

MEETING OF THE COUNCIL – 18TH JULY 2005

MEMBERS' ALLOWANCES FOR LIQUOR LICENSING RESPONSIBILITIES

REPORT OF THE CABINET

1. PURPOSE

1.1. To consider the proposals of the Cabinet on:

(a) A report from the Members' Allowances Independent Panel regarding allowances for liquor licensing responsibilities.

(b) To consider an alternative mechanism for annual variations for the Members' Allowances Scheme.

2. BACKGROUND

2.1. The current Members' Allowances Scheme was approved by the Council on the 17th November 2003 and was based on recommendations made by the Members' Allowances Independent Panel covering the four Black Country boroughs.

2.2 Licensing Act 2003 Responsibilities

2.2.1 The Licensing Act 2003 has introduced new licensing responsibilities for local authorities and the Independent Panel was asked by Dudley, Sandwell and Wolverhampton Councils to reconvene to consider whether these new responsibilities and workloads warranted any amendment to the Members' Allowances Scheme.

2.2.2 The report of the Independent Panel is attached at Appendix 1, and its recommendations for the payment of a Special Responsibility Allowance to each member of and chairman of the Licensing Sub-Committees are set out in Section 5 of the report. In summary, the Independent Panel is proposing a Special Responsibility Allowance (SRA) of £2,000 for each member of the Licensing Sub-Committees. In addition the five chairmen of each of the sub-committees would receive up to £3,000 in view of their additional responsibilities.

2.2.3 In accordance with previous practice, the Standards Committee has considered these proposals and resolved that the Cabinet and Council should approve the Independent Panel's recommendations, but without coming to a firm view on the level of allowance for Licensing Sub-Committee Chairmen.

2.2.4 In the context of the Council's existing Allowance Scheme, and to recognise the additional responsibilities of the Sub-Committee Chairmen, it would seem appropriate to consider a total Special Responsibility Allowance of

£3,000 for the Sub-Committee Chairmen. The Cabinet, on 15th June 2005, endorsed this view.

2.3 Inflation Increases in Member Allowances

2.3.1 The Members' Allowances Scheme states that "the allowances in this Scheme shall be varied with effect from 1st April each year in line with changes in the average non-manual male wage for "All Industries and Services" for the West Midlands County area, as published in the New Earnings Survey".

2.3.2 Unfortunately, the New Earnings Survey has been discontinued and a new basis for calculating inflationary increases will be required.

2.3.3 The New Earnings Survey has been superseded by the 'Annual Survey of Hours and Earnings' and the use of this index was considered by the Standards Committee. This would result in an increase in Allowance of only 1.3% with effect from 1st April 2005, less than the annual rate of inflation.

2.3.4 Two other measures could be considered:-

- a. linking increases in Members Allowances to the agreed pay awards for NJC Local Government Services, which would result in an increase of 2.95% with effect from 1st April 2005.
- b. using the national percentage increase for full-time employees in the 'Annual Survey of Hours and Earnings' would have resulted in an increase of 4.1% with effect from 1st April 2005

2.3.5 The use of published indices is potentially fraught with change and uncertainty and on reflection the more reliable measure would be to link increases to Local Government Pay Awards.

2.4 On consideration of the above the Cabinet at its meeting held on the 15th June 2005 resolved to recommend the Council to approve the proposals in Section 3 below.

3.0 PROPOSALS

3.1 That the recommendations of the Members' Allowance Independent Panel be approved, viz:

- (a) The payment of Special Responsibility Allowance of £2,000 to all members of the Licensing Sub-Committee for the period April, 2005 to November, 2005.
- (b) The payment of an additional £1,000 (ie to give a total special responsibility allowance of £3,000) to the Chairmen of the five Licensing Sub-Committees for the period April, 2005 to November, 2005.

3.2 That the Scheme for Members' Allowances be amended to read 'the allowances in this Scheme shall be varied with effect from the 1st April each year, in line with the agreed pay awards for NJC Local Government Services.'

4.0 FINANCE

4.1 The cost of the proposed additional SRA's for Licensing Sub-Committee Chairmen and Members will be £35,000, which would be a charge against the fee income generated by applications under the new arrangements.

