creating a financial incentive to being a councillor, it is equally important that there should not be a financial disincentive. As one respondent (a serving councillor) to the on-line forum set up by the Councillors Commission points out: "For me payment is undoubtedly important – I have a young family to feed and it would be virtually impossible for me to do a full time job and be an active councillor at the same time." (23 August 2007)

The evidence indicates that there is general agreement that a frontline councillor's job is not full-time, though it is easy for retired or unemployed people to make it so. Those in employment must ration their time commitment. Nevertheless, the average frontline councillor spends at least half the normal working hours on council business. Of course much of that time will be spent outside normal working hours. Sir Michael Lyons believes that the time commitment expected of a councillor should be limited (Lyons, 2006). However, the increasing commitment to an interactive democracy (in which councillors should play a key role) does not suggest that the time expected from councillors will diminish, though better administrative support would lessen the time demanded of councillors (as well as increasing their effectiveness) – see chapter on support above.

If councils are to be reasonably representative of the communities they serve, it is important that working people should be enabled to serve as councillors. Those with family responsibilities should equally be enabled to serve. While pay is not a complete answer, there are various ways in which a reasonable basic allowance can help people to serve as councillors who, without the allowance, would be unable to do so. As the *Widening Access to Council Membership Progress Group* (Scottish Executive 2005) in Scotland commented, a "decent wage, around the level of the Scottish average annual salary, is necessary in order to widen access." This statement was later repeated by the Scottish Local Authorities Remuneration Committee (SLARC 2006, p. 9).

For many major authorities a typical basic allowance is now in the region of £10,000. It can be argued that such an allowance is neither fish nor fowl. It is far from being a satisfactory living wage; it can only be an aid to service, not a substitute income. But it nevertheless represents a significant increase in income for a pensioner. There are certainly suggestions that it acts as an incentive for retired people to retain their council seat. In theory it would be desirable for elderly councillors to be replaced by equally competent younger people in order that councils should have a more representative demographic profile. But it seems clear that an increase in the basic allowance to make service attractive as a full-time alternative to employment would require payment of an amount which would be quite unacceptable to the public and, indeed, unreasonably expensive. Payment of a lesser amount (but substantially more than the present level of basic allowance) might attract younger people, but it would not long detain the most able who are climbing the traditional career ladder. It might increase the representativeness of those who serve on councils, but it might also damage the overall competence of councillors. Measured by educational qualifications (see above), councillors are substantially more competent than the population at large. Of course, educational qualifications are not the only touchstone of competence.

Different considerations apply to office-holders, at least on major councils. The hours required of the leader of a major authority make it very difficult for that person to undertake 'normal' full-time work. It is undoubtedly possible for such a leader to undertake activities outside the council (as many do) – often on a part-time or self-employed basis. But in terms of undertaking a full-time job, only an indulgent or committed employer could accept the loss of hours required from the leader of a major council. At best, a leader of a major authority who retained his or her employment would be penalised by a loss of promotion prospects. Certainly many leaders of major authorities devote their whole time to that post. The hours involved can easily exceed those of the 'normal' working week of 37.5 hours. While we believe that it should be possible for a leader of a major authority to undertake work outside the council, we believe that the remuneration attached to such a post should be enough to constitute a reasonable wage. We believe that the special responsibility allowances in major authorities are now approaching or have reached that level.

It should be possible for holders of lesser posts in major authorities to undertake work outside the council, though we draw attention to the heavy workload of the children's portfolio, where it is becoming increasingly common for councils to create posts of assistant to the portfolio holder. Nevertheless, the time demanded is considerable and the same considerations arise as those in respect of the leader, though to a lesser extent, as they do with leaders of shire district councils.

# Chapter 7

## **The impact of party politics on special responsibility allowances**

An important factor in local government is the role played by the opposition parties. If the chairs of overview and scrutiny committees are held by the controlling group, then the role of the opposition leader becomes more important. The holder of that role will be responsible for much of the critical scrutiny necessary for proper governance and a lively democracy and should be rewarded commensurately.

In many councils (especially those which are hung), the whips play a vital part in managing council business and attract a special responsibility allowance accordingly. In others the whips may have little to do with council business.



# Chapter 8

## Members' allowances in the four countries

The English model of member remuneration differs from that in the other UK countries. Responsibility for remuneration of councillors in Wales, Scotland and Northern Ireland is devolved from Westminster. Ironically, devolved responsibility has led to more central prescription, less discretion and more consistency in the setting of allowances. In each of the other countries there is, however, a relatively small number of authorities with identical powers.

In Scotland a national advisory panel set a uniform basic allowance for all councillors based on 75 per cent of the median salary, with no public service discount. It is currently (2007) £15,452. The leaders' special responsibility allowances are centrally prescribed, based on the population and spend of each authority. The total of special responsibility allowances is capped for each authority (SLARC 2006).

In Wales there is also a central prescription of a standard basic allowance for all councillors, based on a time commitment of three days per week (Hall et al, 2001). It is currently £12,718. There is a flat rate dependants' carers' allowance, set nationally. As in Scotland, leaders' special responsibility allowances are centrally prescribed according to size of authority. A further restriction in Wales is the central determination of all other SRAs payable, both in scope and level (Welsh Assembly Government, 2007).

In Northern Ireland (where local authorities have very limited functions) the centrally prescribed basic allowance is based on the average salary with a time commitment of two days per week, giving a basic allowance of £9,500. Each council is allocated a total amount to disburse on special responsibility allowances. (DOE(NI), 22 January 2007).

The English model has the advantage that it provides maximum local choice within the legislative framework, itself not restrictive. The local authority has the responsibility for setting its own allowances but can rely on the recommendations of its panel. Those recommendations are required to be publicised, a requirement more extensive than in the remainder of the UK. It enables the local economic context to be taken into account. Despite the national templates, political management arrangements can differ substantially from authority to authority and the English model allows this to be recognised in allowances schemes. For example, in some

authorities the whips play a vital part in organising council business. In other councils that function may not rest with the whips. Sometimes, as in York, it rests with the group secretaries. Specific roles may exist in some authorities, but not others. A local scheme can take these variations into account.

There are perceived disadvantages to the English model. It results in substantial disparities of remuneration for councillors in similar authorities undertaking similar responsibilities. There can be little consistency between similar sized authorities with similar budgets and responsibilities. The degree of public accountability of panels can be variable: in some councils the local authority leads the panel to its conclusions; in some councils the independent panel is invisible. It may exist only on paper, often an elusive paper. And, despite the recommendations of an independent panel, some councillors can be uncomfortable in setting their own allowances, particularly where this is contentious either politically or through the interest of the local media. In response to this uneasiness, qualitative research undertaken for the Commission uncovered some support for nationally set allowances in the hope that they would "help to de-politicise the allowance setting decision and deter local media stories about 'grabbing councillors' awarding themselves pay increases" (Hands et al., 2007).

The London Panel goes some way to ameliorating the disadvantages associated with local panels. It provides a uniform structure for the framing of members' allowances schemes for a related grouping of councils. London boroughs' allowances schemes are, over time, converging in many areas (London Councils 2007 p.6). Of course, the London boroughs are uniform in their functions and are of relatively similar sizes, so that a pan-London scheme need not take into account the substantial discrepancies of size and functions which exist in the rest of the country. It does not take into account the wide variations in economic conditions that exist nationally. On the other hand – given different political management arrangements even within a consistent statutory framework – the London-wide recommendations inevitably provide a substantial range within which local choice has to be made.

Every authority has its idiosyncracies in the way it operates. While in many authorities the London scheme provides a clear and authoritative framework, in others the exercise of local discretion within the scheme causes political friction. Variations in implementation give an opportunity for local media to criticise local decisions. To overcome this problem, at least one London borough has set up its own independent panel to make specific recommendations tailored to its own circumstances, though having overall regard to the recommendations of the London panel. Officers who have to interpret and implement the London Panel's recommendations for their own borough have on occasion reported difficulties in shoe-horning their allowances scheme within the London template.

Despite the obvious advantages associated with nationally set allowances, it is important to note that the support of councillors and officers cannot be taken for granted. Evidence gathered by the Commission revealed mixed views on the issue, with some respondents suggesting that local discretion is necessary to take into account local variations in the cost of living, as well as the finances and spending priorities of individual authorities (Hands et al., 2007).

