

**NORTH YORKSHIRE COUNTY COUNCIL****14 DECEMBER 2011****MILEAGE ALLOWANCES TO INDEPENDENT MEMBERS OF  
EDUCATION APPEALS PANELS****1.0 BACKGROUND**

- 1.1 The Council engages independent members to determine education appeals in relation to schools admissions and exclusions. The Independent Members of Education Appeals Panels ('Panel Members') perform functions in accordance with the Education (Admission Appeals Arrangements) (England) Regulations 2002 and the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002. In accordance with those Regulations they are entitled to receive a payment for financial loss, should this apply to their circumstances. They are also entitled to travelling and subsistence expenses. There is no entitlement to any other payment, such as the arrangements for Basic Allowances that apply to elected County Councillors. The payment of financial loss to Panel Members under these arrangements are outside of the statutory regulations that underpin the current Members' Allowances Scheme which is regulated by the Local Authorities (Members' Allowances) (England) Regulations 2003.
- 1.2 The County Council considered a paper in December 2008 relating to the financial loss payments and travelling and subsistence payments, for Panel Members. The allowances for this particular group do not need approval following a recommendation from the Independent Panel on Members Remuneration, as they are strictly outside of the scope of the work of that Panel. It was considered however that in reviewing and formally updating the allowances for the Panel Members, it was sensible to align the principles where appropriate to the main Members' Allowances Scheme.
- 1.3 The County Council formally agreed a scheme for the payment of allowances to Panel Members with effect from 2009/10. That scheme includes an automatic update every year in line with any revisions to the main Members' Allowances Scheme.
- 1.4 In respect of the financial loss allowance, Panel Members receive a rate of payment dependent upon the number of hours that they spend attending Panel meetings. However, this is only payable if they incur loss, for example if they are still working and lose pay as a result of Panel attendance. It was agreed that the maximum amount payable for financial loss allowance for independent members of the Education Appeals Panels would be:
- (a) if the period of entitlement does not exceed four hours - £34.37;
  - (b) if the period exceeds four but does not exceed 24 hours – £68.75;
  - (c) if the period exceeds 24 hours - £68.75 for each complete period of 24 hours plus the rate appropriate for the remainder of the period.
- 1.5 Since no increase has been paid to the Basic Allowance to elected County Councillors, these limits have remained the same in 2010/11 and 2011/12, and on the basis of the recommendation to the County Council in respect of the 2012/13 Members Allowances Scheme, will remain at the same level in 2012/13 also.
- 1.6 It was also agreed that the scheme of allowances for travelling and subsistence and other out of pocket expenses agreed each year as part of the main Members' Allowances Scheme will apply to members of Education Appeals Panels.

1.7 Panel Members are only entitled to a payment for financial loss if they can establish that they have incurred such a loss. The majority of the 69 Panel Members are highly experienced professionals who are retired. As a result of this they are not entitled to claim financial loss when serving on appeals, and their main reimbursable expense is the travel allowance. Given the geographical area of North Yorkshire and the Appeals Guidance requirement to serve on panels in areas significantly distant from their home base, the volume of mileage undertaken by Panel Members may be significant. Approximately 800 selection, review, admission and exclusion appeals are heard each year. This is a high level of activity in comparison to other Authorities nationally. Appeal Panel Members have to deal with circumstances where parents are anxious and concerned about the future wellbeing of their children. The role requires immense sensitivity and dedication. Inevitably parents are disappointed where their appeals are not allowed, but where they have chosen to take matters further to the Local Government Ombudsman by way of complaint, it is pleasing to note that there have been no findings of maladministration in relation to North Yorkshire Panels in many years. There are robust systems employed and the professionalism of Panel Members is generally recognised.

## 2.0 **REDUCTION IN MILEAGE RATES**

2.1 At the February 2011 budget meeting, given the financial constraints, County Councillors agreed to reduce their own mileage rate from 48.5p per mile to 40p per mile.

2.2 Subsequently the Officers Scheme was also reviewed, this confirmed the 40p per mile, now for the first 10,000 miles per annum, with 25p per mile thereafter. This reduction was agreed and implemented from April 2011.

2.3 As Panel Members' remuneration is linked to the Members' Allowances Scheme in this respect, Panel Members' mileage was similarly reduced. It should be noted that no prior notification was given to Panel members that the consideration of a reduction was to be proposed.

