
Decision Maker: **General Purposes & Licensing Committee**

Date: **26 September 2012**

Decision Type: Non-Urgent Non Executive Non Key

Title: **ESSENTIAL CAR USER ALLOWANCE CRITERIA**

Contact Officer: Sue Sydney, Head of HR Operational Services
Tel: (020) 8313 4359 E-mail: sue.sydney@bromley.gov.uk
Barbara Plaw, HR Manager (Pay and Benefits)
Tel: (020) 8313 4993 E-mail: barbara.plaw@bromley.gov.uk

Chief Officer: Charles Obazuaye, Assistant Chief Executive (HR)

Ward: Borough wide

1. Reason for report

- 1.1 An “essential car user” (ECU) is anyone whose duties are of such a nature that it is “essential for them to have a motor car at their disposal whenever required” by the Council. It is for the Council to determine locally how to interpret and apply this definition, and what the local criteria for an essential user should be.
- 1.2 A review has been undertaken to ensure that the Council’s ECU criteria remain fit for purpose. This report details the outcome of consultation on revised ECU criteria for Members’ consideration and agreement.

2. **RECOMMENDATION(S)**

2.1 **The General Purposes and Licensing Committee is asked to:**

- 2.1.1 **consider the comments received from staff and their representatives on proposed changes to the Council’s criteria for the award of an Essential Car User Allowance and the response of the Assistant Chief Executive (HR) as set out in Appendix 1; and**
- 2.1.2 **agree to adopt the revised criteria set out in paragraph 3.7 for implementation with effect from 1 November 2012.**

Corporate Policy

1. Policy Status: Revised Policy
 2. BBB Priority: Excellent Council
-

Financial

1. Cost of proposal: Estimated cost - Nil
 2. Ongoing costs: Recurring Cost Nil
 3. Budget head/performance centre: Council-wide budget for Car Allowances
 4. Total current budget for this head: £877K
 5. Source of funding: Existing Revenue Budget 2012/13
-

Staff

1. Number of staff (current and additional): There are currently 349 employees designated as Essential Car Users. If the revised criteria are agreed then on the basis of a preliminary review this figure will 340. There are also approximately 812 casual car users which will increase to around 821.
-

Legal

1. Legal Requirement: Anyone designated an Essential Car User by the Council has a contractual entitlement to receive a lump sum allowance and mileage rate as set out in this report.
 2. Call-in: As this is a non-executive decision call in is not applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All staff covered by the proposals set out in this report who are designated car users are involved directly or indirectly in providing a range of front-line services.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 In accordance with the terms and conditions of employment adopted by the Council anyone designated an essential car user is entitled to receive a lump sum allowance towards the cost of maintaining their vehicle, and a mileage rate in recompense for business use. An “essential car user” (ECU) is anyone whose duties are of such a nature that it is **essential** for them to have a motor car at their disposal “whenever required” by the Council.
- 3.2 Anyone who is not designated an ECU but for whom it is **desirable** that a car should be available when required is a casual car user (CCU). Casual car users are entitled to a higher mileage rate in recompense for business mileage but do not receive a lump sum allowance.
- 3.3. It is for the Council to determine whether the car use is casual or essential and the cubic capacity of car considered appropriate in the performance of the job. Bromley has determined that most business journeys can be undertaken in vehicles not exceeding 1199cc, and that the lump sum allowance and mileage rates set by the National Joint Council (NJC) for cars of this size will be payable. Exceptionally staff may be authorised to use a vehicle of a higher cc for work journeys depending on the nature of their work.
- 3.4. The current rates for cars of this size as agreed by the NJC with effect from 1 April 2010 are as follows:

	451 – 999cc	1000 – 1199cc
Essential Cars		
Lump sum per annum	£846	£963
per mile first 8,500	36.9p	40.9p
per mile after 8,500	13.7p	14.4p
Casual Cars		
per mile first 8,500	46.9p	52.2p
per mile after 8,500	13.7p	14.4p

The mileage rate for casual car users for the first 8,500 business miles is higher than the mileage rate for essential users. This is because the casual user rate includes an element towards the cost of maintaining the car, whereas the essential car users receive this in the form of a lump sum which is payable in monthly instalments irrespective of mileage driven.