# Chapter 9

## Performance-related pay

The basic allowance overcomes the problems associated with the attendance allowance. It recognises the wider and informal role of councillors and, in particular, their development of a local community leadership role. The attendance allowance provided a pecuniary incentive to focus on formal, inward looking meetings. On the other hand, collection of the basic allowance imposes no formal obligation on a councillor other than attending a meeting every six months and undergoing an election every four years. Every few months, the national media carry a story of a councillor who continues to draw the attendance allowance despite having moved to another part of the world. Provided the councillor returns for a meeting every six months, nothing formal can be done to prevent such an abuse, though moral pressure may well be brought to bear through the political parties or by the local Standards Committee. It is, of course, unlikely that the erring councillor will be selected for re-election, but the election may be years away.

In politically governed councils, political groups can remove councillors who are not performing from any committees, sub committees, working groups and outside bodies as a means of punishment. But this is hardly a stick to ensure due diligence. Political groups also have the right to suspend any Member, though suspension is principally reserved for persistent or flagrant breaches of group rules. Penalties for lack of industry are not prominent in group model standing orders. Moreover, such a rule is difficult to enforce: councillors can argue that they have been concentrating on ward and community issues rather than on formal meetings.

Close to an election the threat of suspension from the group can be a serious penalty, since suspension would render them ineligible to stand as the official party candidate. Such a decision usually involves the group, the council-wide party and relevant party branch although the group can impose effective deselection by suspending a member (usually for a maximum of up to six months). Expulsion is usually as a result of bringing the party into disrepute or breaking specific party rules. Rather than invoke cumbersome party procedures, it is often deemed simpler to allow indolent members to serve out their terms. Group intervention is even less likely when political control is finely balanced.

However, some local political parties and their groups on council do address the problem of the indolent member. In Birmingham the Labour Group leadership (with the support of the Birmingham Labour Party General Management Committee),

has attempted to sharpen performance through enhanced member accountability, transparency and support as a means of ensuring all Labour members contribute effectively.

#### **Box 6: Good practice – Birmingham Labour Group and Member**

- All Labour Group Members have roles and responsibilities that cover not only roles and responsibilities for Shadow Cabinet members and back benchers but also for Lead Members of Regulatory Committees and Labour Group officers.
- Candidates for Council are also presented with a copy of their roles and responsibilities as a backbencher and are asked to sign a copy which also states they will undertake the duties stated – known as a Compact with the Electorate.
- The Group Officers (led by the chief whip) have also rolled out performance and development reviews for all members of the Labour Group from which individual members produce performance and portfolio development plans on which they are monitored every six months.
- Performance reviews are carried out for Shadow Cabinet members and Lead Members of Regulatory Committees by the Leader and Deputy Leader of the group and for back bench members by the appropriate Shadow Cabinet Member.
- The performance of all group members is monitored through the six monthly performance and development reviews and progress is checked for all members against the performance and portfolio development plans.
- Training is arranged for Members whose performance is falling short of what is required in the relevant roles and responsibilities. However, this is subject to the City Council providing a budget for Member training.
- Any Group Member whose performance is consistently well below that required in the roles and responsibilities is subject to a report compiled by the Labour Group Chair and Chief Whip.
- In the case of the Leadership, a Shadow Cabinet member, Lead Member of a Regulatory Committee or Group Officer, the report will be presented to the Labour Group AGM along with the appropriate recommendation.
- In the case of a Member failing to meet the requirements of the back bench roles and responsibilities, a report from the Group Chair and Chief Whip will be submitted to the appropriate Labour Party body with the recommendation that that Member be excluded from the party panel of potential candidates, which effectively removes any Member whose performance consistently fell well short of the minimum standard required.

## Performance

Whips may find it difficult to persuade some councillors to share the burden of discharging some of the less popular duties attaching to the role of councillor. Every council will have members, often retired, who are regarded as workhorses, undertaking more than their fair share of some of the less popular duties. While there is provision in the 2003 Regulations (Regulations, 2003: 5(1)(i)) for paying a special responsibility allowance for activities not necessarily imposing a special responsibility but requiring a substantial time commitment, this may not be adequate in certain circumstances, such as the transfer of alcohol licensing to local authorities, mentioned above.

Even without such special circumstances, it is commonplace for councillors to assume differential workloads without the benefit of special responsibility allowances. Retired people will find it easier to assume a larger workload than those in full-time employment. Councillors have varying degrees of effectiveness. Both councils and panels have sought ways of enhancing transparency, accountability and performance in return for better remuneration. Many have defined role descriptions for councillors, including explicit duties beyond the normal approved duties and the expected time commitment (for example Redcar and Cleveland). Some have required councillors to report on their activities, reports which are available to electors on the council's website (such as Tameside). These enable the electors to take an informed view of the industriousness and effectiveness of their councillor.

Some authorities (such as Birmingham, see above) have required from councillors a specific compact, specifying performance measures which the councillor is expected to meet (for example undertake training, attend not fewer than 60 per cent of meetings). In Torbay the panel linked its recommendation on members' pensions to the Council achieving an improved score in its comprehensive performance assessment. Numerous district councils have rewarded discrete tasks by allocating to them special responsibility allowances. In Barnsley the level of special responsibility allowances is linked to the undertaking of training, in that a higher SRA is paid on completion of an agreed programme of training each year, if training is not completed on an annual basis then a lower SRA is paid for the following year.

The nature of the job permits wide variations in the performance of councillors. They are not managed in the same sense as an employee. Generally, there is no systematic appraisal of their performance. While they answer to their electorate, that electorate may not be well-informed about the individual contribution made by the councillor to civic duties. Constituents may notice a failure to attend to constituency duties, but most constituents do not know their councillor and (if they vote at all) are quite likely to vote according to the party ticket. Every councillor will identify contemporaries who pull their weight and those who shirk. Of course, the time input

does not necessarily equate to effectiveness in a councillor. Moreover, councillors perceived to be inactive in their constituency work may well be heavily engaged in the management of the authority. There is, nevertheless, a minority of councillors who signally fail to perform the duties of their office but continue to claim their basic allowance. The basic allowance continues to be paid as long as that offending member remains a councillor.

But, leaving aside a conspicuous failure to perform, it is difficult to conceptualise an equitable system for rewarding members in their basic role as councillors according to their performance. Though members of the Standards Committee might be the most appropriate and impartial judges, it is not a task to be lightly imposed on them. Differential pay would be highly political, since it would identify councillors believed not to be pulling their weight.

Performance-related pay is more feasible for those members with a special responsibility allowance. There are a number of collective mechanisms by which a council's overall performance can be assessed – the comprehensive performance assessment, beacon council status, etc. But it is more difficult to establish individual credit for such achievements. Political appointments cannot be made on criteria of pure merit: a variety of political considerations must be borne in mind by the leader or the group in allocating portfolios. Even collective judgements would be difficult: not every member of an executive would have played an equal share in an achievement. Though councillors must play a substantial part in a council's success (or failure), the contribution of officers is also key. Judgements would be highly political in character. An effective chair of a scrutiny committee may not have attracted popularity (indeed success in that role might be in inverse ratio to popularity). An active opposition might judge its success by the extent to which it had frustrated the ruling majority's plans.

In his interim report, Sir Michael Lyons concluded that 'the political parties alone can undertake the performance management of councillors'. (Lyons, 2006, paragraph 4.50). Though we believe that there are ways of improving accountability, we concur – it is in the first instance an issue for political parties to address.

# Chapter 10

## Failure to perform

Several authorities have introduced a clawback scheme, whereby councillors surrender some part of their allowance if they fail adequately to perform their role. Such clawback can only be voluntary; there is no empowerment to impose such clawback by compulsion. Experience suggests that it is rarely invoked, but it may have a salutary effect in some cases. Indeed, it was discontinued in Leicester as it proved too difficult to implement and became a cause of constant friction.

Where a commuted sum is payable for travel and subsistence within the authority's area (as in Leeds and Leicester), it would be possible to withdraw all or part of that sum where attendance is conspicuously lacking. A similar system operates in the Republic of Ireland.

Interestingly, the issue of member performance is not seen as a problem in Wales, Scotland and Northern Ireland and there is no provision in the latter two countries to suspend allowances when a member is suspended from the council.

However, Police Authorities have the right to withhold allowances if members do not attend authority imposed meetings, and most police authorities exercise that right. For instance, the West Midlands Police Authority withholds part of a member's allowance if they do not attend 75 per cent of meetings. The amount withheld is determined on a case by case basis. In Merseyside the threshold is 70 per cent. Cases are referred to the chair of the Authority for determination.

