

# CONSTITUTION - PART 6 - MEMBERS' ALLOWANCES SCHEME

## Members' Allowances Scheme

The Council of the Borough of Harrogate, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. This scheme may be cited as the Harrogate Borough Council Members' Allowances Scheme and shall have effect for the part year commencing on 1<sup>st</sup> May 2003 and subsequent full years commencing on 1 April 2004, unless revoked or amended.

### **2. In this Scheme**

- (i) "Councillor" means a member of the Harrogate Borough Council who is a Councillor; "the year" means the 12 months ending with 31st March.
- (ii) "Appointed Members" means, for the time being, Members and Substitute Members of the Standards Committee.

### **3. Basic Allowance**

Subject to paragraph 9, for the year, a basic allowance as specified in Schedule 1 shall be paid to each Councillor and those Appointed Members" identified in the Schedule.

### **4. Special Responsibility Allowance**

- (1) For the year, a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities which are specified in Schedule 2 to this Scheme.
- (2) Subject to paragraph 8, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.
- (3) In the event of a Councillor attracting more than one Special Responsibility Allowance payment of all such allowances can be made.

### **5. Dependent Carer's Allowance**

- (1) Subject to paragraph 8 and the sub-paragraphs below, a childcare and dependent carer's allowance shall be paid to any Councillor

demonstrating a need for such an allowance and the additional costs incurred.

- (2) The allowance shall be payable only in respect of the care of a member of their immediate family, or, subject to prior approval by the Head of Legal and Democratic Services, any other family member or individual and because of the absence of the Councillor in the course of duty as a Member of the Council.
- (3) Such allowance shall not exceed £9.00 per hour or part thereof. (A receipt for claims in excess of an hourly rate of £6.50 will be required.)

## **6. Travel and Subsistence Allowances for Councillors**

- (1) Payment of travel and subsistence allowances shall be made on the rates and conditions as specified in Schedule 4.
- (2) Payment of travel expenses shall be made for the undermentioned duties:-
  - (i) those duties meeting the criteria of Regulation 8(1) of the Local Authorities (Members Allowances) (England) Regulations 2003; and
  - (ii) any meetings, seminars, presentations, visits or other such duties for the purpose of, or in connection with, the discharge of the Council's functions as may be approved, in advance of the duty taking place, by the Council, the General Purposes Committee or the Head of Legal and Democratic Services;
- (3) The Head of Legal and Democratic Services shall, via the Member Services Manager, be responsible for maintaining a list of duties approved under 6(2)(ii) above for the payment of Councillors' travelling expenses.

## **7. Co-optees' Allowance**

- (1) A Co-optee's allowance, as set out in Schedule 1 to this Scheme, shall be payable to those non-elected Members of a Council Committee, Commission or Sub-Committee.
- (2) Co-optees shall be entitled to claim travelling allowance and other expenses in the same way as Elected Members of the Council.
- (3) "Co-optee" is defined as a person who is not an Elected Member of the Council, but who has been appointed to serve on one or more of the Council's Committees/Commissions.

## **8. Pensions**

A Councillor, subject to Scheme eligibility criteria, may participate in the Local Government Pension Scheme if they wish. The Councillor should give notice in writing to the Head of Legal and Democratic Services that they wish to participate. Pension contributions would then be payable on basic and special responsibility allowances that the Councillor is entitled to and they would receive benefits in line with the regulations of the Local Government Pension Scheme for a Council Member.

## **9. Review and Index Linking**

- (1) This scheme and amendments to it shall be the subject of review by the Independent Panel established by virtue of the Local Authorities (Members' Allowances) (England) Regulations 2003 to advise the Council on remuneration for its members. In accordance with Regulation 10(6) of the aforementioned Regulations the amendments to this scheme be applied with effect from the beginning of the year in which the amendment is made.
- (2) The Basic and Dependent Carer's Allowances shall be index linked by reference to the annual percentage award under the National Joint Council for Local Government Services for spinal column point 34.

## **10. Renunciation**

A Councillor may by notice in writing given to the Head of Legal and Democratic Services elect to forego all or any part of their entitlement to an allowance under this Scheme.