- 3.5 Taking into account the lump sum allowance the ECU is more expensive than the CCU per mile for the first 8,500 business miles. It is important to ensure that resources are used to maximum effect and that the ECU option is normally only be used when other travel and/or service delivery options have been considered and discounted on sound economic/business grounds.
- 3.6 There are a number of factors which suggest that the Council’s current criteria (attached at Appendix 2) may no longer be fit for purpose; these include:

- a recent review of car parking which has shown that some staff are receiving the essential car user allowance, albeit other data shows that they may not be using their cars for work on a regular basis;
- the situation whereby some staff in key posts who do not meet the current criteria have been awarded an essential car user allowance on the basis of a recruitment and retention incentive, e.g. some social workers;
- a view that although mileage is relevant, the criterion based solely on the minimum number of miles driven could encourage unnecessary travel and discourage more efficient options for service delivery;
- pursuant to the disability provision under the Equality Act 2010, it is vitally important that employees and job applicants/candidates with a disability (driving impairments) are not disadvantaged by applying a set of criteria which impacts adversely on this group of people.

3.7 For this reason consultation has been undertaken on proposals to revise the Council's criteria for the award of an essential car user allowance and apply it only to those employees where:

- (a) driving a car/vehicle is an integral and regular feature of the job; and therefore**
(b) having a current driving licence and use of their own car/vehicle are deemed to be essential and compulsory for the performance of the job

3.8 Consultation was undertaken on the basis that:

3.8.1 Normally an employee would be unable to continue in the job if they were to lose their driving licence or use of vehicle for any reason as no reasonable adjustments can be made which mean the job can be done another way; and

3.8.2 Applicants without a driving licence and vehicle would not normally be considered for the job. This includes applicants who cannot drive because of disability, as it is deemed not possible to put reasonable adjustments in place to overcome this disadvantage.

3.8.3 Where those staff who have been awarded the essential user allowance as a recruitment and retention incentive do not qualify under the revised criteria, the equivalent value of their current lump sum allowance will be redesignated as a "recruitment and retention allowance" in future, as long as the payment continues to be justifiable.

3.8.4 Employees who do not meet the Council's criteria for an essential car user allowance, but who are authorised to use their car/vehicle on a different basis including irregular or ad hoc business journeys, will be entitled to claim a casual car user mileage allowance at the rate agreed by the Council.

3.9 If, following consultation, the above criteria are agreed and adopted by the Council, then employees who are currently designated essential car users who no longer meet the new criteria will be given notice that the essential user allowance will be removed and replaced with the LBB agreed rate of casual car user allowance, with a right of appeal to the Assistant Chief Executive (HR).

4. POLICY IMPLICATIONS

4.1 The proposed revisions to the ECU criteria are consistent with the Council's Core Operating Principles in that the Council will need to operate corporately, constantly keep under review the effectiveness of the organisation, and its investment in services and support

5. FINANCIAL IMPLICATIONS

- 5.1 The 2012/13 budget for car allowances is £877k and is used to fund both the essential car user lump sum allowance and mileage allowances for both essential and casual car users.
- 5.2 The table below shows the financial impact of the proposed changes to the criteria for the award of the essential car user allowance:

	Current Position			Estimated Impact of Proposals		
	Essential Car Users	Casual Car Users	Total	Essential Car Users	Casual Car Users	Total
Number of staff	349	812	1161	340	821	1161
Cost of Lump Sum Allowance	£336,087	Nil	£336,087	£327,420	Nil	£327,420
*Mileage Allowances	£295,102	£209,864	£504,966	£314,796	£184,787	£499,583
Total Cost	£631,189	£209,864	£841,053	£642,216	£184,787	£827,003

* The mileage allowance figures in the table above are indicative only as actual mileage will vary year on year.

- 5.3 The proposals outlined in this report can be contained within the overall budget available and would generate a small saving of £14,050 p.a. assuming that the actual mileage claimed by officers in the last year reflects the norm.