The holders of special responsibility allowances will be held to account by their peers. They work on a very public stage. Failure to perform will lead to their removal from office as their inadequacies are perceived. No such prominence attaches to the performance of frontline councillors in receipt only of a basic allowance. As the basic allowance has become more substantial, independent remuneration panels have sought ways of ensuring value for money in return for it. They have devised ways of holding frontline councillors to account by defining what is expected of a councillor in return for the basic allowance through a job description, compact or a requirement to report on activities (see above). We believe that there would be advantage in the general adoption of job descriptions for councillors, based on a national template.

Having established what is expected of the frontline councillor in return for the basic allowance, the question then arises as to what can be done in cases of failure to meet the obligations. While councillors are, of course, accountable to the electorate, the



electoral process may be delayed and uncertain in its consequences. The failure of idle or inefficient councillors may be masked by their colleagues in the ward or elsewhere. The voters are unlikely to re-elect those who have left the locality and return only for the occasional meeting. Indeed, their political party (should they belong to one) is unlikely to re-select them. But they can continue to draw their allowance until the date of expiry of their term of office. Of course, failure to deliver by a frontline councillor is not usually so obvious.

Some members' allowances schemes contain provisions which enable a Standards Committee to recommend that members failing grossly to perform their duties should not draw their allowance. Such a declaration has only moral, not legal, authority. Some authorities allocate a higher basic allowance to those who have undertaken specified training, in effect penalising those who have not. It is doubtful whether such a provision would withstand legal challenge.

As basic allowances reach reasonably substantial levels, there may be justification for a clawback scheme in cases where councillors clearly fail to fulfil their duties. Imposition of clawback could clearly be politically controversial. A rival candidate could denounce his sitting opponent as failing to perform and demand a clawback of the allowance in order to obtain publicity unfavourable to the opponent. Nevertheless, we believe that safeguards could be devised to prevent such abuse. Any decision on clawback would be in the hands of the standards committee of the council.

Clawback should be proportionate to the failure and should be imposed only when there was a clear failure to meet specific and quantifiable requirements established locally, such as attending fewer than 60 per cent of the meetings to which the member was assigned, failure to attend a specified training course, or failure to fulfil the local reporting requirements. Power to refer a member to the standards committee could be restricted to the council's monitoring officer in order to avoid political abuse. The Standards Committee's decision would, of course, be publicised and the threat of such publicity – and the loss of the allowance – would be a powerful weapon against the relatively few councillors who do not pull their weight and abuse the system.

# Chapter 11

## Towards consistency on purpose, functions and levels

The evidence gathered by the Commission reveals a lack of consensus on the appropriate level and nature of councillor remuneration. Qualitative research undertaken for the Commission found that: “On allowances, views of officers, councillors and activists are extremely mixed” (Hands et al., 2007: p.vi). The study also uncovered a discernable (but by no means absolute) difference in opinion between older, more established, councillors and those who were young and working – with the former more likely to be content with the status quo and the latter more convinced that allowances should be raised. Several younger members stated that they could do far more (in terms of time commitment, committee work or standing for a higher level authority), were they not obliged to work at the same time as serving as a councillor. Another commonly held view was that it was not possible to work full time and be an effective councillor. Moreover, despite the variation in views described, most participants in the research conceded: “that increased allowances would probably encourage more people, from a wider range of backgrounds, to stand for election” (iv).

The numerous written submissions received by the Commission also displayed a lack of consensus. However, on balance, there appeared to be wider support for increased payments than against – although views on whether this should take the form of allowances or salaries were also polarised. It is also notable that even respondents who favoured a more ‘traditional’ view of councillors as part-time volunteers often tended to recognise that this may not be sustainable in the light of current expectations or that this view comes with associated costs in terms of those who are able to take on the role.

The All Party Parliamentary Local Government Group Enquiry Report “*The role of councillors*” (supported by LGIU, June 2007) also acknowledged the lack of consensus in the English context by summarising:

“We heard conflicting views on councillor remuneration, in particular whether being a councillor should become a full-time role. What does emerge is the need for coherence between the role councillors are expected to fulfil, the expectations of the time commitment it requires, and the payment and support that is available. We believe there should be national standards of remuneration for councillors, taking account of different roles and different tiers of local government” (p.27).

The most frequent recommendation made by respondents to the Commission's consultation was the need for a nationally-set allowances scheme in order to remove the politicisation of the allowances issue and the negative media and public reaction from 'councillors giving themselves pay rises'. The second most frequent recommendation was the importance of flexibility in such a national scheme, to take account of differences in size and type of authority, governance arrangements and varying councillor roles – a view echoed in both the written submissions to the Commission and the qualitative research discussed above.

The English system allows for substantial local discretion in setting members' allowances. The result produces substantial differences in allowances between similar authorities. At the other end of the discretionary spectrum is Scotland, where the Scottish Executive has laid down a precise scheme for members' allowances, specifying the basic allowance at £15,452 (three-quarters of the Scottish median salary), and a leader's allowance for each authority, using a four-band division according to service expenditure. Leaders of the highest-spending authorities were recommended to receive an allowance of £51,508 (including basic allowance), 2.5 times the Scottish median salary. Similar though slightly less prescriptive recommendations were made for other councillors carrying special responsibilities (SLARC 2006). The Scottish scheme has the great virtue of overcoming local political problems and embarrassment in setting allowances.

But in Scotland there are only 32 local authorities, all with similar powers (though very different populations). In England there is great diversity among types of local authorities (London boroughs, metropolitan districts, unitary authorities, county councils and district councils, as well as parish and town councils) with vastly differing populations and responsibilities. It would be difficult to establish by central prescription a precise scheme perceived as equitable in each authority. A prescriptive central scheme on the Scottish model would inevitably be complex and lead to local anomalies. But is there a half-way house, a national allowances scheme which allows local flexibility?

While it is entirely understandable that there should be substantial differences in the allowances paid between shire districts and the large authorities, it is difficult to see any justification for substantial variations between allowances for similar responsibilities in similar authorities. As mentioned above, the Regulations provide for a single panel for the London boroughs. Such a panel was originally appointed in 1998. It has continued to update its recommendations. Although some London boroughs have set up their own panel, the single London borough panels have had regard to the pan-London recommendations. The result is a much more homogenous outcome (with the exception of the special responsibility allowances paid to the chairs of overview and scrutiny). Before the panel made its first recommendations, London boroughs suffered the variations still current in the remainder of the country. Over the

eight years since the London Panel was created, the London boroughs have moved towards similar allowance levels. The London Panel's recommendation for a basic allowance is currently £9,964.

The London boroughs have largely adopted a basic allowance in accordance with the recommendation: only two or three are significantly out-of-line. On special responsibility allowances, the London Panel has since its inception equated the Leader's special responsibility allowance to that of a backbench Member of Parliament. Updating for inflation over the years has resulted in a current recommendation of £51,191. This gives a total allowance of £61,155, including the basic allowance of £9,964. The recommended allowance for an elected mayor is £76,194. Because of the problem of political acceptability, the Panel recognised that moving to these amounts might have to be done in stages over time. Only a minority of London boroughs have currently adopted the Panel's recommendations on special responsibility allowances in full. But, with few exceptions, London authorities have moved towards the Panel's recommendations over time. The trend continues. The 2006 Survey of Allowances (LGAR, 2007) showed that the average London borough leader received a special responsibility allowance of £31,784. Following an up-date report from the London Panel in 2006, the 2007-08 average London leader's special responsibility allowance is £36,975. Five authorities paid their leaders less than £30,000. If these five outliers were excluded from the calculation, then the average leader's special responsibility allowance in London would be £42,849 (London Councils, 2007).

London presents a very different and more homogenous picture than other regions. Elsewhere there are more substantial differences between authorities. There are substantial regional variations in patterns of allowances. The average special responsibility allowance for leaders ranged from £12,632 in the East Midlands to £21,685 in Yorkshire and Humberside. To some extent these are accounted for by the different types of authorities in two regions. The presence of a substantial number of larger authorities will move the regional average upwards. Intuitively it should be the case that more affluent areas have a political tolerance towards higher levels of allowance.

If remuneration panels use for their calculations local pay rates rather than national averages, then their recommended figures would be lower in less affluent areas. On the other hand, more affluent areas may contain a higher proportion of people with private means able to serve as councillors without counting the financial consequences. In the South West, for example, a greater proportion of retired people serve as councillors. But in making comparisons, a local remuneration panel will wish to compare its authority with its neighbours, not with an unknown but similar authority from another region. These comparisons will tend to give regional consistency. While the factors listed in this paragraph may well be present, it is not possible to draw firm conclusions from the survey.