## **11. Part-year Entitlements**

- (1) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic, special responsibility and childcare and dependent carer's allowance where, in the course of the year, this Scheme is amended or an individual becomes, or ceases to be, a Councillor, or a Councillor accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (2) If an amendment to this Scheme changes the amount to which a Member is entitled by way of a basic allowance or a special responsibility allowance, then the entitlement shall be to the payment of such part of the allowance under this scheme as it bears to the annual allowance as the number of the days in the period bears to the number of days in the year:-

- (a) beginning with the start of the year and ending with the day before that on which the first amendment in that year takes effect, and
  - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year end.
- (3) If an amendment to this Scheme changes the amount payable by way of childcare and dependent carer's allowance, the entitlement shall be to the payment of the amount of the allowance under the Scheme which has effect at the date when the duty is carried out.
  - (4) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of the municipal year, the entitlement of that Councillor to a basic allowance shall be to the payment of such part of the annual basic allowance as the number of days, during which their terms of office subsists, bears to the number of days in the year.
  - (5) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the annual basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as the number of days during which their term of office as a Councillor bears to the number of days in that period.
  - (6) Where a Councillor has during part of, but not throughout, the year such special responsibilities as entitle him or her to a special responsibility allowance that Councillor's entitlement shall be to payment of such part of the annual allowance as the number of days, during which their special responsibility subsisted, bears to the number of days in the year.
  - (7) Where this scheme is amended as mentioned in sub-paragraph (2), and a Councillor has, during part of any period mentioned in sub-paragraph (2) (a), such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the annual allowance referable to each such period (ascertained in accordance with that sub-paragraph) as the number of days in that period, during which he or she had such special responsibilities, bears to the number of days in that period.

## **12. Withdrawal of Allowances**

- (1) Where a Councillor or Appointed Member has been fully or partially suspended the following allowances are to be fully or partly withheld:-

Basic Allowance  
Travel and Subsistence Allowances  
Special Responsibility Allowance(s)  
Co-optees Allowance

- (2) Repayment of any such allowances paid in respect of a period during which a Member or appointed Member has been fully or partially suspended is required.

### **13. Other Allowances - Councillors**

- (i) These are set out in Schedule 4 to this Scheme.

### **14. Claims and Payments**

- (1) A claim for travelling, subsistence and/or dependent carer's allowance under this Scheme shall be made, in writing, within two months of the end of the calendar month when the meeting took place in respect of which the entitlement to the allowance arises.
- (2) Late claims for travelling, subsistence and/or dependent carer's allowance outside of the two month period shall only be paid if extenuating circumstances can be demonstrated. The circumstances under which appeals may be made for the payment of late claims may relate are:-

occupation;  
family bereavement; and  
illness of Member or close family

Late claims shall be considered by the Head of Legal and Democratic Services.

- (3) A claim for dependent carer's allowance shall include, or be accompanied by, a statement by the Councillor claiming the allowance that he or she is not entitled to receive any other payment or remuneration in respect of the period of care to which the claim relates otherwise than under the Scheme. Claims over an hourly rate of £6.00 shall be accompanied by a receipt.

### **15. Claims and Payments**

- (1) Payments shall be made:-
  - (a) in respect of basic and special responsibility allowances, subject to sub-paragraph (2), in instalments of one twelfth of the annual amount payable under this Scheme and on the last working day of each month;

- (b) in respect of dependent carer's allowance and travel and subsistence and other expenses, on the last working day of each month, in respect of claims received up to the day 21 days before that date, the next month for claims received later.
- (2) Where a payment of one twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 9, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## **SCHEDULE 1 - BASIC ALLOWANCES – 2010/11**

<b>Position</b>	<b>Amount Per Annum £</b>
Councillors	4,151
IT Allowance	253
Appointed Members of Standards Committee (4)	1,321 (each)
Parish Co-opted Members of Standards Committee (5)	26 (per meeting)

## SCHEDULE 2 - SPECIAL RESPONSIBILITY ALLOWANCES – 2010/11

<b>Position</b>	<b>Amount Per Annum £</b>
Leader of the Council	13,212
Deputy Leader of the Council (and Cabinet Member for Cultural Services)	6,606
Cabinet Member (5)	4,404 (each)
Opposition, Group Leaders – 2–10 Members (2)	1,321
11 or more Members (1)	2,202
Chair of Planning Committee	4,404
Vice-Chair of Planning Committee	881
Members of Planning Committee (16)	881 (each)
Chair of Overview and Scrutiny Commission	4,404
Vice-Chair of Overview and Scrutiny Commission	881
Chair of Governance Panel	881
Chair of Performance Panel	881
Chair of Standards Committee	881
Chair of Human Resources Committee	881
Chair of Licensing Committee	2,907
Members of Licensing Committee (15) (after serving on 5 sub-committees/panels)	661 (each)
Chair of General Purposes Committee	881

In addition to the above, a flat rate allowance of £26 per meeting is also available to any Member chairing ad-hoc Boards and Panels.

## SCHEDULE 3 - TRAVEL AND SUBSISTENCE RATES – 2010/11

### Travel

(i) Cars and vans, motorcycles and bicycles

That the following Inland Revenue approved mileage allowance payments be adopted:-

	First 10,000 miles	Each mile over 10,000
Cars and vans	45p	25p
Motorcycles	24p	24p
Bicycles	20p	20p

In appropriate circumstances, car sharing and, when cost effective to do so, the hire of a minibus/MPV should also be considered.

