

CABINET – 17 JANUARY 2011

SCHOOL ADMISSION AND EXCLUSION APPEAL PANELS

Report by County Solicitor and Monitoring Officer

Introduction

1. Under Part 3.4 of the Constitution the Cabinet is responsible for local arrangements for the school admission and exclusion appeals function, but Regulations made under the Local Government Act 2000 make the full Council responsible for the determination of any financial loss, travelling and subsistence allowances payable to appeal panel members. (This is the same as for allowances paid to councillors, but without any requirement to make reference to an independent remuneration panel.) This report reviews the present panel members' allowances and asks the Cabinet to make recommendations to the full Council to determine rates and arrangements for their payment.

Background

2. Under the School Standards and Framework Act (as amended) the Council is under a duty to make arrangements to enable parents to appeal against school admission and exclusion decisions. The requirements include the arrangements for the panels to hear the appeals, the appointment of panel members and the payment of allowances to any member of a panel. As the service provided by the Panel members is a statutory one the preference would be to remunerate them for the work undertaken but this is not allowed. Under current legislation, members of panels are entitled to claim financial loss allowance and travel and subsistence allowances for attendance at a meeting of an appeal panel and training but not to receive payment for being a Panel member.
3. The admission appeal panels are drawn from a pool of (currently) 17 Lay Members and 15 "Persons of Experience of Provision of Education". The Panels met on No.160 occasions in 2010/11, which was an exceptional year.
4. The exclusion appeal panels are drawn from a pool of (currently) 7 Lay Members, 7 School Governors and 12 Headteachers. The Panels met on 4 occasions in 2010.
5. Involvement in the appeals process therefore involves a considerable potential commitment on the part of individual panellists, and although many choose not to claim some or all of the available allowances, it is clearly one factor for

anyone to consider before deciding whether to give his or her time up to perform this function.

6. The current allowances were last reviewed in July 2004 when it was recommended to Council and agreed:
 - (a) to approve, for school admission and exclusion appeal panel members, the same travel and subsistence allowances as are payable to members of the Council, subject to the same requirements as to the submission of claims and the supply of evidence;
 - (b) to approve an increase to £100 per day in the maximum amount payable to a school admission or exclusion appeal panel member for financial loss necessarily incurred as a result of attendance at an appeal panel hearing, subject to sufficient documentary evidence being produced to identify actual loss.

Travelling and Subsistence Allowances

7. Members will be aware that from 1 April 2011 for travel by car members of the Council and officers are paid 35p per mile for the first 10,000 miles and 25p per mile thereafter. This is a reduction on last year of 5p/mile for the first 10,000 miles.
8. The current subsistence allowance for panel members (as for members and officers) is shown in Annex 1. Appeal hearings normally take place between 9.45 am and 5.00 pm but occasionally over a longer time – sometimes extending to as late as 8.30 pm for an exclusion appeal.
9. Payments are subject to the same conditions as apply to Council members for the provision of receipts and/or other evidence of expenditure and the submission of claims within two months of the expenditure being incurred. Currently the requirement to provide VAT receipts is not applied to panel members
10. Panel members have made strong representations to the County Solicitor to retain a mileage rate of 40p per mile for the first 10,000 miles (no panel member has ever recorded mileage in excess of 10,000 miles). They point to the fact that they are an entirely volunteer force but perform a statutory duty on behalf of the Council. The Council is totally reliant on their good will to meet its responsibilities. They point out that the proposed reduction comes at a time of escalating fuel costs. Some panel members have indicated that the reduced rate will make them consider their position as a volunteer. This at a time when central Government and the Council are seeking to make best use of volunteers as part of the Big Society.
11. The Voluntary Sector Development Team provide the following general advice on the payment of volunteers:

Where financially possible, the council will repay reasonable out of pocket expenses against proof of expenditure (e.g. receipts, tickets, itemised phone bills etc), which should be agreed in writing with the service concerned before the volunteering arrangement commences. Reasonable expenses may include:

- *travel while volunteering;*
- *postage, phone calls, stationery, etc.*
- *meals taken while volunteering;*
- *travel to and from the place of volunteering;*

Managers will not pay a fixed 'daily rate' for expenses, but may develop guidelines regarding maximum claims eg £4 maximum for lunch, or funding travel expenses within Oxfordshire boundaries only. Mileage rates should be paid in line with existing county council employee rates.