It has been suggested by many of the respondents to the Commission's consultative forum and many participants in the research undertaken by the Commission that a nationally-set allowances scheme would make the issue less politicised, reduce negative public reaction to councillors giving themselves 'pay rises' and provide for a more consistent approach. On the other hand, the second most frequent recommendation was that it is important that local choice and voice is not undermined and a 'national scheme' or even approach is inherently anti-local government as it cannot take into account local circumstances, culture, priorities and governance arrangements.

Although London boroughs do enjoy *de facto* freedom, the effect of the London Panel's recommendations has been to move towards greater consistency between the London boroughs (see above). The Panel recommends a standard level of basic allowance and gives specific recommendations on the amount of the special responsibility allowance for elected mayors and leaders. But because of differing local responsibilities, the Panel has felt it necessary to identify a range inside three bands within which other special responsibility allowances can be identified. The Panel's report describes the responsibilities intended to be covered within each band and the factors to be taken into consideration when placing a special responsibility allowance within each band. Because of the establishment of new roles, before framing its last (2006) report, the London Panel asked the boroughs to identify any new roles. Those identified were incorporated in the Panel's recommendations. Some London boroughs find it possible to interpret the Panel's recommendations without difficulty. Where there is room for discretion, officers give advice and the Council make decisions in the light of that advice. Others find it more difficult, especially where political contention surrounds the issue. The indicative ranges allowed by the Panel can become a disputed topic at council. Many of the problems in interpreting the scheme locally seem to stem from new, if relatively minor, roles which have emerged since the Panel's report.

To overcome these problems, the London Borough of Lewisham has established its own independent members' remuneration panel, which can make specific and unequivocal recommendations tuned to the local circumstances. The Lewisham Panel has regard to the pan-London recommendations, but tunes them to local circumstances. This system preserves local discretion but puts it at one remove from the Council and does something to avoid political controversy.

We believe that a national system similar to that used in London would bring benefits: it would over time reduce unjustifiable inconsistencies and yet preserve a system which recognises local circumstances. A national panel could make recommendations on allowances according to type and size of authority. Such a national panel should be appointed by the Appointments Commission in order to safeguard its independence. Serving councillors, MPs, council employees and party

political office-holders should be barred from appointment. The Panel could, if necessary, establish sub-panels for different types of authority. Working within the guidance of the national panel, there could be regional panels which could interpret national recommendations for district councils in the region.

Each authority would be free to implement the national panel's recommendations in accordance with local circumstances. But if a particular council felt the relevant recommendations required local interpretation, it could have the right to establish its own local panel. Variations on this scenario could develop a more consistent approach and framework for allowances in England while maintaining local choice and regional and authority distinctiveness.

# Chapter 12

## The joint authorities

The statutory joint authorities (Passenger Transport Authorities, metropolitan and combined Fire Authorities and National Park Authorities) are required, when setting their allowances schemes, to pay regard to the recommendations of the panels of their constituent authorities. This requirement is unhelpful in practice, since the joint authorities work in a very different context and usually in a more consensual way than most local authorities. There is no requirement on a joint authority to establish its own independent remuneration panel nor to establish a transparent system for framing an allowances scheme.

The Police Authorities (remunerated under different legislation), have in place a national remuneration panel under the aegis of the Association of Police Authorities. Police authorities have largely reported that they find it a useful reference by which they can set their own allowances. If they need more customised advice, they are free to seek it (as did the Cleveland Police Authority in 2005 and the South Yorkshire Police Authority in 2007).

# Chapter 13

## Parish and town councils

The Government commitment to local communities implies an increased role for parish and town councillors. There will be an increasing need to pay parish allowances if parish and town councils are to continue to be able to attract suitable candidates.

The remuneration of and allowances for parish and town councillors is primarily an English concern. There is no provision for payment of 'community' councillors in Scotland. In Wales allowances for community councillors are centrally determined at Welsh Assembly level. In England, as with principal councils, parish and town councils have a great deal of discretion in whether to pay allowances and at what levels.

The Local Authorities (Members' Allowances) (England) Regulations 2003 provide that parish councils may pay a 'parish basic allowance' to recognise the time and effort their elected members put into their parish duties. A payment may be made to the chair only or to all elected parish members. All payments to the councillors of a specific parish must be at the same amount, except (if it is so decided) the allowance paid to the chair – which is termed the Chairman's Parish Basic Allowance. The independent remuneration panels for the principal authorities constitute the parish remuneration panels for the district and town councils within their areas. The parish remuneration panel must express its recommendation on a parish basic allowance as a percentage of the basic allowance for the responsible authority.

Parish councils vary enormously in size, budget and capability. Some are semi-dormant. Others have multi-million pound budgets. Though no national figures exist, such evidence as is available shows that only a small minority have elected to pay a parish basic allowance other than to the chair (which can be paid as a civic allowance under the Local Government Act 1972). For instance, work undertaken for the Independent Remuneration Panel for Brixham Town Council (July 2007) shows that in the 34 Town Councils which replied to a survey, only eight pay the parish basic allowance or have made provision to pay it in 2008-09. When paid, the parish basic allowance is generally between £200 and £250. Chairs of parish councils are more widely and generously remunerated, usually through a civic allowance under the 1972 Act.

Haberis and Prendergast (2007, p. 77) state that the anecdotal evidence suggests "that the lack of remuneration in comparison to higher tiers acts as a disincentive to participation in general, and that in particular an inability for local councils to compensate for, for example, childcare costs may discourage involvement". Yet, as



the Devon example shows, many parish and town councils are reluctant to pay a parish basic allowance.

Parish councils are not permitted to pay special responsibility allowances, for example, to political leaders (where they exist), and chairs of active committees cannot be paid any more than other ordinary members of their parish council. Some county associations report that their parish councils would like to pay their leaders more than the basic allowance (eg Lincolnshire). In active parish councils there is a case for such allowances, subject to reasonable limits; for example they should be limited to not more than 25 per cent of the membership and amount to not more than 10 per cent of the precept.

Parish councils can also pay travelling and subsistence allowances to their members. The allowances can be paid only after the parish council has considered a report from the parish remuneration panel. The panel must specify the responsibilities or duties in respect of which parish council members can receive travelling and subsistence allowances.

There is no provision for incorporating a dependants' carers' allowance within a parish council allowances scheme. We believe that the lack of availability of a dependants' carers' allowance for parish councillors is an omission which should be remedied, so that those with caring responsibilities are encouraged to serve on parish councils.

By virtue of the Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2004, parish and town councils may pay only elected members of parish councils, not co-optees. This anomaly denies an allowance to the many councillors co-opted onto their parish or town council in the absence of candidates prepared to stand for election. Given the need in many parishes to co-opt members because of lack of suitable candidates, we believe that the lack of availability of allowances for co-optees is an anomaly and should be corrected. Co-opted members on parish councils perform the same functions as elected parish councillors. The lack of availability of allowances is a discriminatory anomaly.

Reviews of parish and town council members' allowances are often not seen as a major issue for the parish remuneration panel. Frequently the particular circumstances, political structures and operation of the relevant parish and town councils are not fully taken into account. Often no contact is made with the parish or town councils under consideration. Given the huge variation in the activities of parish and town councils, there should be local consideration of the application of the framework recommended by the national panel.

# Chapter 14

## The other allowances and expenses

### Travelling and subsistence allowances

Until 2003 councillors had a statutory right to claim travelling and subsistence allowances. They were within maxima set by the Secretary of State, generally linked to officer allowances as agreed annually by the Joint Negotiation Committee. The Regulations gave councils a new right to exercise discretion in payment of travel and subsistence allowances. After considering the recommendation of their independent remuneration panels, councils may decide to pay their members travelling and subsistence allowances at rates they determine.

The majority of authorities still offer both travelling (92.6 per cent) and subsistence allowances (87.9 per cent) (LGAR, 2007). Maintaining a travelling allowance also acts as a minor incentive for members to attend approved duties. A travelling allowance will usually be calculated from the councillor's normal place of residence; but there can reasonably be other points of origin. Schemes may specify the point of origin of the journey in order to avoid abuse.

Travelling and subsistence allowances for attending approved duties outside the authority's area are universally retained. However, in some tightly drawn urban areas (like inner London boroughs) travelling and subsistence within the authority's boundaries may be included in the basic allowance. Some more widely-spread authorities, like Leeds, have also adopted the practice. It has the great advantage of simplifying administration both for members and officers (and avoiding potential mistakes or fraud). In Leicester a simple annual lump sum of £1,125 per year is paid to all members in lieu of the ability to claim for travelling and subsistence for attending approved duties within the city. Such a scheme makes little sense in geographically spread authorities, where councillors might well have to travel 100 miles or more to and from meetings.