(ii) Public Transport

The use of rail travel warrant scheme and reimbursement of costs incurred.

(iii) Taxis

Reimbursement of costs incurred, subject to the use of taxis being deemed necessary.

(vi) Car Parking Fees

Reimbursement of fees incurred.

For points (i) to (iv) above, payment may be made for meetings, etc specified in the guidance, together with those other duties approved by the Authority in connection with discharging the duties of the Authority or its Committees or Sub-Committees.

(vii) Subsistence

The same subsistence rates (and principles and conditions) applicable to Officers be available to Elected Members, as follows:-

Breakfast	Up to £6.86 (if a duty commences before 7.30 am)
Lunch	Up to £9.47 (if a Member is unable to follow their normal meal arrangements between 11.30 am and 2.00 pm)

Tea	Up to £3.72 (if duty continues after 6.30 pm)
Evening Meal	Up to £11.72 (if duty continues after 8.30 pm)
Out of Pocket Expenses – per night	Up to £5.24
Out of Pocket Expenses – per week	Up to £21.01
Bed and Breakfast	Up to £75.53
Bed and Breakfast (London)	Up to £94.32

## **SCHEDULE 4 - MEMBERS' FACILITIES**

### **Stamps**

15 x 1<sup>st</sup> class or 20 x 2<sup>nd</sup> class stamps per month (or any combination to the equivalent value).

### **Typing**

Use of staff and facilities in the typing pool.

### **Facsimile machines**

Provided for Portfolio Holders, Chairs of District Development Sub-Committee and Planning Committee, Group Leaders and the Mayor. (For use for official business. Sending of political faxes permitted.)

### **Free Use of Rooms for Group Meetings**

### **Stationery**

A supply of letter-headed notepaper, compliment slips, business cards and envelopes provided on request.

### **Freephone calls to the Council Offices (Tel: 0800 591873)**

### **Photocopying**

### **Members' Room**

Pigeon holes for non-urgent mail and telephone line.

### **Car Parking Permit**

For free car parking, when available, on the "shelf" in front of the Council Offices.

### **Identity Cards**

Allow access to all Council offices.

# **TAX AND NATIONAL INSURANCE TREATMENT OF LOCAL GOVERNMENT COUNCILLORS' AND CIVIC DIGNITARIES' ALLOWANCES AND EXPENSES**

## **Taxation of Members' Allowances and Expenses**

### **1. INTRODUCTION**

1.1 This provides general guidance issued by the office of the Deputy Prime Minister/Inland Revenue on the tax treatment of Members' Allowances. It covers:

- the relevant tax rules
- which allowances are taxable
- the treatment of expenses incurred by a Member carrying out approved duties which are reimbursed by the authority
- what tax relief is available for expenses that the authority does not reimburse.

There is also a short section covering civic dignitaries.

For information covering National Insurance liability on Members' Allowances and Expenses see paragraph 17.0 onwards.

This guidance is not binding and does not affect any Member's right of appeal. Nor is it a full statement of the law as it applies to Members' Allowances and Expenses. Members should refer to the relevant legislation where appropriate. Alternatively they can contact their tax office, who will be able to help.

### **2. THE TAX CHARGE**

2.1 For tax purposes Council Members and Civic Dignitaries are treated in the same way as any other individual who holds an office or is an employee. Earnings received from an office or employment are chargeable to income tax as employment income. PAYE arrangements apply to these earnings as they do to any other employment. 'Earnings' has a wide meaning - it includes salaries, fees, wages and any other profits received from an office or employment. It also includes allowances paid to cover expenses incurred in carrying out the duties of an office or employment, unless these allowances do no more than reimburse expenses actually incurred and which are deductible for tax purposes.

### 3. RELIEF FOR EXPENSES

3.1 Under the employment income expenses rules (Section 336 - 339 Income Tax (Earnings and Pensions) Act 2003, (ITEPA 2003), Local Government Councillors and Civic Dignitaries can get a tax deduction for:

- travelling expenses necessarily incurred in the performance of the duties of their office
- other travelling expenses which relate to their necessary attendance at a temporary workplace
- any other expenses which are incurred wholly, exclusively and necessarily in the performance of their official duties

but note that expenses for travel in a person's own vehicle are dealt with under separate rules and that actual mileage expenses are not deductible. See paragraph 7.2(viii) below.

