

28 January 2009

To All Mayors and Chief Executives of All Local Authorities.

MOTOR VEHICLE MILEAGE ALLOWANCE FOR ELECTED MEMBERS

Proposal

The attached discussion paper sets out a proposal that the Mileage Allowance for elected members, currently provided for in clause 14 of the Local Government Elected Members (2008/09) Determination, be abolished. The paper proposes that it be replaced with reimbursement of travelling time and actual travel costs, in limited circumstances.

Background

The Mileage Allowance and its application are becoming increasingly anomalous. The attached paper describes its inconsistency with the tax status of elected members; the unfairness of its application; and the perverse incentives which it can create.


Submissions

Your council's submissions or comments on the proposal, should you wish to make any, are required by **1 July 2009**.

Implementation

The proposal in the attached paper is that the allowance be abolished following the 2011 Local Body elections.

However, in view of the current economic climate, and the public interest in the remuneration of elected representatives, we draw to your attention that the provisions of the determination concerning the mileage allowance are permissive rather than mandatory. There is an opportunity for Councils to make a change along these lines with effect from 1 July 2009, through an amendment to their expenses rules, approved by the Remuneration authority.



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DISCUSSION PAPER

Local Government Elected Members - Mileage Allowance

Introduction

1. This discussion paper sets out a proposal for changing the current arrangements under which Local Government elected representatives are eligible for an allowance (the "mileage allowance") for the use of their private vehicle on Council business.

Background

2. The mileage allowance was introduced in the first Local Government Elected Members Determination issued by the Authority in 2003. The amount of the allowance (\$0.70 per kilometre), and the eligibility criteria, have remained largely unchanged since that time.
3. For a number of reasons the mileage allowance has been a source of contention. This memorandum:
 - (a) Sets out the current situation;
 - (b) Identifies a number of anomalies or problems with the application of the allowance; and
 - (c) Recommends an approach to addressing these.

Current Situation

4. The mileage allowance is \$0.70 per kilometre. This rate was struck when the Remuneration Authority first issued a remuneration determination for Local Government Elected Members in early 2003.
5. Although the Authority file is not complete, the record is sufficient to confirm that:
 - (a) The rate was intended to incorporate an amount for travel time. Therefore it provides those eligible to receive it both remuneration and reimbursement of some costs;
 - (b) The initial travel time/running cost split was about 50/50 i.e. \$0.35/\$0.35; and

- (c) In 2001/02, probably the year of the data on which the rate was struck, \$0.35 per kilometre more than covered the running costs of a 1300 – 2000cc vehicle (15 – 18 cents per km) and approached the full cost (running cost plus ownership cost) of a similar-sized vehicle which travelled 20,000km each year (\$0.40 – \$0.51 per km).
6. The \$0.70 per km rate has remained unchanged since the 2003 determination. However, the value of the mileage allowance has not eroded to the extent often claimed when fuel prices exceeded \$1 per litre. The 2008 AA figures show running costs and full costs, on the same basis as (c) above, as \$0.17 to \$0.20 and \$0.39 to \$0.47. (Note that the total cost has in fact come down over the last five or six years although, in fairness, striking a rate is very difficult given the wide variation of vehicle sizes and cost, and the mileage actually run by individuals – the latter in particular having a significant impact on the numbers.)
7. The Remuneration Authority’s current determination provides for a “vehicle mileage allowance” to be paid to an elected member, for travel by the member, (including travel to and from the member’s residence), if the travel is:
- (a) In his or her own vehicle;
 - (b) On the Local Authority’s business; and
 - (c) By the most direct route reasonable in the circumstances.
8. Note that this is permissive, not mandatory, and sets maxima for both the amount of, and eligibility for, the allowance. Local Authorities can (and in some cases do) set restrictions on mileage allowances which are tailored to the nature of the Authority and its financial position.

Tax Status of Elected Members

9. Any consideration of the mileage allowance should be seen in the context of the tax status of elected members. Elected members are self employed for tax purposes. This means that all income, including allowances (but not the reimbursement of actual costs such as taxi fares for example) is subject to withholding tax deductions. The member can also claim as business expenses costs incurred in generating income.
10. Mileage allowance payments to elected representatives are subject to withholding tax deductions. The cost of using a private motor vehicle on council business can be claimed as a business expense by the elected member, subject to the eligibility rules determined by the IRD from time to time. This provides an additional financial benefit to the elected member, relevant in the context of the “fairness” issue discussed below.

Current Issues with the Mileage Allowance

11. Set out below are four, sometimes related, matters which have emerged in the five years the mileage allowance provision has been incorporated in the Remuneration Authority's determinations.