12. It is recommended that given the very particular circumstances in relation to the specialist nature of the work carried out by the panel members Cabinet agree to retain the car mileage rate at 40p per mile for the first 10,000 miles. It is further recommended that VAT receipts be provided in line with the conditions for Council members and officers.

Financial Loss Allowance

13. Some other tribunal systems pay their members a set fee for their services and, in some instances, non-payment of such a fee has stopped candidates from taking their expression of interest in being appointed to these panels any further. However, the Regulations do not allow for payment of a set fee for school admission and exclusion appeal panel members. They do not get a basic allowance of any sort.
14. Regulations do allow for the payment of financial loss which is currently set at a maximum of £100/day. The majority of this authority's panel members are retired while a few either work part time or are self-employed. Council Members cannot claim for financial loss relating to their employment but can claim for childminding expenses and carer expenses for a dependent. In some circumstances the co-opted members of the Standards Committee could also apply for financial loss.
15. To ensure that claims for actual financial loss are accountable and audit trails sufficiently established, a certificate supplied by the employer, or supporting evidence from a self-employed panel member's accountant, or such other evidence as deemed appropriate, should support any claims for loss of earnings. Claims for any other type of eligible actual financial loss, such as

childminding expenses, should also be supported by receipts and/or other evidence.

16. The Cabinet is asked to consider whether the current financial loss payment should continue and whether the ceiling is set at an appropriate level.

Financial Implications

17. The SAP system does not currently differentiate between mileage and subsistence claims. In 2010/11 the total came to £24,604. Applying the change to 35p per mile to the whole of the figure gives a difference of £2,952. This gives an indication of what the Council would be forgoing as a saving if they retained a rate of £40 per mile.
18. Currently, only 4 panel members in total claim financial loss for either loss of earnings or childminding costs. As appeal panels meet during working hours it is not envisaged that there will be a significant increase in the number of panel members who are appointed and who will make a claim for financial loss in respect of loss of earnings, even though for those individuals who would be inhibited from participating it is hoped that the current payment represents the removal of a significant barrier.

RECOMMENDATIONS

19. **The Cabinet is RECOMMENDED to RECOMMEND the Council:**
 - (a) **to approve, for school admission and exclusion appeal panel members, the same travel and subsistence allowances as are payable to members of the Council, subject to the same requirements as to the submission of claims and the supply of evidence except that the rate for the first 10,000 miles claimed for car travel be set at 40p per mile and not 35p per mile**
 - (b) **to continue to pay £100 per day as the maximum amount payable to a school admission or exclusion appeal panel member for financial loss necessarily incurred as a result of attendance at an appeal panel hearing, subject to sufficient documentary evidence being produced to identify actual loss; and**
 - (c) **that the revised allowances and rates be effective from 1 April 2011**

PETER CLARK

Background Papers: Nil
Contact Officer: Sheila Sturgeon, Senior Education Officer, Tel: (01865) 810180

December 2011

**SUBSISTENCE ALLOWANCES
FOR SCHOOL ADMISSION AND EXCLUSION APPEAL PANEL MEMBERS**

Table 2 Proposed Allowances		
Allowance	Time away from normal place of residence	Rate
Breakfast	Between 6.00 am and 9.00 am	Up to £6.88
Lunch	Between 12 noon and 2.00 pm	Up to £9.50
Tea	Between 3.00 pm and 5.00 pm	Up to £3.76
Evening meal	Between 6.00 pm and 8.00 pm	Up to £11.76