3.2 These rules include a series of conditions that vary for each type of expenditure. The conditions are:

- in all cases the expenditure must actually be incurred. So, for example, if a Councillor or Civic Dignitary is away overnight on Council business, but finds it more convenient to stay with friends rather than incur hotel bills, there may be no expenditure to set against any allowance received, so no deduction would be due
- travelling expenses necessarily incurred in performing the duties of the office are limited to expenses during necessary travel on Members' business, for example travelling between the Local Authority offices and a place the Member needs to visit on Local Government business
- a temporary workplace is a place the Member only attends occasionally to carry out duties, or attends for a limited duration (defined as not more than 40% of working time over a period not exceeding 24 months) or a temporary purpose. The travel expenses to be deducted under this heading are the expenses of travelling between the Member's home and the temporary workplace
- for expenses other than expenses of travel to a temporary workplace the expenditure must be incurred in the performance of the individual's duties. This means that, to be deductible, the expense must be incurred in actually carrying out the duties of the office. It is not sufficient that an expense is simply relevant to, or incurred in connection with, the duties of the office. In particular, no expense will be allowable which merely puts the office holder in a position to perform the duties of that office
- also for expenses other than those of travel to a temporary workplace the expenditure must be such that any holder of the office would be necessarily

obliged to incur it. The fact that an office holder is encouraged, expected or required to incur a particular expense is not conclusive evidence that it is 'necessarily' incurred. Also, the expense must stem from the requirements of the job itself, not from the personal circumstances of the office holder. Strictly, the 'necessity test' will be satisfied if (and only if) each and every person holding the office would have to incur the expenditure.

- expenditure on anything other than travel must also be incurred wholly and exclusively in the performance of the office holder's duties. For example, it may be necessary for a Councillor to use a home telephone in the performance of his or her duties - but where the same facility is available to be used also for personal calls, the rental costs are not incurred exclusively in the performance of duties so no deduction is due (see paragraph 7.2(iii) below).

In addition, a deduction may only be given to the extent that the expense incurred does not exceed the earnings of the relevant office. If, for a particular year of assessment, there are insufficient earnings from the office to cover the expense claimed, no deduction can be given against any other income, including income from other offices or employments. Similarly, where a Councillor has renounced allowances to which he or she would otherwise be entitled, no expenses may be claimed as a deduction.

## **MEMBERS' ALLOWANCES WHICH PROVIDE REMUNERATION**

### **4. COUNCILLORS ON MAIN AND 'SECONDARY' AUTHORITIES**

4.1 Allowances taxable as employment income include the following:

- Basic allowance
- Special responsibility allowance
- Dependants' Carers' Allowance
- Co-optees' Allowance

### **RENUNCIATION**

4.2 Renunciation of allowances which provide remuneration will mean that there will be no liability to income tax, but it will also mean that no expenses can be claimed as a deduction (see paragraph 7.1) and may affect entitlement to social security benefits.

### **5. TRAVEL AND SUBSISTENCE ALLOWANCES**

5.1 As elected representatives, Councillors are accepted as normally having two places of work - at the council offices and in their electoral area. Often Councillors need to use their own homes to see constituents. Where a Councillor does use his or her own home to undertake representative duties on behalf of the Council, an allowance paid for travel between home and the Council Offices or some other place on Council business is included in the calculation under the rules described at paragraph 7.2(viii) below.

- 5.2 If it is not necessary for a Councillor routinely to see constituents at home, any allowance paid for travel between home and the Council Offices will be taxable in the normal way. The fact that a Councillor chooses to do some work at home - for example reading Council papers or completing correspondence - does not make that home a distinct place of work for the purpose of claiming tax relief on travel expenses. However, an allowance paid for travel between home and any place that is a temporary workplace will also be included in the calculation at paragraph 7.2(viii) below.
- 5.3 For non-councillors, any allowance paid for travel between home and the Council Offices will be taxable unless he or she can show that home is itself a place of work in the real sense for that office - that is to say any holder of that office is necessarily obliged to perform substantive duties there.
- 5.4 For the treatment of mileage allowances paid for travel on Council business generally, see paragraph 7.2(viii) below.
- 5.5 Day subsistence allowances are taxable unless they are paid in respect of the extra expense of subsistence incurred as a consequence of travel on Council business away from the Council Offices.
- 5.6 Overnight subsistence allowances are not taxable provided there is no element of profit. A profit could arise, for example, if someone travelling on Council business stays overnight with friends or relatives rather than in a hotel.

## **6. DISPENSATIONS**

- 6.1 A 'dispensation' is a notice given by an Inspector of Taxes to an employer if the Inspector is satisfied that expense allowances paid or benefits provided by the employer would be fully matched by an expenses deduction, with the result that no tax liability arises. A dispensation relieves the employer of the need to report details of the particular expenses payments or benefits provided to the Revenue or to the employee or office-holder. And the employee or office-holder need not show them in his or her tax return if they get one.
- 6.2 The dispensation does not exempt from tax items upon which the taxpayer would otherwise be taxed. The aim is to eliminate unnecessary administrative burdens where no tax will be due, not to reduce the tax paid. Dispensations are reviewed from time to time and can be revoked. More advice on dispensations and an application form can be obtained from any Tax Office.
- 6.3 Dispensations are not appropriate for 'round sum' expenses allowances. But where an allowance is clearly intended to do no more than reimburse expenses actually incurred in carrying out the employee's or office-holder's duties, and the expense was incurred only because of the office or employment, the Inspector may be prepared to authorise payment of the allowance without deducting PAYE. Before doing this, the Inspector will need to be satisfied, however, that the allowance is at a reasonable scale and is clearly intended to do no more than reimburse expenses actually incurred.