(a) Should a mileage allowance be paid at all to elected representatives?

12. Mileage allowances (and similar allowances) are typically part of the conditions which govern *employment* relationships. They are a means of reimbursing costs which are incurred by a salaried employee who does not have the ability, because of his or her tax status, to claim these as employment expenses.

13. The payment of a mileage allowance to a self-employed person, who can separately claim the costs of using his or her vehicle as a business expense, can be seen as anomalous, or even perhaps as "double dipping".

(b) If a mileage allowance is paid, should it be paid for journeys from home to the Council?

14. It is not usual practice for *employees* to have this cost met by the employer.

15. For the self-employed person, the cost of travel from his or her "place of business" to a client is usually accepted as a business expense by the Inland Revenue Department, (but may not necessarily be charged to a client). Also, it is by no means certain that for many elected representatives, their home is their "place of business". Some will no doubt maintain an office at their home, others will have business premises or offices elsewhere.

16. It seems to the Remuneration Authority that there is a reasonable argument for not accepting travel to and from home and the Council Offices as qualifying for the payment of a mileage allowance, but leaving each elected representative to decide whether this travel is a business expense, and whether to claim it for tax purposes.

17. There are two important exceptions to this view:

- For some elected representatives in large, rural local authorities, or in regional councils, travel to and from council meetings takes significant time, and in fairness needs to be recognised.
- As with employees, where safety and security are involved, such as returning home from late meetings, there may be a case for meeting some transport costs, such as a taxi fare, even if other public transport is available.

(c) Fairness

18. There is another aspect to the payment of the vehicle mileage allowance for home to work travel. Should councillors who drive their private cars to Council meetings be paid additional remuneration? This is the effect of the time component in the mileage allowance, and it places the owners of motor vehicles who drive to council meetings at an advantage. Two examples illustrate the point.

- (1) On the assumption that the cost of travel to and from Council meetings is to be reimbursed, a councillor who travels, say, 15 km to a council meeting by car could claim up to \$21.00 for the round trip, and may claim a further deduction of around \$18.00 for tax purposes. Even before the tax benefit, the \$21.00 is likely to be more than the actual vehicle running cost, hence there is reimbursement for travel time.

A councillor who chooses to use public transport might be reimbursed the cost of the fare, but will receive no financial recognition of the time spent travelling. Nor will he or she be able to claim the expense for tax purposes if it has been reimbursed.

Additional income is being generated by the mode of transport rather than by the actual time spent by the elected representative on what is currently treated by some councils as council-related travel.

- (2) In the second example, two regional councillors make a 200km round trip to a council meeting. The travel takes about 2.5 hours. One councillor drives his own car, the other is his passenger. For the 200 km trip the owner/driver may claim \$140, of which about half is running cost (as opposed to total ownership cost). \$70 or about \$28 per hour is therefore payment for time. In addition, the owner/driver may claim around \$120 as a business expense.

The passenger, who spent the same amount of time travelling, receives nothing.

(d) Sustainability

19. A fourth concern with the mileage allowance, particularly in metropolitan areas where public transport is available, or walking and cycling options may be feasible, is that it encourages the use of motor vehicles rather than more sustainable or "environment-friendly" practices.

Comment

20. It is difficult to establish a regime for travel and related allowances which is sensible for all local authorities given the differences between compact urban authorities at one end of the scale and regional authorities covering hundreds of square kilometres at the other; the differences in accessibility of public transport across local authorities; and the differences in lifestyle choices which councillors make as individuals, and which are often reflected in their modes of transport.
21. It is clear also that it is difficult to reduce entitlements which have come to be regarded as part of the total income of elected representatives.
22. However, in the view of the Authority, the issues and examples touched on above raise legitimate concerns which need to be addressed.

Proposal

23. The following is a proposal for discussion.
 - (a) Remove the mileage allowance as it currently stands, leaving elected representatives to claim the costs of vehicle use as part of their taxation arrangements.
 - (b) In Councils' expenses policies, provide for explicit recognition of travelling time from home to council meetings (or to other explicitly recognised council business activities) where this exceeds, say, around 30km or 30 minutes. The "travel allowance" could be set at a rate per kilometre or, preferably, an hourly rate.

The Remuneration Authority's preference is that the hourly rate for travel time should be a flat rate which applies uniformly across the country rather than struck on the actual annual remuneration of each elected representative.
 - (c) In councils' expenses policies make explicit reference to the conditions under which the actual costs of travel on public transport by an elected representative may be met by the Council. (Paragraph 17 above.)

Implementation

24. Given the significance of this change, our proposal is that comments be sought with the intention of introducing any change following the 2011 Local Body elections.