

London Borough of Bromley

Report No.DHR15007 PART I – PUBLIC

Agenda Item No.:

Decision Maker: General Purposes & Licensing Committee

Date: 17th September 2015

Decision Type: Non-Urgent Non-Executive Non-Key

TITLE: CAR ALLOWANCE

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Chief Officer: Director of Human Resources

Ward:
N/A

1. REASON FOR REPORT

- 1.1 As part of addressing the unprecedented budget pressures the Council, having reviewed every cost pressure, proposed to move from a two-tier to a single flat car allowance arrangement for all authorised car users, resulting in circa £300,000 saving per year.
- 1.2 Following extensive staff and Trade Union consultations, the General Purposes & Licensing Committee, on 26th March 2015, agreed as follows:
 - 1.2.1 All new recruits from 1st April 2015 required to use their car for legitimate business purposes will be reimbursed on a single flat rate of 45p per mile, set locally by the Council.
 - 1.2.2 Delegated to the Director of Human Resources, in consultation with the Director of Finance, the authority to review and vary the local rate payable, having regard to local circumstances and the prevailing recommended HMRC rate.
 - 1.2.3 Noted that existing staff and their representatives were being consulted on the proposal to phase the change from a two-tier payment to a single flat payment over a three-year period.
- 1.3 Hence, this report sets out the details of the phasing arrangements, the impact of the change and the outcome of the additional staff and Trade Union consultations

2. RECOMMENDATION(S)

- 2.1 Members are asked to consider the report and:

- 2.1.1 Note that the single flat rate of 45p per mile (with no additional annual lump sum under the old two-tier payment system) has had no adverse impact on the Council's ability to compete in the labour markets for new staff.**
- 2.1.2 As far as staff employed by the Council before 1st April 2015 are concerned, agree to reimburse them for the use of their car for legitimate business purposes on the phasing arrangements/details set out in paragraph 3.8 below.**

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal: £300k savings target
 2. On-going costs: N/A/Non-recurring cost/Recurring Cost
 3. Budget Head/Performance Centre:
 4. Total current budget for this Head:
 5. Source of Funding:
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Staff

1. Number of staff (current and additional): Approximately 380 essential car users and 570 casual staff
 2. If from existing staff resources, number of staff hours:
-

Legal

- 1) Legal Requirement: No Statutory Requirement or Government Guidance
 - 2) Call In: Call in is not applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected) N/A
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Ward Councillor Views

- 1) Have Ward Councillors been asked for comments: N/A
- 2) Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 Bromley Council is the first and only London Borough to come out of the regional and national negotiating frameworks for local government staff. The Council implemented a local terms and conditions of employment framework in 2013. It means that the council is no longer bound by the terms set or determined by any of the regional or national negotiating bodies. Instead, Bromley Council's terms and conditions of service for staff, with the exception of teachers, are determined locally by democratically elected Councillors having regard, of course, to the national and local labour markets, good industrial relations and local negotiation and consultation arrangements with staff and their representatives and the UK and EC employment laws.
- 3.2 The council will need to find significant savings in the next four years, having already achieved savings of over £60m since 2011/12. Consequently, every cost pressure and service in the Council has been reviewed and still being reviewed on a regular basis by officers and Members in order to bridge the significant gaps between expenditures and incomes, achieve further cashable efficiencies and reduce the impact of the unprecedented financial pressure on frontline services and local people and residents in the borough.
- 3.3 The 2015/16 draft budget included a £300k saving from the proposed restructuring of the Car Allowance Scheme by replacing the two-tier payment with a single, flat rate, payment consistent with the HMRC recommended advice.
- 3.4 Under the two-tier system, essential car users were generally reimbursed on the basis of a lump sum of £963 per annum. Additionally, essential car users also receive 40.9p for every mile for business purposes. In the main, casual car users receive 52.2p per mile without the lump sum element. Lease car staff are reimbursed at a much lower rate, currently 11p per mile only.
- 3.5 Under the single flat rate arrangement, there is no annual lump sum payment and both casual and essential car users will receive a single, all inclusive, rate set locally, taking into account the HMRC recommended rate, currently 45p per mile and any relevant local factors.
- 3.6 As previously advised in the last report to this Committee, the two-tier payment, including the £963 lump sum, whilst recognising the impact of removing it from individual staff, is difficult to justify and retain in the current financial climate. The HMRC maintains that its recommended single rate of 45p per mile sufficiently covers both the fixed cost (wear and tear on the car, insurance, etc.) and the running cost (petrol). The general reduction in petrol cost and low inflation are germane to the argument in favour of a single flat rate payment. Hence, the HMRC treats any payment over and above its recommended single rate of 45p per mile as "profit" to be subject to tax and NI deductions at each individual beneficiary's rate.
- 3.7 As also previously advised, a number of organisations, including neighbouring authorities, already apply a similar single payment based on the HMRC recommended rate or a similar rate. The Local Government Association (LGA) survey in 2014 stated that 38% of Councils pay HMRC rates for all claims, including

essential car users. Since April 2015 the single flat rate has been applied to all new staff who are required to use their car for business purposes, irrespective whether they are essential or casual car users. To date there is no evidence to suggest that the change to the single flat rate has undermined the Council's competitiveness in the local and/or national labour markets.