The disadvantage of payment of a lump sum, whether separately established or included in the basic allowance, is that it may not be tax efficient. Unless they can satisfy the tax inspector otherwise, members have to pay tax on the allowance. Councillors claiming a mileage allowance are not taxed on any payments up to 40p per mile. This is known as the approved mileage allowance payment (AMAP rates), set by HM Revenue and Customs.

As noted above, in the Republic of Ireland all councillors receive an annual allowance designed to defray reasonable expenses incurred by them in attending meetings associated with council business. For members of city and county councils the annual allowance is calculated using a formula based on:

- the distance from home to council headquarters (HQ) (minimum 10 miles)
- the mileage rate
- the subsistence rate (seven hours or more)
- an index of 30, 50, 70 or 80 reflecting a notional number of meetings for the different groupings of local authorities; and
- a fixed amount for representational expenses.

An example for a city/county councillor in the 30 index, living 27 miles from council HQ would be:

<b>Box 7: 27 miles from HQ – 30 index</b>			
<b>Travel element</b>	<b>Subsistence element</b>	<b>Representational element</b>	<b>Total</b>
(27x2x€1.2026) x30	<b>€37.90 x30</b>	€2,285.53	€5,370

A margin of tolerance of up to 20 per cent non-attendance is allowed. In other words, a member who attends at least 80 per cent of the council/committee meetings which he/she was due to attend will qualify for the full travel and subsistence element of the annual allowance and will qualify for the full representational element if he/she attends at least 50 per cent of those meetings. Reduced annual allowances apply in cases where these thresholds are not reached.

The Republic of Ireland approach has the advantage of providing an administratively straightforward lump sum for each councillor which bears a close relationship to the approved duties of each councillor. It would be a means to penalise councillors if they did not meet their threshold. In England it would have the advantage of not requiring legislation, since councils already have discretion over their travel and subsistence schemes. The New Forest is an English council which has taken this approach.

A major complaint regarding the AMAP rates is that they have remained static for the past decade and no longer reflect the current cost of travel by a car. However, HM Revenue and Customs are currently reviewing the current AMAP rates. They are consulting employers on different rates and different approaches to promote a more environmentally friendly approach.

Many independent remuneration panels and councils, where they retain a claimable travel scheme, still link their mileage rates to the officer casual user rates. This has the advantage of paying a realistic rate for most automobile users but creates tax liabilities for payments of over 40p per mile. Some councillors, particularly in the larger counties, consistently exceed the 8,500 miles threshold – though councils are free to change that limit for councillors.

In Wales, Scotland and Northern Ireland travelling and subsistence rates and conditions are determined centrally. In Northern Ireland they are still broadly in line with officer casual user rates, which have the disadvantage of incurring a tax liability at the most common rate payable. In Wales and Scotland the travelling allowances are linked to the rates payable to members of the Assembly and Parliament. In Wales the AMAP rates are paid – 40p per mile for the first 10,000 miles and 25p per mile thereafter. In Scotland MSPs (and therefore councillors) are entitled to 49.3p per mile.

Many travelling allowance schemes also include provision for carrying extra passengers, usually at AMAP rates of 5p per passenger. Only 54.1 per cent of authorities offer a bicycle allowance. A bicycle allowance is an environmentally friendly gesture, usually assessed at 20p per mile (the AMAP rate) or less. Some authorities pay a lump sum; for example London Borough of Southwark pays members a monthly bicycle allowance of £20.

Where travelling allowances are payable, most schemes still contain provisions to allow for reimbursement of cost of public transport and, when necessary, taxis. Some schemes make special provision for disabled people (eg payment for the use of taxis) and authorise the use of taxis to enable councillors to return in safety from meetings ending at a particularly late hour.

Travelling and subsistence allowances can cause many problems for councils and independent remuneration panels. It is difficult to devise schemes which suit all individual circumstances. Increasingly panels are being asked to provide clarification and limitations on claiming travelling and subsistence allowances, often in reaction to previous bad practice. Receipts for expenses are now usually demanded. It is not uncommon for travelling and subsistence schemes to include a cap on the number of miles or total sums a member can claim in fulfilling approved duties. Caps have been introduced in response to public concern at expenses incurred by councillors who have moved some distance out of the authority's area (eg, South Derbyshire District Council and Bracknell Forest). Other councils attempt to limit unreasonable claims for travelling while promoting flexibility. Thus the Charnwood allowances scheme allows members to claim travel mileage for 15 duty days and 15 parish meeting days up to agreed daily maxima.

There is still confusion about what members can claim for their travelling and subsistence. One submission to the on-line forum set up on the Commission on Councillors indicated that they were unable to claim mileage for visiting constituents. Historically, when the mileage allowances were determined by statute both in relation to maximum level claimed and in defining approved duties for such claims, this was the case. Indeed, it is still the case if there is no such provision in the local authority allowances scheme – but provision can be made if the Council is so minded. Indeed, not all independent remuneration panels and councils have fully appreciated the discretion they now enjoy in determining their own travelling and subsistence schemes.

Special considerations apply to disabled people. For example where an allowances scheme limits claims for travel, it would be reasonable to provide for the use by disabled people of alternative forms of transport (eg taxis). Where meetings end at unsocial hours, it may well also be reasonable for a local standards committee to provide for use of taxis by councillors.

## Co-optees' allowances

Councils may co-opt members. In some cases they must co-opt non-elected members with full voting rights. They must do so on their standards committees and on the overview and scrutiny committee which deals with education. It is increasingly seen as desirable to appoint a non-councillor with appropriate professional experience as chair of an independent audit committee. There are also many councils which, for example, co-opt tenants onto ad hoc scrutiny panels looking at social housing. Those co-optees might be enabled to vote, since the panel would not be a decision-making body.

For the statutory co-optees and for those on audit committees (who are often appointed for their financial expertise), allowances schemes often provide for the payment of co-optees' allowances. Anecdotal evidence suggests that payment of co-optees' allowances is usually restricted to these co-options.

However, some schemes provide for remuneration of other co-optees. It is undesirable for co-optees' allowances to be paid to co-optees on other council bodies: such payments might arouse suspicion of subsidies to party colleagues. It is, of course, always possible for councils to take evidence from experts and pay a proper fee for their expertise.

The Regulations (2003) provide that a co-optee's allowance must be expressed as an annual figure, unrelated to the number of meetings planned for the relevant body. Many authorities, however, find it very convenient to contemplate the anticipated

number of meetings of the relevant body, allocate a notional amount (say £100) per meeting and calculate the annual amount accordingly. Alternatively, some panels take the formula used for the basic allowance and apply it to co-optees' allowances.

Where co-optees are appointed as chairs of the education overview and scrutiny committee, the Regulations require that the co-optees' allowance they receive must be of an amount not less than the minimum amount of any special responsibility allowance payable to the chairs of other committees or sub-committees. The Guidance (ODPM, 2001: para 22) advises that all co-optees acting as chair of any council committee should be entitled to a co-optee's allowance no less than the equivalent special responsibility allowances being made available to chairs of equivalent committees.

The standards committee of a local authority is assuming much greater importance, though its activity still depends very much on local circumstances and attitudes. There is a greater congruity in the allowance available to chairs of standards committees than for other posts. The average special responsibility allowance varied from £1,578 in shire districts to £3,938 in metropolitan districts (LGAR, 2007).

Many chairs of standards committees are already co-optees. Shortly there will be a requirement that they should be co-optees. The guidance gives a large scope in settling the special responsibility allowance for the chair of standards committees. Given the potential importance of the post, we believe that there should be further central guidance.

## Dependants' carers allowance

The dependants' carers allowance is designed to make it easier for those with caring responsibilities to serve as a councillor. The LGIU (May 2005a) points out that the:

“number of councillors who have caring responsibilities is decreasing and this is the group least likely to stay as elected representatives. Councillors cite it as the second biggest factor affecting their decision to stand down. Councillors from ethnic minority backgrounds have a significantly higher proportion of caring responsibilities.”