4.2 Provision has been made in the approved budget for 2005/06 for inflation increases in Members Allowances.

5.0 LAW

5.1 The Local Authorities (Members' Allowances) (England) Regulations 2003 set out the arrangements for setting Members' Allowances or amending an existing scheme. In making an amendment to an existing scheme the Council must have regard to the recommendations of a local independent remuneration panel and any amendments to the scheme must be publicised in accordance with regulation 16.

6.0 EQUAL OPPORTUNITIES

6.1 This report complies fully with the Council's policies with regard to equality and diversity.

7.0 RECOMMENDATION

7.1 That the proposals in Section 3 above be approved.

David Caunt

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LEADER OF THE COUNCIL

BLACK COUNTRY BOROUGHES

MEMBERS' ALLOWANCES INDEPENDENT PANEL

MEMBERS' ALLOWANCES FOR LIQUOR LICENSING RESPONSIBILITIES

1. Introduction

- 1.1 We were originally asked by the Leaders of the four Metropolitan District Councils in the Black Country to undertake a review of Members' Allowances.
- 1.2 We published our final recommendation in September 2003. Although we were made aware that local authorities would become responsible for liquor licensing, and there could be additional responsibilities and workload, the detailed arrangements were not clear and we were not able to reflect the changes in our recommendations.
- 1.3 Details of the new arrangements became clearer in November/December 2004 and it was decided to reconvene the Panel, which met in January 2005.
- 1.4 By this time, Walsall MBC had decided they wished to withdraw from the Black Countrywide arrangements and the reconvened Panel therefore consisted of the following representatives from Dudley, Sandwell and Wolverhampton:-

From Dudley : Michael Beardsmore
: Reverend Mike Mason

From Sandwell : Michael Holder

From Wolverhampton : Reverend John Hall-Matthews

- 1.5 We have again been ably supported and advised by officers from the three Councils.
- 1.6 The recommendations in this report, which are unanimous, are concerned only with the additional responsibilities and workloads arising from the new liquor licensing responsibilities during the transitional phase (starting in February 2005 and likely to end in November 2005). A further review may be necessary when the transitional phase is complete.

2.0 Background

- 2.1 Under the terms of the Licensing Act 2003, responsibility for liquor licensing transfers from Magistrates Courts to Local Authorities, with effect from 2005.
- 2.2 The Local Authority will be required to issue:-
- (a) a premise licence, which will be valid for the life of the business;
 - (b) a personal licence, which will be valid for ten years,

for any premise/licencee selling liquor and/or late night refreshments.

- 2.3 There will be delegated arrangements for officers to issue licences, but where objections are received, it will be necessary for a Sub-Committee to hear the objections and issue (or otherwise) the appropriate licences.
- 2.4 One of the fundamental objectives of the legislation is to liberalise opening hours and there is a general expectation that the majority of licenced premises will immediately apply for a variation of hours. This is likely to lead to a significant number of objections from local residents and others.
- 2.5 There will be a transitional phase, starting on 7th February 2005 (the first appointed day) and lasting until probably a date in November 2005, (the second appointed day) during which licence applications (and objections) will be considered and dealt with. All licences will then become "live" on the second appointed day.
- 2.6 The Licensing Act 2003 requires a local authority to appoint a new Licensing Committee with a maximum membership of fifteen members. The Committee is intended to have a strategic overview role and should appoint a number of sub-committees, comprising three members each, to deal with applications where objections or representations are received.
- 2.7 There will be a need to retain existing licensing arrangements during the transitional phase. The procedures for licensing hackney carriages and private hire vehicles are unchanged.

3.0 Regulations Governing Members' Allowances

- 3.1 The additional workloads and responsibilities in relation to liquor licensing are effectively covered by the Local Authority (Members' Allowances) (England) Regulations 2003, Regulation 5 of which specifies the various categories for which a special responsibility allowance may be payable, including:-
 - acting as a member of a committee of sub-committee of the Authority, which meets with exceptional frequency or for exceptionally long periods;
 - acting as a member of any committee or sub-committee that deals with any functions arising under any enactment authorising the Authority to licence or control the carrying on of any activity.
- 3.2 Regulation 5(2)(c) goes on to say that where a member does not have special responsibilities throughout the whole of the year, a pro-rata payment can be made.