3.8 That said, in recognition of the impact on some individual staff currently in receipt of the two-tier payment and the lump sum of £963 in particular, there was a further consultation with staff and the Unions on the following phasing arrangement aimed, of course, at reducing and mitigating the impact:

3.8.1 - Year 1 2015/16. Members already agreed no change following staff and Trade Union feedbacks. It means that affected staff will see no change to the reimbursement arrangement for casual and essential car users in the current financial years. Essential car users, save for new staff, will continue to receive the two-tier payment, including the lump sum of £963 per year;

3.8.2 Year 2 – 2016/17

- Essential car users – 50% of the current value of the lump sum will be paid and no change to the mileage rate;
- Casual car users – local mileage, having regard to the HMRC mileage rate (currently 45p per mile, subject to review) to be applied to all business miles driven;

3.8.3 Year 3 – 2017/18. No essential car user lump sum allowance will be paid and all essential and casual car users will be reimbursed at a single local rate per nosiness miles driven, having regard to the HMRC rate (currently 45p per mile, subject to review).

3.9 There are currently 380 essential car users with around 570 casual users. There are around 160 lease car users, of which about 106 users are in the hard to recruit and retain posts mainly in the frontline children services teams. The entitlement to a lease car is a significant pull factor for social workers and children social workers in particular and, hence, it remains a key part of the council's recruitment and retention package for this group of staff. Lease car users are not affected by this report and the recommendations therein. As stated above, the current mileage allowance for lease car users is significantly lower at 11p per mile.

3.10 Currently car allowances cost the Council £722k per year, with essential car users alone costing the Council £600k in 2014/15. These figures are not sustainable in the current financial climate, hence a £300k saving has been factored into the Council's financial budget planning.

4. Management to Staff and Trade Union Consultations

4.1 Members, having considered the comments and responses from staff and their representatives, agreed to vary the original proposal in the 2015/16 draft budget as follows:

- (a) Introduce the new single flat rate for all new recruits from 1st April 2015; but
- (b) Adopt a graduated/phased approach on the terms set out in paragraph 3.8 above for existing staff.

4.2 There were additional staff and Trade Union consultations on the phased approach. A number of meetings were held with the three main Unions, namely Unison, Unite and GMB. The Unions did not support the original proposal to move from a two-tier payment to a single flat rate for all car users. They described the proposal as a “pay cut” and, as far as they were concerned, the phasing arrangement was only delaying the inevitability. However, despite repeated requests, the unions have not submitted a formal written response to the phasing arrangement.

4.3 A total of 28 staff attended the additional consultation meetings held on 23rd April 2015 and 11th May 2015. A total of 42 staff responded to the proposal by email. A table of issues raised by staff and management responses can be found at Appendix 1. A summary of the key issues for consideration is as follows:

4.3.1 Recruitment and retention of staff – it was suggested that the single flat rate without the lump sum element for essential car users in particular will make the Council less competitive in the local and regional markets, especially for hard to recruit staff, e.g. planners, children social workers, building surveyors, etc. However, several other local authorities have already moved to this new rate of reimbursement and there is no evidence to support any negative impact on their ability to recruit and retain staff. To date the new rate has not affected the Council’s ability to recruit new staff who are already on the new single flat rate since 1st April 2015;

4.3.2 Pay cuts – staff also suggested that the reduction in reimbursement as a result of phasing out the lump sum for essential car users and introducing the single flat rate for both essential and casual users on the HMRC recommended rate, currently 45p per mile, is tantamount to a pay cut. Suffice it to say that the rate payable to staff for using their car for business purposes is not pay per se. It is designed to recompense the car user for the fixed and running costs associated with the use of their car for business purposes. The HMRC recommended single flat rate of 45p covers both the fixed and running costs. If the rate is above the 45p rate, the HMRC considers it to be “profit” subject to tax and NI liabilities.

The impact of the difference between the current two-tier payment and the HMRC recommended single flat rate of 45p on affected staff, depends on individual mileages. The impact on casual staff is the difference between the current 52.2p per mile (with no lump sum) and the HMRC recommended rate of 45p per mile. For example, a casual car user with 500 miles per year will receive £225 instead of £261, or £675 instead of £783 for 1500 miles per year, before any deduction for tax and NI liabilities.

