

MEMBERS' ALLOWANCES

Report of the Independent Remuneration Panel to Oxfordshire County Council, November 2004

Introduction

1. The Council asked the Panel for our views as to:
 - whether a co-optees' allowance should be payable to any of the co-opted members serving on the Council's committees and sub-committees and if so to recommend the levels of any such allowances; and
 - whether, and the extent to which, allowances should be withheld from members generally in cases where a member has been suspended or partially suspended
2. Our conclusions (set out in more detail below) are:
 - that there are grounds for making available a co-optees' allowance in only limited circumstances, particularly in the case of the independent members of the Council's Standards Committee; and
 - that all allowances should be withheld in the case of full suspension and that the Council's Standards Committee should have the discretion to determine the extent of withholding in the case of partial suspension.
3. We also took the opportunity to comment on the operation of the Council's procedures for claiming allowances, further to our previous recommendations on the subject in our Report of October 2003.

The Panel's proceedings

4. The Independent Remuneration Panel currently comprises four members. Two members of the Panel conducted the present review, namely:

Sir Peter North Principal of Jesus College, Oxford (Chairman)
Mr Bruce Moore Deputy Chief Executive of the Anchor Trust
5. The Panel met once, on 8 November. On the issue of co-optees' allowance, we had received a background report from the Head of Democratic Services together with information on the statutory provisions and the comparative approaches taken by other South East County Councils and the District Councils in Oxfordshire. We also had useful discussions with two co-opted members (Dr Athene Reiss and Mr Robert Elmore) and considered questionnaire responses from the majority of co-opted members on their role and time commitments.
6. On the issue of withholding of allowances, we received a further background report from the Head of Democratic Services and considered the Council's existing Code of Conduct for Members.

The Panel's views

Co-optees' allowance

7. We noted that, currently, the County Council makes available travel and subsistence allowances to all co-optees, provided that these cannot be claimed legitimately from another body. We continue to endorse this principle. As to the issue of a co-optees' allowance, we sought to understand the reasons why co-opted members choose to serve and the roles that they perform. We were also mindful of our previous view (stated in our report of October 2003) that co-opted members appointed by other organisations, or representing a particular interest group, had their own reasons for serving notwithstanding that their service was of clear benefit to the Council. In this context, we remained unpersuaded that there was any justification for the principle of a co-optees' allowance. Some would also be likely to be paid officials (e.g. of a church/diocese) or have an elected role (e.g. as a Councillor representing a District Council) which would naturally encompass situations of co-opted service.
8. On the other hand, we believed that the independent members of the Standards Committee had both a different origin and a different role. As to their origin, we noted that Standard Committees are by law required to have some independent members. Consequently, the independent co-opted members were appointed to the Council's Standards Committee by means of recruitment following open advertisement on the basis of their specifically disinterested perspective. As to their roles, we noted that the independent members serve as voting members of the Committee and can be appointed to the positions of Chairman and Deputy Chairman. Currently, one co-opted member serves as Deputy Chairman of the Committee and receives no specific allowance whereas a Councillor fulfilling the same role would receive a Special Responsibility Allowance. In the interests of fairness, we believe this is an anomaly that should be addressed.
9. In addition, since 4 November 2004, it has been possible for the Standards Board for England to refer cases of alleged breaches of the Member Code of Conduct for investigation by the Council's Standards Committee. The Committee can impose sanctions including suspension of the member concerned. This is a new area of work and its demands are as yet unproved. However, although hearings will not perhaps be frequent, the work is likely to be demanding, given the seriousness of the subject matter. There is a case, therefore, for making some remuneration available to co-opted members serving on such hearings. As to the value of such remuneration, we noted that the Council convenes panels (not involving the Standards Committee) to hear education admission/exclusion appeals and cases of complaint about the Council. In those situations, the Council offers the independent members of such panels a Financial Loss Allowance (at day- and half-day rates). We believe there is justification for using this precedent and establishing a co-optees' allowance, based on those levels, for the co-opted members who attend Standards Committee hearings.