4.0 Member Responsibilities and Additional Workloads

- 4.1 It is extremely difficult to predict with any accuracy, the number of licence applications, where objections/representations might be received, and which would need to be considered by a sub-committee. All three Authorities are, however, expecting a significant number and are currently working on the basis that at least one sub-committee will need to sit for three days each week in the transitional phase (i.e. February to November 2005). If that workload was spread relatively

evenly over five sub-committees, each member of a sub-committee would be expected to devote between 25 and 30 days in that period. This would be in addition to discharging existing member duties and responsibilities.

4.2 Chairs of the Sub-Committees are likely to have onerous responsibilities. Each hearing will need to be conducted in an efficient and professional way. The parties of each hearing are likely to be legally represented and decisions can be appealed to the Magistrates Court.

5.0 The Case for a Special Responsibility Allowance

5.1 Although we understand and appreciate the difficulties in assessing the likely workload of the Committee and sub-committees during the transitional phase, it is clear that Members of the new Licensing Committees will have a significantly increased workload in that period. That should, in our view, be recognised by a Special Responsibility Allowance for all Members of the Committee with an additional payment to recognise the specific responsibilities of the nominated Chairs of the sub-committees.

5.2 In considering the level of SRAs we have had regard to:-

(a) the current levels of basic allowance in each Authority and the SRAs paid in respect of the licensing function in each Authority, the details of which are summarised in the following table:-

	Dudley £	Sandwell * £	Wolverhampton £
Basic Allowance	7,000	8,500	8,104
Licensing Committee			
- Chair	3,000	6,993	9,117
- Vice Chair	1,000	4,200	3,140
Effective Date	1.4.04	1.11.04	1.4.04

(b) the likely time commitment for each Member, based on the current planning assumptions in each Authority.

(c) the factors we recommended in determining Special Responsibility Allowances in our original report, which for the Chair of "Other Regulatory Committees" we recommended should be up to 1.5 times the basic allowance.

5.3 Assuming that each Member would be required to attend sub-committees on at least 25 days and perhaps more between February and probably November 2005, and applying the same rate per hour we used in framing our original recommendations for the basic allowance (i.e. £12 per hour), we believe a Special Responsibility Allowance of £2,000 would be reasonable to recognise the additional time commitment, including training and preparation time.

* Sandwell allowances subject to further agreed increases on 1st April 2005 and 1st November 2005.

- 5.4 It is also clear that the nominated chairs of the sub-committees will have specific additional responsibilities, which should be recognised with an increased SRA. Applying a similar factor to that we used previously (up to 1.5 x the basic allowance), would result in a total SRA for sub-committee chairs of up to £5,000.
- 5.5 In line with our previous recommendations, the three Authority's Member Allowance Schemes currently provide that where a Member holds more than one office qualifying for a Special Responsibility Allowance, that Member should be paid the higher allowance only.
- 5.6 We do not believe that principal should apply in this case because of the additional workload and responsibilities associated with liquor licensing.

6.0 The Cost of our Recommendations

6.1 We estimate that the total cost of these recommendations will be:-

	£
For all fifteen Members	30,000
For up to five sub-committee chairs, an additional	up to 15,000
	up to 45,000

6.2 We understand this would be a charge against Licence fee income.

7.0 Recommendations

7.1 To compensate for the additional time commitment and increased responsibilities in respect of new liquor licensing responsibilities, we recommend the following Special Responsibility Allowances be paid for the period February 2005 to November 2005:-

- For Licensing Sub-Committee Chairs up to £5,000
- For other Members of the new Licensing Committee £2,000

7.2 These Special Responsibility Allowances should be paid in full, irrespective of whether the Members concerned qualify for any other Special Responsibility Allowance.

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 Chairman
 on behalf of the Black Country Members' Remuneration Panel

Date: 11th February 2005