The Regulations (2003) clarified the right to pay the allowance as there was doubt previously that councils had the legal powers to pay such an allowance. Opponents of the allowance argue that a normal employer does not pay more to employees with caring responsibilities. On the other hand, employees of a 'normal' employer receive pay unreduced by the public service discount. Good employers often offer crèches. They can also offer access to the national scheme which permits up to £243 per

month of a salary to be 'sacrificed' and placed, free of tax and national insurance, in a separate account to be paid directly to a registered carer.

In Scotland the dependants' carers' allowance is not payable: councillors are in receipt of a salary unreduced by the public service discount, so should be in no different position to other employees. In Wales, the dependants' carers' allowance is paid out as an additional annual lump sum (currently £3,500) to all councillors who have dependants living with them other than those in receipt of a special responsibility allowance. There is no requirement to produce receipts for actual reimbursement – it is an allowance in the old fashioned sense. The disadvantage of the Welsh approach is that it might 'encourage' councillors to declare they have caring responsibilities for a resident dependant and can be perceived as an opaque way to increase the basic allowance. It is also not a tax efficient approach to providing support for councillors with caring responsibilities.

The 2006 Survey of Allowances reports that 84 per cent of councils offer a dependants' carers' allowance to councillors (LGAR, 2007). Payments usually vary between £5 and £7.50 per hour (LGAR, 2007). Only two-thirds of councils offer a childcare allowance, usually between £5 and £6 per hour (LGAR, 2007). Independent remuneration panels and councils are not always clear that the dependants' carers' allowance is intended to cover the care of dependants other than children.

Employees can now access a national childcare salary sacrifice scheme. A proportion of an employee's salary is 'sacrificed' and paid directly into a childcare account. It is currently capped at a maximum of £243 per month and is not subject to tax or NICs. It can only be paid directly to a registered child minder for reimbursement of childcare costs. In appropriate cases it can be a more tax efficient approach for support for childcare.

There is no provision for dependants' carers' allowance to be claimed when the dependant is a councillor and requires a carer while on approved duties. This can be a severe inhibition on the ability of disabled people to participate as a councillor.

Some councillors complain that they subsidise their work as a councillor, since their allowance failed to cover the childminding costs (Hands et al, 2007: 23). The allowance can often be inadequate to cover the costs of more than one child in a nursery, though it could be that some authorities offer a crèche as an alternative to payment of a childcare allowance. This might be a more effective (though probably more expensive) way of attracting parents with caring responsibilities to serve as councillors. The range of meetings covered by the allowances will often not include meetings felt to be essential by the councillor, but not recognised as 'approved' in the council's scheme, eg political meetings.

Given the desirability of diversifying the membership of councils, the problem should be addressed. However, it is difficult to frame a scheme which will cover all eventualities. However, the standards committee of the local authority could have a role in authorising exceptions to the scheme in appropriate cases supported by receipted accounts.

An anomaly in the Regulations is that the Dependants' Carers' Allowance (DCA) cannot be paid to members of joint authorities. Or, more specifically, there is no express authority for joint authorities, such as fire and passenger transport authorities to pay a DCA. This is an inconsistency: a councillor could access their district DCA scheme while on approved duties for their district but not while carrying out similar duties if they are appointed to a joint authority; appointment to joint authorities is a statutory requirement for all metropolitan authorities. The Greater Manchester Fire and Rescue Authority suggests that the lack of ability to pay a DCA to councillors with caring responsibilities has prevented certain councillors from putting themselves forward to serve on their joint authority. (Written submission to D. Hall from Greater Manchester Fire and Rescue Authority, 13 August 2007)

## Telephones, information technology etc

The practice regarding reimbursement of council-related telephone calls is inconsistent. Some panels and councils regard the basic allowance as covering such costs. Some councils will permit councillors to claim reimbursement of council related calls on the production of itemised bills only while others pay an extra flat rate monthly sum to assist with the cost of council related telephone calls. Some councils pay for a second land line to be installed at a councillor's residence and reimburse the monthly line rental. Others will reimburse part or all of the cost of line rental for the first land line only, while others make no provision. Some authorities provide mobile telephones either to all members or, more usually, to portfolio holders. They may require a payment to be made for personal calls, either itemised or as a notional sum. Or they may provide the handset and rental and expect councillors to pay for all calls.

Many authorities provide their members with a personal computer or laptop. Recognising that members will want to use it for personal as well as official purposes, some authorities make a standard charge (eg £50) for such use. Other help may be given to councillors. In Leicester, for example, the Council has introduced a members' support package. This makes available £1,500 for each newly elected councillor (and £750 pa in every subsequent year) to cover the purchase of items for home use, such as a desk, filing cabinet, photocopier, ICT equipment etc, and the costs of running them.

Panels are increasingly being asked to provide advice upon such matters. The current guidance gives little help.



# Chapter 15

## Pensions for councillors

### General

Since 2003 councillors in England have been eligible to join the local government pension scheme ('the scheme') on the recommendation of the local independent remuneration panel. No councillor can have access to the scheme unless it is recommended by the independent panel. If a panel does recommend access, it can stipulate whether it applies to the basic allowance, the special responsibility allowances (or some of them) or both. A council is not bound to grant access in accordance with the panel's recommendations. It is, of course, for the individual councillor (aged under 75 years) to decide whether to join.

Less than half of authorities (42.4 per cent) offered their councillors access to the scheme (LGAR, 2007). Where access is offered, it is usually granted in respect of all allowances. A survey of authorities carried out by the Local Government Pension Committee in 2004 showed there was a substantial difference between types of authority in offering access to the scheme. From respondents to the survey, 24 of 28 metropolitan authorities panels offered access to the scheme. Of the 127 respondent district councils, less than half of the panels (57) offered full or partial access. 23 out of 24 metropolitan authorities had adopted their panels' recommendation. Only 35 of the 57 district councils had taken up the offer of access to the scheme. In 2004 4311 councillors had been offered membership of the scheme and 912 had opted to join it (LGPC Survey 2004), less than 5 per cent of the almost 20,000 English councillors).

Many panels and councils who deny access to the scheme are influenced by two factors: cost and public opinion. The scheme is a defined benefit scheme (as opposed to a defined contribution scheme). The pension and related benefits are set by a formula linked to salary and length of service. Panels and councils are often reluctant to grant access to a defined benefit scheme when there is a general trend in the private sector to close such schemes to new employees.

The main advantage of the scheme for councillors is that it offers a predictable benefit guaranteed by the council. It needs no set up costs and only marginal administrative costs, as the scheme is already in place for local government employees.

At present the councillor contribution is pegged at 6 per cent of pensionable allowances. The employers' contribution is usually in the range of 12-15 per cent, though can be substantially higher. The scheme is generally organised on a county-wide basis. Each employer will make a different contribution to the scheme dependent upon the demography of its pensioners and the success of the scheme's investment policy.

Granting access to the scheme is intended to remove one more barrier to service as a councillor. Councillors of working age may lose pension rights in respect of their employment, either by working part-time or by loss of promotion prospects. Access to the scheme can make good this loss. It is argued that service as a councillor ought not to impose any further financial disadvantage. If a substantial part of their working time is devoted to council duties at the expense of their job or promotion prospects, then it seems reasonable that they should be able to treat their allowances as pensionable.

Because of the age profile of councillors, many councillors decline membership of the scheme: they already have their own provision for pensions. Those who envisage a short term of membership might not believe it worth while. The relative inflexibility of the local government pension scheme may also be a problem. It might be more attractive to enable councillors to have access to an employer's or private pension scheme without loss of the Council's contribution.

The Commission received evidence supporting automatic access to the local government pension scheme, as is the position in Scotland. In Wales, the National Assembly has allowed all councils to decide whether to allow councillors access to the scheme. In its submission to the Commission, the Local Government Information Unit argued that pension schemes should be obligatory. Given that many councillors already receive a pension this does not seem sensible. Councillors should be able to opt out of entry to a pension scheme. However there is certainly a case for all councillors to have access to a pension scheme if they wish to join one, having regard to the desirability of widening the representativeness of membership of councils.

Given the intention to make service as a councillor attractive to a wider selection of people, it does seem unnecessarily restrictive to confine councillors to the local government pension scheme. It should be possible for them to opt out of the local government scheme, should they so wish, and make additional contributions into their employers' schemes or to contribute to their own private pension plan without losing the benefit of the employers' contribution.

## Pension access and the joint authorities

Councillors who are members of joint authorities are not permitted to join the scheme of the joint authority. This is a clear anomaly: they serve on the authorities as a representative of the council to which they were elected. Lack of pension provision imposes a further penalty on those councillors who devote their time to joint authority business. Participation in the joint authority often prevents them from holding senior (often pensionable) positions in their home authority.