- 6.4 Mileage expenses payments cannot be included in a dispensation.
- 6.5 Whenever there is no dispensation in operation authorities should consider whether or not PAYE should be applied to the allowances they pay. The Inspector will give guidance on this point.

## **7. RELIEF FOR EXPENSES**

7.1 Where an authority does not reimburse all expenditure incurred, Members may claim the excess as a deduction from the earnings that they receive from the Authority, provided the expenses satisfy the rules in paragraphs 3.1 and 3.2 above. No deduction can be claimed:

- where entitlement to all allowances has been renounced (see paragraph 4.2)
- where a member could use services provided by the Authority, for example, postage or stationery, but incurs expenses because he or she chooses not to do so
- for expenses incurred for political purposes, for example, electioneering
- for expenses incurred on the cost of newspapers, books and periodicals of general interest. (Where however a magazine or journal is obtained by a Member because he or she subscribes to a professional body or learned society which is approved under Section 344 ITEPA 2003 and the activities of this body are relevant to his or her work as a Member, a deduction may be given for the subscription)
- for donations to charity (unless these are made under a payroll giving scheme or by way of gift aid).

7.2 Typical deductible expenses which may be claimed include:

(i) Travelling expenses

(a) By public transport - Where the expenditure incurred is not covered by an allowance for which the authority has a dispensation.

(b) By car - Members who use their own cars in the performance of their duties are normally paid an allowance to cover their costs. There are special rules covering these at paragraph vii below.

(ii) Postage and stationery

The actual costs wholly, exclusively and necessarily incurred in the performance of the duties as a Councillor for which no allowance can be obtained from the authority.

(iii) Telephone

The cost of calls made wholly, exclusively and necessarily in the performance of duties as a Member. No deduction can be given for any part of the rental of the telephone unless no private use is made of it. Any claim should be reduced by any non-taxable reimbursement made by the authority. Where that reimbursement covers the cost of the official calls no claim should be made.

(iv) Secretarial assistance

The costs of secretarial assistance incurred wholly, exclusively and necessarily in the performance of Council duties, where such assistance is not provided by the Authority. Any amounts claimed must be reasonable in relation to the Member's allowances and to the assistance given. The Inspector may want to see supporting evidence for the claim.

(v) Hire of rooms

Where money is spent on the hire of rooms for 'surgeries' or public meetings, e.g. objections to planning applications. A claim cannot be allowed in respect of the hire of rooms for party political purposes.

(vi) Household expenses

Where additional household expenses are incurred (light, fuel etc.) relating to those parts of Members' homes that are set aside solely for use for duties as members, the Revenue will accept a standard deduction of £135 per year (an amount agreed between the Association of Councillors and Inland Revenue Head Office) to cover this. Members claiming more than this amount will have to show the additional amount is fully justified by reference to the expenses deduction rules explained in paragraphs 3.1 and 3.2.

From 6 April 2003 Members working at home under homeworking arrangements with the Local Authority can be paid a tax-free allowance to reimburse the additional household expenses incurred while working at home. Up to £2 per week can be paid without any evidence of the actual amount of additional expense. Larger amounts can be paid if evidence can be provided to show that the amounts paid are a reasonable estimate of additional costs.

Members who do not receive an allowance are not entitled to deduct an equivalent amount except for those who are entitled to the standard deduction of £135. In these cases Members should restrict the deduction by any amount received from the Local Authority, so that a Member receiving £2 per week is entitled to deduct a further £31 from earnings.

(vii) Mileage expenses for Members using their own vehicles for business travel

The following rules apply from 6 April 2002 and cater for all kinds of mileage expenses. The previous rules, including the Fixed Profit Car Scheme, no longer apply. Actual expenses (including loan interest and capital allowances) can no longer be claimed.

'Business travel' is travel of the type described in paragraph 3.1 (fuller details can be found in Inland Revenue booklet 490, Employee Travel).

Members who use their own vehicles for business travel are normally paid an allowance to cover their costs. Normally, these payments are based on an amount per mile for the mileage travelled on Council business but they can also be in the form of a lump sum or periodic payment. However they are paid, all Mileage Allowance Payments (amounts paid to an employee or office holder for expenses related to the use by that person for business travel of their own vehicle) are treated in the same way.