6. LEGAL AND PERSONNEL IMPLICATIONS

- 6.1 In accordance with the Council's established consultation arrangements the proposals to revise the Council's ECU criteria have been the subject of consultation with staff, trade union and departmental representatives. Consultation was undertaken at the same time and alongside the Council's proposals to charge staff for the use of the Civic Centre and Bromley Town Centre car parks.
- 6.2 Although the two matters (ECU criteria and car park charges) are separate, they are related in the fact that it is proposed not to charge staff who are designated essential users for parking on the basis that they have no option but to use their cars for work as required by the Council. A summary of comments submitted during the consultation process and the responses of the Assistant Chief Executive (HR) and the Director of Resources are set out in Appendix 1. Although Appendix 1 covers both issues, the responses more relevant to the ECU proposals are included as the second part of that paper.
- 6.3 Under the Chairmanship of the Chief Executive a corporate panel has met to scrutinise the preliminary decisions of Departmental Management teams as to the impact of the revised criteria on those staff who currently use their cars in the performance of their duties at work. The aim of the Panel is to ensure that the criteria, if adopted, are applied consistently and fairly across the Council and that any award of the ECU to staff can be justified on business grounds. Whilst the number of staff designated as Essential Car Users under the new criteria is not significant, the individuals may be different as postholders have been reclassified.

- 6.4 Under the Equality Act 2010 the Council must ensure the 'use of a car for work purposes' is a proportionate means to achieve a legitimate aim (i.e. business objective). It means that the car is a genuine non negotiable requirement or tool for effective performance of the job. Otherwise, the requirement and associated criteria may be tantamount to indirect discrimination under the Act.
- 6.5 There are no equality issues arising from the new criteria. The initial assessment referred to in paragraph 6.3 above shows that there is no significant difference between the current and future gender profile of essential users, although the number of female designated essential users will increase from 209 to 230 and the number of male designated users will drop from 140 to 110. The appeal process is not likely to significantly alter these figures.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	National Agreement on Pay and Conditions of Service of the NJC for Local Government Services

STAFF/MEMBER CAR PARKING AND ESSENTIAL CAR USER CONSULTATION

SUMMARY OF RESPONSES

Approximately 800 consultation emails were sent out to car park permit holders and their representatives as part of the Consultation exercise. 132 replies were received from staff or their representatives and 18 from Councillors. 34 staff responses commented on the choice between the tiered and flat fee charge rates. 19 considered the flat fee to be fairer, whilst 15 preferred the tiered rate for the same reason.

STAFF REPRESENTATION	RESPONSE
<p>1. Concern that the fee amounts to a pay cut; that it would be detrimental to morale and efficiency and lead to loss of good will. Concerns that parking would become unaffordable.</p>	<p>The majority of Council staff do not have a parking space or any contribution towards costs of travelling to and from work. The rate proposed will amount to a heavily subsidised parking charge which will often still be lower than the costs incurred by other staff without an allocated space. Whilst it is recognised any additional fee or charge will be unwelcome the rate is being kept as low as possible.</p> <p>A significant part of the rationale around charging is to generate income from non-essential users to mitigate the impact of other savings requirements on staff and services.</p>
<p>2. I am an essential user and the Council requires me to use my car to undertake my job. Therefore, I should not have to pay.</p>	<p>Essential users will not be charged under the car parking proposals. However, a review of all essential users is being undertaken as is outlined in the relevant Consultation Document. The review will ensure that genuine essential users i.e. those who meet the Council's criteria retain their allowance, whilst removing it from those where it can no longer be justified on business/operational grounds.</p>
<p>3. Can you give us more details on the criteria for "a protected essential car user" that would not have to pay to park? How many staff do you estimate will be "protected essential car users" and can you provide a breakdown of the numbers by grade/job?</p>	<p>It is not intended that there would be a separate "protected" group. The reference to staff who will be "protected" means those staff who will continue to retain the ECU under the proposed new criteria as per the consultation paper.</p>
<p>4. Not having a free parking space will impact on my productivity and ability to undertake my job.</p>	<p>This assumes that post holders who are not essential users will elect not to use their car for any work purposes. On site parking will still be available but at a charge c£1.15 per working day. Casual users will still be able</p>