10. We were also mindful that questionnaire responses from the majority of co-optees were by no means clearly supportive of the introduction of a general co-optees' allowance.
11. We fully appreciated the various roles performed by co-opted members and noted that some took part in other activities flowing from their status as co-opted members (for example serving on scrutiny review panels or assisting with additional working groups). We considered however that such work was again likely to be integral to their role and interests. We were therefore of the view that the availability of travel and subsistence allowances, to meet out of pocket expenses, was sufficient.

Withholding allowances

12. The Members' Allowances Regulations include a provision to enable authorities to withhold and/or require repayment of allowances in cases where a member is suspended or partially suspended. Such suspension is determined either by the Standards Board for England, in the case of a serious breach of the Code of Conduct, or by a Council's Standards Committee following referral to it by the Standards Board of a case involving a material though less serious breach of the Code.
13. In our view, this issue hinged on a clear point of principle. The Member Code of Conduct, to which all councillors must commit on taking office, governs the behaviour expected of local authority members. Breaches of the Code leading to full or partial suspension, in our view, should lead to the potential withholding of allowances. Full suspension, a serious sanction, should lead to the withholding of all allowances, including travel and subsistence allowances. The implications for allowances in cases of partial suspension should, in our view, be a matter of discretion for the Standards Committee, taking account of the circumstances of the matter.

Procedures for claiming travel and subsistence allowances

14. In our report of October 2003, we recommended that a claims procedure be adopted whereby members must claim for travel and subsistence allowances within two months of the event taking place. This followed the introduction of new Members Allowances Regulations which required that some limiting period be adopted. The Council endorsed this approach and introduced the two-month provision into the Scheme of Members' Allowances. We continue to support the inclusion of this provision and would encourage members to abide by it in the interests of good financial practice and administration. However, we are aware that some members have not always followed this requirement and perhaps further clarification is necessary particularly to underpin the circumstances where exceptions may be appropriate.
15. We would therefore like to state clearly our support for the principle that claims for allowances should be made in writing within two months from the date of performance of the duty. Additionally, however, we are of the view

that such allowances should not be paid if claims have not been submitted within the prescribed period unless exceptional circumstances apply. This is in keeping with the intention of the Regulations while recognising that exceptional situations may arise when the timescales cannot reasonably be met. In our view, the exceptional circumstances would include any circumstances which had a significant disruptive effect on either the councillor's personal life (for example bereavement, failure of a business, ill-health but not holidays) or the Council's business and computing systems. It is our view that the Council should have a clear procedure for determining whether cases are indeed exceptional; for instance, the Monitoring Officer could have this discretion after consultation with the three Political Group Leaders (or their deputies if the Group Leader was the claimant or was unavailable). Guidance should be issued to members to illustrate the exceptions. The procedure for seeking and exercising discretion should be included in the Scheme of Members' Allowances.

The Panel's recommendations

16. We therefore recommend that:
 - (a) co-optees' allowances should only be made available in the following circumstances:
 - (i) for a co-opted member of the Standards Committee when the co-opted member is serving as the chairman or deputy chairman of the Committee (the level of allowance to be the same as the special responsibility allowance that would be available to a councillor performing the same role);
 - (ii) for independent members of the Standards Committee when those members are serving on Panel Hearings investigating allegations of misconduct (the level of the allowance to be the Financial Loss half-day and day-rates, as appropriate, which are paid to education appeals/complaints panel hearing members).
 - (b) all allowances should be withheld from any member who receives a full suspension from office but that the Standards Committee should have the discretion to determine the extent of any withholding in cases of partial suspension of a member;
 - (c) the Council adopt:
 - (i) clear provisions expressing the exceptional circumstances which may allow a member to be paid travel and subsistence allowances even if these are claimed after the two-month deadline;
 - (ii) a clear mechanism for determining cases of exception when a claimant believes payment should be made following submission of a late claim.

PETER NORTH
Chairman, Independent Remuneration Panel

November 2004.