Members can receive up to a tax-free "approved amount" when using their own vehicles for business travel. These payments are known as Approved Mileage Allowance Payments, or AMAPs.

The AMAPs amount is calculated by multiplying the number of business miles in each kind of vehicle by a statutory rate in pence per mile. The rates are:

<b>Kind of vehicle</b>	<b>Rate per mile</b>
Car or Van	45p for the first 10,000 miles, 25p after that
Motor cycle	24p (all miles)
Cycle	20p (all miles)

These rates apply until changed by law as part of the Budget process. Any changes will also be announced on the Inland Revenue website ([www.inlandrevenue.gov.uk](http://www.inlandrevenue.gov.uk)).

Employers do not need to send the Inland Revenue details of tax-free AMAPs, though they need to keep sufficient records to show that the payments qualified for exemption. Any amount in excess of the AMAPs amount is taxable and should be reported on form P90 or P11D; if Members receive less than that amount, they are entitled to Mileage Allowance Relief.

Further details about AMAPs and the taxation of motor mileage allowances generally can be found in the Revenue leaflet IR124 'Using

your own vehicle for work' and CWG2, 'Employer's Further Guide to PAYE and NICs'.

For NICs, a new statutory scheme for dealing with NICs liability on motoring expenses was also introduced on 6 April 2001, See paragraph 19.1 for more information.

(viii) Other expenses

Members with other expenses not covered by the above should itemise them on their Tax Return. The Revenue may require evidence and details of the expenditure.

## **OTHER POINTS CONCERNING A MEMBERS' TAX AFFAIRS**

### **8. PROVISION OF BENEFITS IN KIND**

- 8.1 If a Member receives payments (including all allowances whether or not tax is paid on them) and benefits together totalling £8,500 a year or more (before any deduction for expenses) details must be reported to the Inspector on Form P11D. A copy of the details should be given to the Member. (Any Member who is in this position and who receives facilities from the Council other than in cash should contact the local Inspector for advice).
- 8.2 No tax charge arises on the provision of office accommodation, secretarial assistance, stationery or other facilities of a similar nature at an Authority's premises. If the Authority provides supplies or services for use at the Member's home, no tax charge arises if the sole reason for providing them is to enable a Member to perform their duties and any use for private purposes is not significant. If these conditions are not met, full details need to be provided to the Inland Revenue on forms P11D, with a copy provided to Members, because a tax liability may arise.
- 8.3 Where an Authority provides computer equipment for the Member to perform his duties at home, the first £500 of the benefit charge is exempt from tax.
- 8.4 If an Authority paid for a Member to have a telephone installed at home any cash reimbursement for installation or any subsequent rental payments should be subjected to PAYE. If it is impossible to apply PAYE, for example because the Authority pays British Telecom directly, the Authority must give details to the Revenue after the end of each tax year. The Member will then have to pay tax on the amount paid by the Authority. Where an Authority pays for broadband Internet connection to a Member's home solely for work purposes, under a package where there is no separate billing or record of access calls, and
- no breakdown is possible between authority and private calls, and .
  - where private use is not significant

the connection costs are exempt from tax.

## **9. OPERATION OF PAYE**

9.1 Tax is collected under the PAYE system. The amount of tax deducted by the Authority depends on the code number issued by each Member's own tax office. It is open to any Councillor to ask to have the PAYE code number adjusted to take into account expenses which are deductible for tax purposes. If the Inspector is satisfied with the estimate provided, the code number for the year will be revised and the matter finalised after the end of the tax year when the accurate information will be available. How this works depends on whether or not the Member receives a tax return (see paragraphs 8.1 and 8.2).

These arrangements apply, for example to:

- the basic allowance
- special responsibility allowance
- dependants' Carers' Allowance
- Co-optees' Allowance
- any allowances payable to Councillors in their capacity as Civic Dignitaries.

## **10. PROCEDURE AT THE END OF THE TAX YEAR**

10.1 Members who receive tax returns should include figures for all their income on their Self- Assessment tax return. They will also include all claims they wish to make.

10.2 They should send their completed tax return back to their tax office by 30 September after the end of the tax year if:

- they want the Inland Revenue to calculate their tax bill for them and/or
- they wish tax (below £2000) to be collected through next year's PAYE code where practicable.

10.3 The deadline for sending back their tax return is 31 January after the end of the tax year.

10.4 The Inland Revenue will make any repayment due. If there is tax to pay, the Member should pay it by 31 January after the end of the tax year.

- 10.5 Members who do not receive tax returns will have their tax checked by the Inland Revenue in the traditional way. They should send any claims to their tax office after the end of the tax year as now.