# Chapter 16

## Taxation, National Insurance and benefits

### Taxation

For tax purposes council members and civic dignitaries are treated as employees. Allowances are regarded as earnings and are chargeable to income tax as employment income, with PAYE arrangements applicable. 'Earnings' has a wide meaning. They include salaries, fees, wages, and any other profits received from an office or employment. They also include allowances paid to cover expenses incurred in carrying out the duties of an office or employment, unless these allowance do no more than reimburse incurred expenses which are deductible for tax purposes.

The allowances regarded as taxable are:

- basic allowance
- special responsibility allowance
- dependants' carers' allowance
- co-optees' allowance
- parish basic allowance.

To be exempt from taxation, expenses must be actually incurred wholly, exclusively and necessarily in the performance of official duties (Member's Allowances Regulations 2003 para. 108).

There are slightly different rule for travelling expenses, whereby councillors are reimbursed travelling expenses incurred in the performance of their duties. If councillors renounce all or part of their allowances, the element subject to renunciation is not liable to income tax. Where an authority does not reimburse all expenditure incurred, members may claim the excess as a deduction from earnings received from the authority as long as they can show it is wholly, necessarily and exclusively incurred in performance of their duties.

Despite the rules there is a great deal of inconsistency in how local tax offices treat members allowances and what is permitted as tax free. Some offices allow little more than the minimum £135 against household expenses agreed by the National

Association of Councillors with HM Revenue and Customs. Some tax offices allow £400 of the basic allowance as non-taxable expenses; others demand proof of every penny spent. National consistency is required.

The daily allowances paid to members of the House of Lords are free of tax. They are not regarded as taxable pay, but as an allowance which contributes to the democratic process. Participation as a councillor is equally (if not more) part of the democratic process. The need to revitalise local democracy is widely appreciated. To disregard the basic allowance for tax and benefit purposes would give a real shot in the arm to local government representation. The taxation and benefits problems which beset the basic allowance would be simply solved by disregarding the basic allowance (within the recommendation made by the national panel) for tax purposes. Despite the precedent of the House of Lords, it is probably unrealistic to expect the basic allowance to be disregarded for taxation purposes. But since dependants' carers' allowances are intended to cover the actual cost of provision, it is unfair to subject them to tax.

## National Insurance Contributions (NICs)

The liability for NICs against members' allowances is generally similar to tax liability, although in some circumstances expenses paid or reimbursed by the council can be disregarded when calculating the NIC. Thus the cost of secretarial assistance incurred in respect of carrying out the duties of employment and reimbursed by the employer (where such assistance is not provided directly) can be disregarded for NIC purposes.

## Benefits

The situation regarding members' allowances and benefits is complicated. It depends upon the benefits a member (and family member) receive and the level of household income, including any allowances received (*LGJU*, April 2006). Benefits differ in each case and it is very difficult to draw generalisations.

As a rule the Department of Work and Pensions (DWP) does not disregard any councillor remuneration. Even if members renounce their allowances, they are treated as income by the DWP, unlike the regimes for taxation and national insurance.

Presently the main category of benefits affected are

- a. means tested benefits such as:
  - income support
  - income-based jobseekers' allowance

- housing and council tax benefit
  - pension credit.
- b. child and working tax credits
- c. the only non-contributory benefit to be affected is carer's allowance
- d. the only contributory benefits affected are contributor's jobseekers' allowances and incapacity benefit (although there are special rules which apply to councillors here, namely a higher earnings limit before it affects incapacity benefit and the ability to work as a councillor without affecting eligibility for receiving incapacity benefit).

Each benefit has different rules on how much can be earned before it affects the benefit but generally speaking an amount can be earned (albeit usually a small sum) before it affects benefits – this is called an *earnings disregard*. The earnings disregards limit differs for different benefits.

The DWP will deduct legitimate expenses from members' allowances to reduce councillors' potential earnings for benefits assessment purposes. It is generally more generous than the tax regime. The DWP will also average the expenses beyond a weekly benefit payment period so that the impact of net allowances on benefits is evened out.

## Benefits reform

DWP is in the process of bringing forward regulations which will introduce a new benefit for sick or disabled people called an Employment and Support Allowance (ESA). It will be introduced for new customers from Autumn 2008. Incapacity benefit and income support will be replaced by an employment and support allowance for new customers. A person's functional capability will be assessed and the person will be required to take part in a work focused interview, both of which would contribute to decisions on eligibility for the ESA. That process could take up to 13 weeks during which they would receive an assessment phase benefit rate based on the jobseeker's allowance.

The ESA has two additional components – a work related activity component and a support component – which can be awarded at the end of the assessment phase. The work related activity component is conditional on the drawing up of a personal action plan focused on rehabilitation and work related activity. It will be paid in addition to the basic allowance payable under the assessment phase, bringing the total amount payable to a rate higher than the current long term rate for incapacity benefit. The support component would be payable to persons with serious disabilities or health conditions and again would be at a higher rate than at present.

Although councillors would not be entitled to claim the new allowance whilst they receive salary and are entitled to statutory sick pay, there would be nothing preventing them from claiming after 26 weeks, even if they remained and continued to be paid as a councillor. For councillors in England and Wales, DWP are currently considering making deductions from contributory ESAs for councillors' allowances. Their intention is that the contributory benefit is reduced pound for pound where the councillor is receiving more than £86 per week. As most councillors receive more than this it is likely that they would not be entitled to the new ESA. Even for the many councillors in districts where the average basic allowance was £3,991 in 2006, it is likely, by the time the ESA is introduced, that most of them will not be entitled to the new ESA.

The picture regarding councillors' allowances and benefits remains complicated and will be changing next year for those who are deemed sick and/or disabled. A recent report by the Leicester Remuneration Panel (September 2007) pointed out that a councillor must receive allowances of £10,000 to escape the benefits trap. But the picture is further complicated by the loss of subsidiary benefits such as free prescriptions, free school meals, free school uniform allowance, etc. In Scotland and Wales the dilemma has largely been addressed by setting the basic salary (£15,452 in Scotland) and basic allowance (£12,718 in Wales) at such a level that it lifts most councillors out of the benefits trap.

It will remain difficult to attract people receiving benefits to serve as councillors unless either allowances are set at a level which rises above the benefits trap; or councillors are permitted to renounce their allowances for benefits purposes; or there is a much higher rate of earnings disregard.

# Chapter 17

## **Statutory sick pay, maternity and paternity leave**

Councillors continue to receive their basic allowance during sickness or maternity and paternity leave. For office-holders, maternity or paternity leave or prolonged sickness can be financially damaging if a substitute is appointed to their post of special responsibility, since only one special responsibility allowance can be paid in respect of the same office. It would be fair to follow the normal employment practice by allowing special responsibility allowances to continue for the same maternity and paternity and sick leave as are available for officers. This would have the practical effect of enabling the council to pay two special responsibility allowances for the same position during the leave.



# Chapter 18

## Severance payments and term limits

A principal concern about the demography of councillors is that many are elderly. There are, of course, advantages to this: retired people often have relevant skills and experience as well as time to devote to the job of councillor. But are there steps which could be taken to lower the average age of councillors?

In Wales, Northern Ireland, Scotland and the Republic of Ireland severance payments have been offered to councillors who relinquish their positions voluntarily. Such schemes have the intent of 'freshening' democracy, by making it possible for new people to join councils. The one-off severance scheme in Wales operated in 2003 (Local Authorities Regulations, 2003b). To be eligible for an award, a councillor had to have at least 15 years service by 9 May 2003. Councillors could receive £1,000 for each complete year of service up to a maximum of £20,000. The scheme was not binding on Welsh councils and many declined to institute it. In Scotland a similar scheme provided for a payment of £10,000 for councillors who had served between four and ten years; £15,000 for those who had served more than ten years but less than 15 years; and £20,000 for those who had served for more than 15 years. This severance scheme was not the one proposed by the Scottish Local Authorities' Remuneration Committee. The Committee's scheme proposed a lesser sum for shorter service and up to £25,000 for those who had served 25 years or more. The scheme was binding on all Scottish councils. 383 councillors (out of a total of 1,222 councillors in Scotland) applied for and received a severance payment. The total cost was £6.3m. The Scottish Local Authorities' Remuneration Committee intends to gather evidence on the effect of the scheme on the profile of councillors.