	<p>to claim casual user mileage for business journeys. Mileage claims are received now from individuals who do not have car parking spaces but who occasionally use their car for work purposes. Anecdotally, fall out from spaces at other authorities who have introduced car parking charges has been low. There may be some circumstances where exceptions can be made based on a genuine service or other need. A modest investment in the pool car fleet may also mitigate against some of the impact. In several instances it would be more economically advantageous to pay for public transport or taxis where an individual's car is not available rather than maintaining the payment of an essential user payment plus mileage payments where there is limited business use for a vehicle.</p>
<p>5. Many UNISON members have told us that they currently see no alternative to using their cars to do their jobs. Is it fair to generate income from employees that are using their cars in order to perform their jobs?</p>	<p>The views of staff will be considered in deciding whether they should receive/retain the ECU. Where the Council does not deem the use of a car/vehicle to be essential, but agrees that an employee may still use their car for business journeys, they will be entitled to claim the casual car user (CCU) mileage allowance at the rate agreed by the Council.</p>
<p>6. I work part time or have flexible/home working arrangements and I am not in the office every day.</p>	<p>Charges can be applied on a pro-rata basis to suit individual circumstances. If the use of the car park is higher than estimated top up payments may be required. It may also be possible to reduce charges where someone does not drive to work every day, e.g., cycles, walks or uses public transport to come to work on a regular basis.</p>
<p>7. Most car parks do not charge for motor cycles, why will the Council be doing so?</p>	<p>It is agreed that the majority of car parks do not charge unless there are dedicated motor cycle spaces. On this basis the proposal to charge for motor cycles will be dropped.</p>
<p>8. Will the charges cover all other car parks as it is not fair to charge staff who park in some areas and not others?</p>	<p>This consultation specifically covers the Civic Centre and Bromley Town Centre car parks used by staff. A review will be taken of other car parking spaces which are available on a free rather than subsidised basis and a further consultation exercise undertaken in the near future.</p>
<p>9. Are the current proposals based on an equal number of car park users parking at the council's car parking facilities or have you factored in any</p>	<p>The proposals do not envisage a reduction in the number of spaces available. If staff decide to relinquish their space then this will</p>

<p>potential drop in people using these facilities once charging is introduced?</p>	<p>be offered to the wider workforce and there has been some interest already expressed.</p>
<p>10. Why are private business users charged £85 per year by the Council but staff potentially £300 per year?</p>	<p>The business charge relates to on street parking charges to allow some parking in controlled parking zones and is not a comparison of like with like. In practice a limited number of spaces are offered to businesses and the majority of their customers/employees have to pay the prevailing car parking charges if they cannot park on site.</p>
<p>11. Please explain why the charges in the consultation document are based on car parking rates used for members of the public at nearby 'shopping' car-parks? Would you accept that the purpose of using your car to do your job and using your car in your leisure time to be different?</p>	<p>Nearby car parks are used by shoppers, commuters and by those who come to Bromley to work. The figures in the consultation are there to give an indication of comparative parking charges.</p>
<p>12. There will be significant fall out from those who are not prepared to pay for parking, which means that income will not be generated and people will be displaced on to the roads.</p>	<p>Anecdotally, fall out appears low at other Councils who have introduced car parking charges. If there is fall out any permits which become available will be offered for sale to members of staff who currently do not have parking available on site. Initial feed back indicates that there will be good take up and as many of these individuals currently park on the highway near the Civic Centre at greater cost than the charges proposed, it is unlikely that there will be any significant increase in parking on residential roads. In response to some consultation comments, spaces which become available would be offered to those with the greatest identified need before becoming available for general release.</p>
<p>13. Can you tell us which of the 32 London Boroughs charge staff (casual car users and essential car users) to park in their car parking facilities?</p>	<p>16 of the Boroughs who have responded provide some parking facilities – with 4 advising this was very limited. Two provide no parking. Of these those Boroughs indicating that they currently charge or are introducing charges for (some) staff include: Newham, Sutton, Barking and Dagenham, Bexley, Greenwich, Havering, Richmond, Enfield, Haringey</p>
<p>14. Are options such as salary sacrifice schemes being considered?</p>	<p>Yes – these options will be looked at.</p>
<p>15. The costs for administering the scheme</p>	<p>With a scheme based on 2 – 3 charging</p>

would exceed the benefits.	bands, the Council's contractor has indicated they would not make an additional charge for managing payments.
16. I have to attend late meetings, therefore I need to be able to park on site.	One option is to make parking free on site after a set time, e.g. 5.30 p.m.
17. The proposals could potentially be discriminatory. Will an equality impact assessment be conducted? We are concerned that the proposals will disproportionately affect female staff.	Initial assessments do not disclose any material equality issues. However, a final Equality Impact review will be undertaken before any scheme is introduced.
18. Will the scheme be free for disabled staff/Blue Badge holders, etc?	The consultation document indicated that the likely option was that such spaces would be free. Not all responses favoured free spaces for disabled staff, although it is likely to continue as least in the short term.
19. I may have a contractual right to a free parking space.	This is not accepted.