The impact on essential car users is relatively greater because of the removal of the annual lump sum of £963, albeit on a graduated/phased basis. Although essential car users will receive a higher mileage at 45p per mile compared to the current rate of 40.9p per mile, the loss of the lump sum (£963) per year is a real concern for the affected staff. However, some 50 staff on essential car user status received the lump sum without any recorded mileage. This is clearly not right and, consequently, the list of essential car users will be re-examined by Human Resources and Directors, consistent with good audit practice.

Broadly speaking, the impact on most essential car users is somewhere between £600-£700. The phased removal of the lump sum effectively, over a three year period including the no change position in the current financial year (2015/16) is a relevant mitigating factor.

In the long term the use of alternative arrangements, including pool cars and car clubs, may also help to reduce the dependency on staff using their own cars for business purposes and, ipso facto, reduce the financial impact on individual staff and the Council. For example, Croydon Council have recently undertaken a review of their staff travel and have confirmed savings of £500,000 partly as a result of introducing a car club. HR and colleagues in the Environment and Community Services Department are looking to develop a financial business case for introducing a similar car club for staff, especially staff who drive relatively low mileage on Council business. It will build on the current five car club vehicles mainly for residents in the borough with two vehicles based in Bromley North, one on the High Street in Orpington outside the Village Halls development and two further cars in the Bromley Common Trinity Village residential development. Additional car club vehicles are in the pipeline as new developments complete which have planning conditions to introduce a car club.

- 4.4 Alternative rate to the HMRC rate – a small number of staff also suggested that the Council should consider a higher rate instead of the HMRC recommended rate of 45p per mile. For example a small number of organisations use the Automobile Association (AA) recommended rate currently 56.34p. Firstly, the AA rate includes a number of non- mileage related factors so making any direct comparison with HMRC rate is a little bit difficult. Secondly, the difference between AA rate at 56.34 per mile and the HMRC 45p rate is still subject to tax and NI deductions. Thirdly, consequently, any non-cashable efficiency especially in Payroll will be lost because under the AA rate the Council will still be required to complete and process the annual P11D tax returns. Fourthly, under the AA rate, the £300k savings target will be missed by approximately £75k per year.
- 4.5 Contractual change – staff also questioned the legal basis for effecting the change from the current reimbursement arrangement consisting of a lump sum payment for essential car users and a mileage rate to a single flat rate. The Council can make the change under the current terms and conditions of employment. Staff and Trade Unions have been consulted on the budget proposal to achieve £300k from restructuring the car allowance arrangement. Additional staff and Trade Union consultations were also arranged following Member decision to consult affected staff on the phasing arrangement for existing staff.
- 4.5 Equality Impact Assessment – the profile of car users will not change as a result of phasing the removal of the two-tier payment and replacing it with a locally determined single flat rate payment in line with the HMRC recommended rate.

5. POLICY IMPLICATIONS

- 5.1 The report is consistent with the main drivers behind the decision to replace the nationally and regionally negotiated framework with a local arrangement. Apart from

addressing the significant budget pressure, the report is a right step in the right direction to further localise the terms and conditions of service to Bromley Council staff.

6. FINANCIAL IMPLICATIONS

- 6.1 The 2015/16 budget assumed a saving of £300k for the revised car allowance scheme. Given the outcome of consultation it was agreed that the implementation of the new scheme would be rephrased with £150k savings from 2016/17 and £300k savings in a full year from 2017/18.

7. LEGAL AND PERSONNEL IMPLICATIONS

- 7.1 These are sufficiently covered in the report, including the legal and financial business case for replacing the two-tier payment structure with a single flat rate for car users. The latter is consistent with the HMRC recommended advice adopted by a number of private and public sector organisations, including up to 38% Councils. As also previously advised in the last report to this Committee in February 2015, the change is not tainted by discrimination but by a necessary financial intervention to address the budget deficit, currently £47m by 2018/18.
- 7.2 The change, if agreed, will affect about 380 essential car users and around 570 casual staff. Lease car users (160 staff) are not affected by the change in mileage allowance. This group of staff are already compensated at a much lower rate, currently 11p per mile. The change will not alter the equality profile of essential and casual car users and, hence, there is no significant equality impact assessment issue to consider. The phasing arrangement means that existing staff on essential car user status, unlike new staff who joined the Council from 1st April 2015, will continue to receive the lump sum of £963 in the current financial year 2015/16 and next year 2016/17 at 100% and 50% rate respectively. It effectively means that the change will be achieved over a 3-year period, including the status quo position in 2015/16.
- 7.3 The Council remains a competitive employer offering flexible terms and conditions of service, including additional remunerations, e.g. market supplements, recruitment and retention packages, merited reward payments, etc. If and when required to attract and retain quality staff. Under the localised pay and conditions of service framework, the Council is more able to respond positively to changes in the local and regional labour markets without some of the constraints associated with the national collective bargaining arrangements.
- 7.4 To date the single flat rate of 45p per mile, which was implemented for new staff from 1st April 2015, has not impacted negatively on the Council's ability to recruit and/or retain new staff. A total of 58 new staff with car user status (including 21 essential car users) were appointed since 1st April 2015. Only one new staff has left the Council between 1st April 2015 and now. Also, no "old" staff have left the Council citing the phased removal of the two-tier car allowance as a reason for leaving.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

