

Taunton Deane Borough Council

Executive - 14 September 2011

Report of the Retained HR Manager

Review of Essential and Casual Car User Allowance Scheme and Method of Allocation

(This report is the responsibility of Executive Councillor Stock-Williams)

1 Executive Summary

The purpose of this report is to consider and approve a new method of allocation for Essential and Casual Car User Allowances for staff.

2 Background

- 2.1 The terms and conditions of employment for staff at Taunton Deane Borough Council are based on the National Terms and Conditions of Service for Local Government Services as amended locally by the Council through collective agreements with UNISON as the recognised trade union.
- 2.2 These national terms include a Scheme of Car Allowances for employees who can be classified as either essential users or casual users. For essential users both lump sum payments and mileage payments are made, based on the engine capacity of the vehicle, to reflect that the postholder cannot undertake their duties without the use of a vehicle. Payments to casual users provide for mileage payments only.
- 2.3 Neither the national scheme nor any previous local amendment to this scheme provide for a process for allocating allowances.
- 2.4 During the spring of 2009 the Council consulted staff on potential changes to the Essential and Casual User Scheme following the production of a report by the Strategic Procurement Service. At the end of this process, which saw a significant response from staff and UNISON, the Corporate Management Team agreed that a further joint review should be undertaken in conjunction with UNISON.
- 2.5 During the latter part of 2009 and the early part of 2010 UNISON representatives met with the Retained HR Manager on a regular basis with the remit of reviewing the scheme; ensuring that it supported staff undertaking their duties; provided for how essential and casual user allowances will be

allocated in the future and also contributed to the efficiencies required by the Council.

- 2.6 The UNISON representatives had been provided with and considered a wide range of proposals and made many representations to ensure that staff were protected and given support as any changes agreed were introduced.
- 2.7 It should be noted that these joint discussions have taken place over a period of time that the Council has been undertaking the Core Council Review, reducing staffing numbers and latterly dealing with the budget deficit. It should also be noted that changes to the Essential and Casual User Car Scheme have, in the past, lead to significant industrial action across the country which has disrupted services to the public.
- 2.8 At the time that a report on this subject was last considered by this committee (March 2010) a range of concerns were raised by UNISON Regional Office who requested significant information on the groups of staff affected, more in-depth Equality Impact Assessment data and updated figures.
- 2.9 Since then on-going and detailed discussions have taken place with both local and regional representatives on potential amendments to the Car Allowance Scheme and also the allocation method of car allowances. During this period CMT and Lead and Shadow Portfolio Holders have been kept updated on the progress of discussions.
- 2.10 During these negotiations there have been a number of changes in circumstance which have occurred. These are:
- The National Joint Council (NJC) for Local Authority Services has advised that they want a review of the national car allowance scheme;
 - The NJC have refused to put up allowances from 1 April 2011 until such a review is conducted;
 - HMRC rates for non taxable mileage have been increased with effect from 6 April 2011 to reflect the increase in motoring costs;
 - Local authority staff have not received a pay rise in either 2010/11 or 2011/12;
 - The Council has commenced a comprehensive budget review to deal with the funding deficit and staff have been advised that the Council will be looking to review terms and conditions of employment and staff benefits.
- 2.11 These changes in circumstance have, during the period of negotiation, influenced the type of discussion and also the proposals that are now before members.
- 2.12 The proposals for consideration have been advised to all staff and UNISON have, during July 2011, balloted their affected members with the following results:

In Favour – 82%

Against – 12%
Spoilt Papers – 6%

- 2.13 Subject to member approval it would now be possible to secure a collective agreement to introduce these changes and minimise the risks and impact against the Council.
- 2.14 The proposals contained within this report were considered and supported by the Corporate Scrutiny Committee at its meeting of 18 August 2011.