STAFF/MEMBER CAR PARKING AND ESSENTIAL CAR USER CONSULTATION

SUMMARY OF RESPONSES

Essential Car User Allowance (ECUA) Criteria

A number of responses in this area amounted to submissions as to why particular jobs and/or individuals should be entitled to the ECUA as proposed, rather than comments about the criteria specifically; these will be responded to as part of the process of deciding who is eligible for the allowance in future once the ECUA criteria are agreed. Other comments reflected some of the concerns discussed above including the impact on staff morale at a difficult time generally and the potential impact on business efficiency if staff who lose the ECUA no longer use their cars to undertake their jobs.

A summary of other more specific comments relevant to the ECUA criteria review is set out below:

STAFF REPRESENTATION	RESPONSE
1. The wording of the proposed criteria would make it virtually impossible for anyone to be granted essential user allowance	The ECUA will continue to be paid where an employee is required to use their own vehicle in the performance of their job. However the ECUA is more expensive than other options and will only be used when these have been considered and ruled out for sound economic/business reasons.
2. Staff who lose the ECUA will suffer a pay cut of up to £900 per year and will therefore be unable to afford to use their car and could no longer be contractually required to do so. The	This reflects the position as it is currently i.e. staff who do not receive the ECUA are not contractually required to provide a vehicle that they use for work purposes. However staff

<p>financial loss will be exacerbated by the introduction of parking charges and overall has the potential to impact on pay differentials between Bromley and competing neighbours.</p>	<p>who are not eligible for an ECUA but who continue to travel as part of their job and opt to use their car with the manager's agreement will instead be eligible to receive the casual car user allowance which will offset some of the potential loss.</p>
<p>3. Loss of the ECUA will have a detrimental effect on services as staff who are no longer required to drive will not be able to carry out the same level of work. There is the potential for increased costs in public transport or taxi fares.</p>	<p>The ECUA will continue to be paid where for sound economic/business reasons driving is an integral and regular feature of the job requiring the employee to have use of their own vehicle for the performance of their job. Staff who use their car less regularly or for ad hoc journeys will continue to be entitled to claim a casual car user allowance.</p>
<p>4. Have you undertaken any analysis of the risk with regard to lost hours / productivity that the proposals might lead to? And how would this impact on the Council achieving its Better Bromley Vision? Has any analysis been done of what public transport provision exists for non-essential car users to utilise and its viability as an alternative to using their own vehicles, especially in remote areas of the borough?</p>	<p>This will be taken into account in deciding on a case by case basis which posts retain the ECUA. The proposals recognise that whilst the essential car user option is more expensive than some other travel/service delivery options, there may be sound economic/business grounds for it to continue; alternatively for example use of a pool car may mitigate the impact. The scheme is also predicated on those having the greatest need for a vehicle to undertake their duties retaining free parking.</p>
<p>5. Have you estimated the cost of increased travel expenses incurred if more staff start using public transport / taxis to perform their duties?</p>	<p>This will depend in part on fallout rate. Anecdotally this has not been an issue elsewhere. There are costs being met at present, and in some instances where an individual may receive an ECUA plus mileage payments to cover a limited number of callouts then paying for public transport or a taxi on these occasions can be less expensive.</p>
<p>6. Those staff who currently receive the ECUA as a recruitment and retention (R&R) incentive will be worse off because whilst this will be converted to an R&R allowance of an equivalent amount they will be required to pay car parking charges.</p>	<p>In addition to the R&R allowance these staff will in future also be eligible to claim a casual car user allowance (CCUA) for any business mileage which, depending on the amount, will offset some or all of the parking charges.</p>
<p>7. Will social workers that currently receive the essential car user allowance be affected?</p>	<p>Social workers who currently receive the ECUA will be assessed against the new criteria for the ECUA. If they do not qualify as an ECU but currently have the allowance as a recruitment and retention (R&R) incentive, then the equivalent value of their current ECU lump sum allowance will be redesignated as an R&R allowance (RRA), and thereafter they will receive the CCU for business mileage. They will continue to receive the RRA as long</p>