## **11. FURTHER INFORMATION**

- 11.1 If Members have any questions about the taxation treatment of their allowances they should contact their Tax Office. Council Treasurers' Departments are usually in a position to answer routine questions and to seek advice on a Member's behalf.

## **12. CIVIC DIGNITARIES**

- 12.1 Like Councillors, Civic Dignitaries are office-holders and the same tax principles apply to their allowances and expenses. In particular, to qualify for relief expenditure must meet the conditions of Sections 336 to 339 ITEPA 2003 - explained in paragraphs 3.1 and 3.2 above. The following paragraphs set out how the rules apply to particular circumstances affecting Civic Dignitaries.

## **13. CLOTHING**

- 13.1 Expenditure on ordinary clothing worn at work is not incurred wholly and exclusively in the performance of the duties. Consequently no deduction can be given for expenditure by Civic Dignitaries on ordinary clothing.
- 13.2 Exceptionally, a deduction can be given for expenditure on clothing which is recognisably a uniform or part of a uniform and the office holder is required, as part of the duties of that office to wear it. A useful test is whether someone wearing the clothing would be recognisable in the street as wearing the uniform of that particular office - just as a uniform identifies, say, nurses or policemen. Expenditure on, for example, maintenance of a mayor's regalia would normally, therefore, qualify for a deduction.

## **14. DONATIONS**

- 14.1 If a Civic Dignitary is given an allowance and the freedom to spend that allowance largely as he or she sees fit, it is extremely unlikely that any such expenditure would be deductible. There would be an element of personal choice - and so expenditure would not be 'necessarily' incurred. This would apply to charitable donations as much as to any other use to which the money was put.
- 14.2 The tax position may, however, be different if there is a special fund set on one side, out of which agreed charitable donations are made. In these circumstances, when the funds are dealt with by the Civic Dignitary in a fiduciary capacity, there may be no tax consequences. Each case will, however, depend on the precise arrangements in force.

## **15. ENTERTAINMENT**

- 15.1 If a Civic Dignitary is given an entertainment allowance which he or she has freedom to spend in any way he or she sees fit, the allowance is assessable to tax as part of the earnings of the office - except to the extent that the expenditure met out of the allowance qualifies for a deduction. Only entertaining expenses which are incurred wholly, exclusively and necessarily in the performance of the office holder's civic duties will qualify. No deduction is due for the cost of entertaining which is incurred primarily for personal or political reasons even if some civic business happens to be discussed.
- 15.2 As with donations, the tax position may be different if there is a special fund set on one side out of which entertainment is paid for in accordance with the Council's wishes as to the amounts spent and persons to be entertained.

## **16. CONCLUSION**

- 16.1 Local Authorities sometimes ask how their systems can be structured so that no tax liability arises for their Civic Dignitaries in respect of expenses payments made to them. The paragraphs above should indicate that a system which in practice pays within the AMAPs amount for travelling expenses and provides for reimbursement only of those expenses deductible under the rules described in paragraphs 3.1 and 3.2 is unlikely to give rise to tax consequences. In addition, it is likely that a dispensation (see paragraphs 6.1-6.5 above) could be agreed with respect to such a system - eliminating reporting requirements.

## **MEMBERS' ALLOWANCES AND NATIONAL INSURANCE CONTRIBUTIONS (NICS)**

### **17. INTRODUCTION**

17.1 As they are for tax purposes, Members (Councillors and non-Councillors) are treated as employees. They are liable to pay National Insurance contributions as employed earners when they receive remuneration allowances at or above the threshold for contributions.

17.2 Where allowances are paid at different intervals, the earnings period for the assessment of National Insurance contributions is the shortest interval at which any allowance is paid. For example, if the agreement between the Local Authority and the Member is:

- that a Basic Allowance will be paid monthly
- that a Special Responsibility Allowance will be paid quarterly
- that dependants' carers' allowance will be paid annually

the earnings period is monthly. Class 1 National Insurance contributions would be due if the total earnings in any tax month reached the monthly threshold for contributions.

17.3 Members above statutory pension age (65 for men and 60 for women) are not liable for contributions on their allowances. But the Authority (or whoever pays the allowances) is liable to pay the employer's contribution. For further details, the leaflet CAOI "National Insurance for employees" will be helpful.

### **IF YOU HAVE MORE THAN ONE JOB**

17.4 Members with other employment can apply to defer payment of contributions if they expect to pay the annual maximum in that employment. This does not affect the employer's liability to pay contributions at the appropriate time. For further details see leaflet CAOI.