3 Summary of Proposals and Timetable for Implementation

- 3.1 Full details of the proposed Scheme are attached as Appendix A which will apply to all staff of whom approximately 200 are classified as either Essential or Casual Users.
- 3.2 There are no proposals to alter the national allowances as set out by the NJC due to capping of allowances at 2010 rates and the potential national review. It was felt more appropriate to await the outcome of such a review and acknowledge that with motoring costs having risen substantially over the last year such a proposal would detrimentally impact on staff and affect service provision.
- 3.3 There are, however, proposals for setting of rules as to the allocation of casual and essential user status and for keeping this under review. There are also some minor amendments to the local elements of car allowance payments.
- 3.4 If approved the intention would be to give notice to affected employees that this new 'Method of Allocation' will apply from 1 January 2012 which accords with the budget decisions for 2011/12.
- 3.5 Essential Users will need to meet the criteria as set out in the Scheme (Appendix A) which shows that such allowances will have a 1200 mile threshold; or have a proven requirement to undertake frequent urgent journeys or be contractually required to participate in a corporately approved 'Out of Hours' call out scheme and undertake mileage on a regular basis.
- 3.6 Allocations will be made against two years of records (or pro rata where not available) and will be reviewed every two years with the first review being effective from 1 April 2014. This will potentially see allowances vary as the nature of duties in a post evolve/change. An appeal process has also been agreed.
- 3.7 Other changes include:
- That the authority will no longer make it a condition of employment for a casual user to have to provide a motor vehicle for official duties;
 - That the 'out of district' mileage rate is amended to an 'out of county' mileage rate to support the development of further shared service delivery with other authorities.

- 3.8 All of these changes will mean that Theme Managers and Leads will need to continue to manage staff travel effectively, challenging the use of the car where appropriate and enforce the sharing of vehicles etc.

4 Benefits of the Proposed Policy

- 4.1 It is recognised that these changes will impact on staff and therefore it is proposed that reasonable notice of the changes will be given. This notice will also give the Council and staff the time required to undertake further work to support alternatives such as pool cars, further car sharing initiatives and alternative working practices which support the Council's commitment to reducing carbon emissions.
- 4.2 The introduction of a Scheme jointly developed with UNISON, which contains a fair and consistent process for allocating essential and casual user allowances, will also assist in reducing the risk of challenge based on employment and equalities legislation.
- 4.3 The new 'Method of Allocation' will also bring financial savings as set out below.

5 Financial Implications

- 5.1 Overall expenditure on essential and casual car allowances is in the order of £215,000 per annum (2010/11 costs) across General Fund and Housing Revenue Account services, and the DLO and Deane Helpline trading accounts.
- 5.2 At the time of writing this report the overall mileage records for staff are being recalculated to the most up to date position. However, if the data for the two year period ending 31 March 2011 were used, the new method would see a net decrease of 44 essential users producing a full year saving in the region of £50,000.
- 5.3 It should be noted that care should be taken in quoting a definitive saving as circumstances are always changing (staff increasing mileage as other posts not filled etc) and that the process allows for appeals.

5 Links to Corporate Priorities

- 6.1 These proposals will support the Corporate Objectives of Environment (5) and Delivery (6).

7 Finance Comments

- 7.1 The report clearly sets out the financial implications for the proposals. The Medium Term Financial Plan (MTFP) currently incorporates assumptions around the level of savings (similar to the amount shown in 5.2 above). However, these will need to be fully costed and incorporated as part of the

detailed budget setting process for 2012/13. At this stage, the estimate of £50,000 appears to be realistic based on these proposals. Significant variation to the proposals could affect the financial projections currently included within the MTFP.

7.2 The proposed implementation in January 2012 was anticipated when the 2011/12 budget was approved in February this year, therefore any delay or significant variation to the proposals will potentially affect the outturn for the current financial year.

7.3 As part of the detailed costings for 2012/13 budget setting, the expected savings will need to be allocated across General Fund, HRA and trading account budgets.

8 Risk Management

Risk	Consequence	Probability	Impact	Treatment
Scheme is challenged by UNISON and/or staff	Possible delays to Scheme introduction, Employment Tribunal Claims or Industrial Action	1	3	UNISON have been involved in Scheme design, staff have been consulted and a positive ballot result has been achieved.
New Scheme impacts on staff morale	Productivity affected and increased staff turnover.	3	2	Communication to staff to ensure they know the reasons why changes are required and the impacts on service delivery have been taken into account.