	as the payment continues to be justifiable on R&R grounds.
8. A number of staff linked their responses on the potential loss of the ECUA to the fact that they would in future be required to pay the charge for car parking.	The fact that someone currently has a car park space does not in itself meet the current nor revised criteria for the award of the ECUA.
9. If staff used public transport or had to walk to their cars parked away from the Civic Centre and there was an impact on productivity – can you confirm that the formal capability procedure would not be used to address this possible scenario?	Every case of poor performance warranting formal or informal intervention by management will be assessed on the merits of the relevant circumstances, including any relevant mitigating factors.
10. Staff have applied for employment on the basis that a full driving licence and access to a vehicle were essential and the ECUA would be paid.	It is for Councils to determine locally what the ECUA criteria are. These criteria may be changed from time to time depending on local circumstances and staff are entitled to the ECUA only for so long as they meet the criteria.
11. Some responses demonstrated a possible misunderstanding as staff appeared to think they will no longer be able to use their cars for work purposes if they do not meet the ECUA criteria.	Staff who are not eligible for an ECUA but who need to undertake journeys as part of their job and opt to use their car with the manager's agreement will continue to be eligible to receive the casual car user allowance.
12. Can the Council confirm that the revised criteria will apply to all officers including Chief Officers	Yes
13. A number of comments were received in general support of the revised criteria and/or the need to review the criteria. Such responses also reflected the need to recognise efficiency and for any review of the ECUA allowance criteria to be fair and justified and lead by the demands of the job description and not the demands of a need to save money.	The Council's ECUA criteria will focus on identifying staff whose duties are of such a nature that it is deemed essential for them to have a motor car at their disposal whenever required. A corporate panel will aim to ensure the criteria are applied consistently and fairly across the Council and if granted is justified on business grounds
14. The proposal that the ECUA allowance should be given only to those employees who would lose their jobs if they lost their driving licence/use of vehicle is too harsh and will result in genuine recipients of the ECUA losing it.	This reflects the recognised definition of an essential car user as someone whose duties are of such a nature that it is deemed essential for them to have a motor car at their disposal whenever required.
15. Who will decide who is eligible for the ECUA? Who will monitor this across the council to ensure it is being applied equitably? Will there be a process for staff to appeal against the decision?	An initial assessment will be made against the new ECU criteria by each Departmental Management Team (DMT). DMT recommendations will be considered by a corporate Panel to ensure the criteria are

	<p>operated consistently and equitably across the Council. The Panel will include a number of Chief Officers and senior managers drawn from across the Council together with Finance and HR specialists. There will be a right of appeal to the Assistant Chief Executive (HR).</p>
--	---

CAR ALLOWANCES – CURRENT CRITERIA FOR ESSENTIAL USERS

Chief Officers should note that one or more of the following factors should apply when determining an essential car user allowance for a period:

- (1) The post requires that the officer frequently uses his/her car to visit different parts of the Borough, or outside it, thereby making certain the fact that travel by public transport would considerably reduce the effective working time; this would be evidenced by an average annual mileage of not less than 2000 per annum.
- (2) The officer in the post is subject to immediate call out to deal with emergency situations or is on regular standby duty rota; the criteria giving essential user status to officers who are subject to “immediate call out to deal with emergency situations” should be established by Chief Officers and the following list gives some indication of the factors which should be taken into consideration
 - (a) average number of call-outs in preceding 12 months;
 - (b) urgency of matter to be dealt with;
 - (c) availability of other transport arrangements.
- (3) The officer in the post regularly carries additional passengers who form part of a working team and averages not less than 1000 miles per annum.
- (4) That there should be an absolute minimum of 500 miles per annum below which only the casual user allowance be paid; where this particular criterion conflicts with that under the “immediate call-out” condition the mileage limitation takes precedence.

All these criteria are applied to all officers including Chief Officer posts.