### **18. GENERAL EXPENSES**

18.1 In some circumstances expenses which are paid or reimbursed by an employer can be disregarded when calculating National Insurance contributions. If an employer makes a payment in respect of specific and identifiable expenses which are actually incurred by a Member in carrying out his duties they can be disregarded. Members may have to produce receipts or other evidence of their expenses to confirm the amount which can be disregarded. But if the expense payment is covered for tax by a dispensation

notice then it will automatically be accepted that the amount can also be disregarded when calculating National Insurance contributions. Unlike the tax position, no relief is available in respect of National Insurance contributions if the employee has borne the cost themselves without reimbursement by the employer.

18.2 The sort of expenses which may be able to be disregarded include the following:

- Travelling expenses
- by public transport. The reimbursement of travel costs incurred in connection with business journeys can be disregarded for National Insurance contributions purposes
- by car. See the guidance at paragraphs 19.1 – 19.3 below.
- Postage and stationery. The actual costs incurred in carrying out the duties can be disregarded if reimbursed by the employer.
- Telephone costs. Reimbursement of the cost of calls made in carrying out the duties can be disregarded but any reimbursement of rental costs will attract a liability for National Insurance contributions unless the telephone is available exclusively for business use. Any payment toward the cost of private calls cannot be disregarded.
- Secretarial assistance. The cost of secretarial assistance incurred in respect of carrying out the duties of the employment which is reimbursed by the employer where such assistance is not provided directly, can be disregarded for National Insurance contribution purposes.
- Hire of rooms. The reimbursement of the cost of hiring rooms to hold 'surgeries' or public meetings in connection with their duties can be disregarded.
- Household expenses. Where a Councillor is reimbursed for additional household expenses (heating, lighting, etc.) incurred in relation to parts of the home set aside for use solely in carrying out the duties of the employment, the amounts can be disregarded when calculating National Insurance contributions. In line with the tax treatment of such additional costs, from 6 April 2003 £2 per week can be disregarded without evidence being produced. Higher amounts can only be disregarded if there is evidence that the higher figure has actually been incurred.

## 19. MOTORING EXPENSES

19.1 Since 6 April 2002, there has been a new statutory scheme for dealing with NICs liability on motoring expenses incurred by employees who use their own vehicles for business travel. There is a maximum amount that may be paid to

employees, in respect of all business motoring expenses they incur for the use of their privately owned car, without incurring a NICs liability.

- 19.2 The NICs scheme is aligned as far as possible with the Approved Mileage Allowance Payments (AMAPs) scheme for tax, but there are some differences between the two schemes. For example the mileage rate used for cars and vans to calculate the maximum amount employers can pay free from NICs liability is the higher of the two rates at paragraph 7.2(viii) above, irrespective of the number of business miles travelled by the employee.
- 19.3 Further guidance about the NICs motoring expenses scheme can be found in the Revenue leaflet IR124 'Using your own vehicle for work' and CWG2, 'Employer's Further Guide to PAYE and NICs'.

## **20. BENEFITS**

- 20.1 Where a Member receives payments (including all allowances whether or not tax is paid on them) and benefits together totalling £8,500 a year or more the Authority may have to pay Class IA NICs on any benefit they provide. Further guidance can be found in the Inland Revenue booklet CWG5.
- 20.2 Members requiring further advice on which expenses or payments in kind may be disregarded should contact their local tax office.

## **21.0 ALLOWANCES AND EXPENSES PAID TO CIVIC DIGNITARIES**

- 21.1 Civic dignitaries are elected office holders, and, like Councillors, they are therefore employees for National Insurance contributions purposes. There will be a liability to pay Class 1 National Insurance contributions if they receive earnings above the level of the earnings threshold. The following paragraphs explain how certain types of expense payments made to Civic Dignitaries are treated for National Insurance contributions purposes.

## **22. CLOTHING**

- 22.1 If a Civic Dignitary receives an expense payment for ordinary clothing the amount involved is not a business expense, as it is not incurred in carrying out the employment. It cannot be disregarded when calculating National Insurance contributions.
- 22.2 If the payment relates to a uniform or part of a uniform which is required for the purposes of the employment, the amount involved can be disregarded because it will be an expense incurred in carrying out the employment. This would apply, for example, in respect of a payment for a mayoral gown or similar regalia - and the cost of its upkeep (repairs and laundering).

## **23. DONATIONS**

- 23.1 If a civic dignitary receives an expenses payment/allowance for a series of itemised, charitable donations or gifts, the amount can be disregarded when

calculating National Insurance contributions if the donations or gifts are made on the employer's behalf and details are kept of the donations and gifts.

## **24. ENTERTAINMENT**

- 24.1 If a Civic Dignitary receives an expenses payment/allowance for private entertainment, the amount involved cannot be disregarded when calculating National Insurance contributions.

If the payment is for a business function where the costs are supported by itemised bills, the amount can be disregarded as a business expense because it will be incurred in carrying out the duties of the employment. This will apply, for example, where the Mayor has receipts for the amount spent on a business lunch hosted for visiting officials.