9 Equalities Issues

9.1 The proposed scheme will be applied across all staff on a consistent basis.

9.2 During the development of these proposals significant time has been spent discussing the potential equalities impacts and all of this data has been shared with UNISON.

9.3 All data has been assessed against a range of data such as gender, disability, ethnicity in addition to the full or part time nature of employment. As part of the consultation mitigating actions have been agreed to address a few potentially identifiable equalities issues:

These include:

- Using pro rata mileage allowances for part time staff;
- Acknowledging that disabled employees may undertake limited mileage due to their disability which may impact on their user status which leads to the inclusion of both informal and formal challenge and appeal so that staff can bring additional information into the process.

10 Partnership Implications and Consultation

- 10.1 The policy will apply to all Taunton Deane employees including those seconded to SW1.
- 10.2 SW1 have been consulted on the proposals contained within this report and understand that these will apply to secondees.
- 10.3 Consultation has also taken place with the Taunton Deane UNISON Branch and UNISON Regional Office.
- 10.4 The proposals which were developed have been communicated to all affected staff.
- 10.5 The proposals also contain recommendations which will help support the development of shared service delivery.

11 UNISON Comments

- 11.1 The proposals have been the subject of detailed discussions with UNISON as the recognised trade union. UNISON was able to recommend the proposals to its members on the basis of:
 - (i) Continued adherence to the NJC rates (including retention of the top tier of the NJC allowances)
 - (ii) Release of casual car users from the requirement to provide a vehicle, so that they can exercise the option of either being compensated at NJC casual user rates for using their own vehicle, or place the responsibility on the employer to provide alternative transport as required.
 - (iii) Inclusion of an appeal process to consider additional information and make an appropriate judgment on the need (or not) for a person to be an essential car user in the interests of the service.

12 Recommendations

- 12.1 To approve the proposed Essential and Casual User Car Scheme as set out in Appendix A.

12 Appendices

- 12.1 Appendix A – Proposed Essential and Casual User Car Scheme

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APPENDIX A

Essential and Casual Car User Scheme

20. Car Allowances

20.1 Employees required to use their motor vehicles for the efficient performance of their duties will receive allowances for the use of their motor vehicles on business only after being so authorised by the authority. The authority may determine whether the use is casual or essential and the cubic capacity of car considered appropriate.

20.2 The authority shall have the right to require an employee to carry official passengers without any additional payment.

20.3 Where appropriate public transport must be used.

Journeys should be authorised by the approving manager on SAP Employee Self Serve or by the responsible officer nominated by him/her and claims for travelling allowance must likewise be submitted to and approved by the the approving manager on SAP Employee Self Serve or other responsible officer nominated by him/her.

For approved non ESS Users car mileage and expenses should be claimed using approved paper based systems.

Employees must maintain an official record of their journeys, showing full particulars of and the reason for each, including the names of official passengers carried. Such details must be recorded in the employee's log book/claim forms at the start and finish of each journey. TDBC will provide log books/claim forms to employees for this purpose.

Employees shall not use their own motor cars on journeys when there is room in the car of another employee making the same journey on the same business and as far as possible journeys over the same route by employees should be arranged so as to synchronise.

20.4 Employees shall have included and maintain in their policy of insurance a clause (please see below*) indemnifying the local authority against all third party claims (including those concerning passengers) arising out of use of the vehicle on official business, provided that this requirement shall not apply where an undertaking has been given by an insurer to the local authority or the appropriate association of local authorities. Proof of this clause and a copy of the employees insurance policy must be provided to the HR Administration and Payroll section on an annual basis and at each change of insurance cover.

*"Employees who use their own vehicles for any business travel must have **full business use cover** on their insurance policy. Without this cover an employee must

not drive on Council business. Driving to and from different work locations would be classed as business use.”

Essential Users

20.5 The definition for essential users are those set out below. If the employee uses a private car in carrying out those official duties then they shall be entitled to receive the lump sum allowance and mileage rates set out in Appendix 2.

20.6 Where a car is not in use as a result of either a mechanical defect or the absence of the employee through illness:

(a) The lump sum payments should be paid for the remainder of the month in which the car first went out of use, and for a further 3 months thereafter. For the following 3 months, payment should be made at the rate of 50% of the lump sum payment.