2.4 As a result of the reduction in mileage rates there have been significant expressions of concern from Panel Members to officers, and to County Councillors. Given that reimbursement to Panel Members is generally confined to mileage, the unexpected reduction was taken badly given the demonstrable commitment which Panel Members demonstrate. They have since completed another busy appeal session, but have also taken the step of researching and forwarding supporting information to officers about remuneration formulas used in other similar settings.

2.5 The total amount paid to Panel Members this year (2011/12), the bulk of the work having been done, is £10,656. It should be noted that this figure is based on payments, and includes some amounts claimed in relation to Panels held in 2010/11. In addition, there are a number of claims outstanding for the current year.

## 3.0 **COMPARATIVE RATES**

3.1 Comparative information, as mentioned in paragraph 2.4, has been sought by Panel representatives from a range of other Local Authorities regarding levels of remuneration and the pattern of expenses. North Yorkshire rates are amongst the lowest of those surveyed. **Appendix 1** sets out some brief information. It is understood that the rates payable in Bradford and Leeds relate to the nationally set casual user allowances, payable to officers. It should be noted that this scheme is no longer used by the County Council. The different rates apply to different engine sizes of cars.

#### 4.0 **OPTIONS**

- 4.1 The County Council may consider it appropriate to continue to align the mileage rate to that payable to elected Councillors under the terms of the Members Allowance Scheme, which in turn aligns with rates payable to Officers. As stated earlier, and whilst the need to reduce costs in the current financial climate must be acknowledged, the disproportionate impact upon this group of committed and dedicated Panel Members must be recognised. The Council is reliant on their goodwill to undertake a difficult and important role and the loss of their support would not be in the Council's best interests.
- 4.2 In the circumstances, an alternative solution would be to align the payment of mileage to Appeals Panel Members to the rate set by HMRC for the purpose of determining whether any taxable benefit applies to mileage allowance schemes. This stands currently at 45p for the first 10,000 miles per annum, and 25p thereafter. Such an approach would not restore the mileage rate to the level of 48.5p paid during 2010/11 but would give recognition to the extraordinary circumstances of these Members against the background of general financial constraints. The HMRC reviews the tax allowable rate from time to time, and if the County Council was minded to agree this option, it would be appropriate to align the rate to the current rate allowed by the HMRC at any one time, rather than to a specific financial figure.
- 4.3 Because there is no formal link between this scheme, and the scheme that applies to elected County Councillors and co-opted Members, such a change would not, of itself, create a precedent for the main scheme, and as noted in the paragraph above, there do seem to be particular circumstances bearing in mind the absence of any payment equivalent to the basic allowance in respect of these Panel Members.

#### 5.0 **CONSIDERATION BY THE INDEPENDENT PANEL ON MEMBERS REMUNERATION**

- 5.1 Whilst matters relating to this Allowances Scheme falls strictly outside the remit of the Independent Panel, the issue was referred to them at their recent meeting, in view of the potential implications for payments under the main Members Allowance Scheme. The views of the Independent Panel are recorded in the report of the Panel which forms Appendix A to the report presented to this meeting. The conclusion of the Panel was:

*“The Panel had some sympathy with the position of the Appeals Panel members but considered that it could not make a judgement on this matter because it is for the County Council to balance the need to deal with the issues raised by Appeal Panel Members, with any potential for impacting upon the current arrangements for the Members Allowances Scheme which had been carefully developed over time, and which is now based on a specific link to the Officers Scheme.”*

#### 6.0 **RECOMMENDATION**

- 6.1 That the County Council determines whether it would wish to align the mileage allowance to the allowance rate for taxation purposes set by the HMRC.

CAROLE DUNN  
Assistant Chief Executive (Legal and Democratic Services)

1 December 2011

**Appendix B – Sample Panel Members Allowances from Other Local Authorities**

Authority	Fuel	Travel	Food	Overnight Accommodation	Childcare/ Carers Costs	Additional Allowances
Wakefield	√ 39.5p √ 48.5p	√ Parking				
North Lincolnshire Council	√	√			√	√ Loss of Earnings
Sheffield	√	√ Parking, taxi, bus, train.	√			
Rotherham MBC	√	√ Parking, bus, train.	√			
York	√ 52p	√ Parking, bus, train.	√	Never offered as panel members live locally.	√	
Bradford	√ 46.9p √ 53.3p √ 65.0p (plus 1p for every add passenger)	√ Parking, bus, train.	√		√	√ Loss of Earnings
Barnsley		√ Parking	√	X		Retainer - £350 per annum £42 per ½ session
Leeds City Council	√ 46.9p √ 52.2 √ 65p	√ Parking, bus, train	√			