Similar schemes have been introduced in the Irish Republic and will be introduced in Northern Ireland. The schemes were successful in persuading many older councillors to stand down. Anecdotal evidence does not suggest that the schemes succeeded in changing the overall profile of councillors. Though the 'churn' awaits detailed analysis, the 'new generation' seems to share many of the demographic characteristics of their predecessors. Without a fundamental shift of opinion in public attitudes to council service, or a change in perception among employers, it does not seem likely that introduction of severance payments would necessarily change the demographic profile of councillors. Such a scheme would be expensive without guaranteeing the desired result: if the Scottish scheme were adopted in England and received the same level of take-up, the cost would exceed £100m.

According to Hands et al (2007 p.26)

“Most respondents are strongly opposed to severance payments. For the majority, their opposition again stems from the deep-seated and recurrent belief that councillors should be motivated by public duty and not personal gain. They are opposed to anything that makes councillors appear to the electorate like ‘employees’ or ‘in a salaried job’. Moreover, this would increase the council tax and the electorate would be suspicious of anything smacking of a ‘golden handshake’.

On a more pragmatic level, others point out that most councillors can now join local authority pension schemes. One or two believe that, whilst this might be ‘fair’ for those who had worked hard, it would again be galling to see a payment made to an ineffective and uncommitted councillor.”

# Chapter 19

## Parachute payments

Councillors do not have a job for life. They may lose their own seat in the quadrennial election. Save in the relatively few authorities where political control does not change, the holder of a special responsibility allowance might lose that allowance at any time through the pleasure of the electorate. Even authorities with four-yearly elections may encounter changes in control following by-elections. A special responsibility allowance may be lost at the pleasure of the leader or the political group. The loss of a senior council position, such as the leadership of a major authority, will have an immediate and severe effect on that person's income. In cases where a leader or major portfolio-holder has worked full-time on council business, he or she will have had little opportunity (in the lead-up to the election) to seek alternative employment.

In the private sector, termination of employment would normally be accompanied by a payment, such as a redundancy package. A minimum of a year's salary is made available to Members of Parliament who lose their seats. There is no general provision for such a payment in members' allowances schemes, though the current Greater London Authority Bill provides for the authority to frame a scheme for making payments to the Mayor and Assembly members on their ceasing to hold office. In its last report, the London panel recommended that there should be an entitlement for leaders, elected mayors and portfolio holders to receive the special responsibility allowance for six months beyond the date of the election (London Councils, 2006). Recognising the full-time commitment of the incumbent, the Leicester City Council members' allowances scheme provides for an outgoing leader to receive employment advice and a final payment equating to three months of the leaders' special responsibility allowance. Other schemes may provide similarly.

Such a provision would also give a certain financial comfort to those considering taking up such offices. It could be a factor in persuading able and younger people to abandon a career or restrict the hours which they devote to it in order to accept office. The introduction of parachute payments was among the recommendations raised for consideration by the LGIU (May 2005b) in their discussion paper on *Equipping Councillors for the future*.

The making of parachute payments should be subject to safeguards. They should be paid only when loss of office stems from the verdict of the electorate, either in relation to the office-holders' own seats or to the overall control of their political group. In order to avoid the possibility of manipulation, they should be paid only when an office-holder has held the office for not fewer than 24 months. The

payment should be made only to elected mayors, leaders and executive portfolio-holders in major authorities. The payment should represent six months payment at the rate of the lost special responsibility allowance.

# Chapter 20

## Public reaction to schemes of allowances

Payment to councillors is not a unique phenomenon in the local governance of England. The chairs and members of other local public bodies are remunerated. A member of the Greater London Assembly receives £50,582. Its chair receives £60,675. The Mayor of London receives £137,579, his deputy £90,954. Members of Parliament receive £60,277 plus allowances. Members of local health bodies receive £7,500 for 2-3 days work per month. The chair of a primary care trust receives up to £47,000 for 2-3 days per week. The chair of a regional strategic health authority receives £55,000. The chairs of large housing associations may now receive up to £25,000 and their members £12,000. The chair of a regional development agency receives £76,875 (Cabinet Office, 2006). On the other hand, chairs of school governors receive nothing. Nor do Justices of the Peace, though they are entitled to a financial loss allowance.

The pay of members appointed to local public bodies (other than local authorities) seems to attract no interest in the local (or national) media, perhaps because the pay is determined nationally. There was no outburst of indignation when the pay of primary trust chairs and members rose by 50 per cent in 2006. Yet the allowances paid to councillors often does cause a local furore, no doubt because of the local publicity given to the scheme of allowances and the annual publication of payments to members. The media often makes little distinction between the allowances paid to members and the expenses necessarily incurred by them in carrying out their duties. Members who have assumed a national role necessarily incur greater expenses, but this is seldom recognised in the local press. Press reports of the total paid to them therefore substantially exaggerates the financial benefit to the members.

Mori opinion surveys consistently show lack of confidence in local authorities and their councillors, even though satisfaction ratings of council services are relatively high (see also the chapter on Motivation and Perception). Save in cases of manifest incompetence, voting at local elections bears little relationship to the authority's capability as evidenced by its score in the Comprehensive Performance Assessment. The media, literature and the arts generally purvey a negative stereotype of councillors. Television soaps habitually cast the council as a baleful influence on the locality (Brooke, 2005). It may well be that public scepticism about local authorities rubs off on the public's view of councillors' allowances. Certainly public dissatisfaction with members' allowances is cited by councillors as the reason for their defeat at the hands of the electorate. This syndrome is particularly present when the local press can compare the allowances with lower levels paid in adjacent authorities, whether of

the same type or not. At the time of the last review of London borough allowances, several London leaders asked that adoption of the panel's recommendations be made compulsory in order to avoid such comparisons. There is no doubt that in some authorities public perception acts as a major inhibition on members' allowances, depressing them artificially, particularly in councils where political control is precarious. It is not uncommon for opposition parties (of whichever political party) to attack members' allowances schemes formulated by the majority party.

Public understanding of the role of councillors is founded on a substantial lack of knowledge. In 2006 MORI Social Policy Monitor carried out a survey of public reaction to councillors' remuneration at the instigation of the Scottish Remuneration Advisory Committee. It found that knowledge of the work and duties of councillors was limited: only 20 per cent believed that they were quite knowledgeable about what a councillor did. On the other hand, respondents to the survey had high expectations of the time commitment of councillors. In general, they believed that councillors should be accessible for two to three evenings per week and two to four Saturdays and Sundays per month. When asked to compare the role of council leader with other jobs, 28 per cent of respondents thought that the most appropriate comparison was with that of a headteacher; 18 per cent a teacher; 12 per cent a police officer; and 12 per cent a doctor (SLARC, 2006). In 1999 MORI undertook a similar survey in Lambeth. 80 per cent of those interviewed knew little or almost nothing about what councillors did. 48 per cent thought that the average London pay was too much to pay a councillor; 44 per cent about right (MORI, 1999).

In their qualitative study of the barriers and incentives to becoming a councillor, Hands et al. (2007) reported the very popular perception that many councillors are corrupt, or at least able to manipulate the system to their advantage – specifically that they take advantage of the allowances and expenses they receive. 'This perception is formed almost exclusively by stories printed in the local press.' (Hands et al, 2007 p.7) When prompted with figures on typical remuneration for councillors, grassroots activists in particular, were surprised that the level is so modest. Activists accept that councillors with extra responsibilities deserve to earn higher remuneration. Most feel that average levels of remuneration for council leaders (£16,356) and cabinet/ executive members (£9,243) are not unreasonable. It seems that the press does not fully represent public opinion. 'Once informed about the true level of remuneration that councillors receive, employed members of the public say this is not sufficient incentive to give up their career' (Hands et al, 2007 p.9).

New private sector members of members' allowances panels are often taken aback by the relatively low level of allowances paid. Those from the private sector who have an understanding of the role of a local authority are often staggered by the relative meanness of the special responsibility allowances paid. Occasionally pay evaluations of leaders' jobs have been made. They uniformly conclude that allowances

substantially higher than those currently paid would be justified empirically (if not politically). But job evaluation of the frontline councillor is difficult: there is little comparison with other occupations. Being a councillor requires no special experience or formal qualification; there are no defined working hours; and councillors have no line management responsibilities.

The evidence shows that the public in general has little appreciation of the role undertaken by councillors, but when better informed is not averse to the payment of reasonable allowances. Councillors should be encouraged to make the electorate better aware of their work by using modern methods of communication (like e-mails, blogs and text messages), as well as by publicising their activities in the local press. This is a matter addressed in more detail in the chapter on Motivations and Perceptions.

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