(b) During the period when a car is off the road for repairs, reimbursement in respect of travel by other forms of transport should be made by the employing authority.

20.7 Payments of the lump sum allowance shall be made by instalments so that the amount of the total payments on account shall bear to the lump sum the same proportion as the number of completed months of the annual allowance period bears to twelve. The period over which the car allowances are paid should be from 1st April in any year to the succeeding 31st March.

20.8 In the case of an employee who takes up an appointment with the authority after 1st April in any year, or leaves the authority, the allowance should be so calculated that the amount payable bears the same proportion to a full year's allowance as the number of months in the year during which the officer uses his car bears to twelve. The calculation of the mileage allowances would thus be made on a proportionate basis in accord with the following procedure:

The mileage allowance to be paid at the higher rate would be equivalent to 709 miles per month of service.

The excess over 709 miles per month of service would be paid at the reduced rate. for example, where the total service in the financial year is five months then up to 3,545 miles would be paid at the higher rate and the excess over 3,545 miles would be paid at the lower rate.

Casual Users

20.9 All staff not considered to be Essential Users will be deemed to be casual users.

20.10 The Authority will not make it a condition of employment that employees designated as casual users should provide motor cars for official use.

20.11 The allowances are contained in Appendix 2.

Out of County and Training Mileage

20.12 An "out of county" mileage rate, equivalent to the lowest essential user mileage rate, is paid for the whole journey where

(i) any part of the journey is outside the Somerset county boundary.

20.13 The allowance is not paid to lease car drivers.

20.14 Staff are reminded that before 'out of county' mileage is undertaken alternative options relating to public transport and hiring a vehicle should be investigated, discussed with their line manager and used where appropriate.

Essential and Casual User Definitions

CAR USER ALLOWANCE CRITERIA

- **Criteria for Car User Allowances**

This policy specifies the criteria that must be satisfied for car user allowances to be allocated to a post. Outlined below is the criteria that needs to be satisfied to determine if the post should be allocated an essential user allowance. Other information to be considered at any appeal includes:

- The nature of the duties undertaken
- Why and how frequently a private vehicle is necessary
- Whether the timing of journeys can be influenced by the postholder and to what degree
- The number of miles actually undertaken by the postholder or similar posts
- If/why the number of miles travelled may change, and
- The views of the Theme Manager

Car User Allowance entitlement will be subject to review every two years across the authority. If an employee changes from an essential user allowance to a casual allowance no payments will be made in respect of this change.

ALLOWANCE		CRITERIA	REASON
ESSENTIAL	E1	An estimated or actual number of miles travelled on council business (within the Borough or other districts in Somerset as part of a partnership) as a requirement of the post of no less than 1,200 miles per annum	The Council needs to assist and support employees who travel a significant number of miles on Council business. The Council benefits directly from the convenience and time saved when officers travel in a private car when undertaking their duties
	E2	A regular requirement of the post to undertake frequent urgent journeys to attend locations around the District.	Being able to respond to urgent requests elsewhere can be an important factor in some jobs. Urgent – non scheduled visits relating to imminent health and safety, personal care or other such issues which must be done the same working day.
	E3	All staff contractually required to participate in corporately approved 'Out of Hours' Emergency Call Out Schemes and who undertake mileage on a regular basis	
Casual User	C1	All other staff who undertake mileage will be paid at Casual User mileage rates.	

CAR ALLOWANCES

National NJC rate effective from 1st April 2011 (subject to annual review by the NJC)

Essential Users

	451-999cc	1000 – 1199 cc	Above 1200 cc
Lump sum per annum	£846	£963	£1239
per mile first 8,500	36.9p	40.9p	50.5p
per mile after 8,500	13.7p	14.4p	16.4p

Casual Users

per mile first 8,500	46.9p	52.2p	65.2p
per mile after 8,500	13.7p	14.4p	16.4p

The out of county mileage rate is 36.9p

Car Lease Rate

The car lease rate is 14.8p per mile

BICYCLE ALLOWANCE

For travel up to a 3 mile radius from place of work - 20p per mile