Staff responses to Proposed Changes to Car Allowances

A total of 42 staff responded by email

A total of 28 staff attended the Consultation meetings held on 23 April 2015 and 11 May 2015

Issue raised	Number of staff	Response
This is a change to the terms and conditions of my contract which I do not accept.	20	<i>The Council can make changes under current</i>
The loss equates to a pay cut of between £500-£1000. How can this be justified when I need a car to do my job.	6	<i>The HMRC rate is designed to recompense the car user for fuel costs, business insurance, servicing, tyres and tax when an individual uses their own car for business. Many Local Authorities have already moved to this rate of reimbursement. If the allowance is above this 45 pence rate then the Inland Revenue consider it to be profit and this would be taxed. The current allowances subject to tax and national insurance where they exceed 45 pence per mile.</i>
Is the lease car scheme being reviewed with a view to making savings in this area?	7	<i>At this time the lease car scheme is not being looked into. The lease car scheme was recently reviewed, there are now only approx. 166 lease cars in the organisation compared to approx. 400.</i>
Why are managers with lease cars unaffected by these changes?	6	<i>70% of lease car holders are in non-managerial positions. The majority of staff who receive a lease car are in hard to recruit and retain posts.</i>
Changes to the lease car scheme would save the Council c£150K per annum.	1	
If the lump sum is removed what happens to me if I cannot afford to run my car even though my job depends on it.	4	
The proposed HMRC rate does not fairly compensate or take into account paying for business insurance and servicing.	4	<i>The council will continue to pay you for using your car for business use at HMRC recommended rates (£0.45 per mile). If you assume the average car does 30 miles per gallon and if you travel for 30 miles at the £0.45 rate you</i>

		<i>would get £13.50 for that journey. Of that approx £4.86 is the cost of a gallon of petrol, so the remaining is considered reasonable recompense for wear and tear on your vehicle and other associated running costs including business insurance.</i>
My contract states that I should receive an essential car user allowance.	3	
I will refuse to use my car if the lump sum is removed.	2	<i>If you have been using your car as an essential or casual car user for work then you will be reasonably expected to continue to do so, but under the new scheme, which continues to recompense you for using your car.</i>
I need to use a car do my job, public transport is not an option so what other options are available to me?	2	<i>The Council is currently exploring different initiatives to supplement available cars for staff who need to drive as a requirement of their job. The Council currently has a Pool Car scheme. Going forward staff in the Human Resources division are working with colleagues in the Environment & Community Services department to look at introducing a Car Club scheme. They are developing a proposal for Member consideration and approval which will give staff access to alternative car arrangements. A similar scheme is already in place in the Borough for residents.</i>
Will a consultation meeting be held to discuss the issues and proposed changes?	2	<i>Yes, consultation meetings are being planned.</i>
Is the Council planning on dismissing and reengaging staff who not agree to these changes.	2	
Legally how can the Council justify expecting a <u>casual</u> car user to have to have supply their own vehicle to do their job. (see email bob clegg)	1	<i>If you have been using your car as an essential or casual car user for work then you will be reasonably expected to continue to do so, but under the new scheme, which continues to recompense you for using your car.</i>
How does the Council think it will attract and retain staff if it removes this payment?	1	<i>Several other Local Authorities have already moved to this new rate of reimbursement and there is no evidence to suggest any negative impact on their ability to recruit and retain staff.</i>

		<i>As part of the consultation the Council will consider any adverse effects the proposal may have on hard to recruit and retain front line posts i.e. Children's Social Workers.</i>
With the revision to the allowance for car mileage will the rate for cycling be raised to incentivise us to cycle?	1	<i>There are no plans to increase the allowance paid to staff who use their bike for work purposes as the current rate is deemed appropriate.</i>
A car is a tool to do a job, how can the Council justify not paying employees for providing their own tools to their job?	2	<i>The HMRC rate reimburses sufficiently to cover petrol, wear and tear and other associated running costs.</i>
The HMRC rate is too low to be applied for Bromley staff, the formula devised is for rural driving so it should be increased.	1	<i>The Council will take this feedback into account and will determine a range of factors before it sets any agreed rate.</i>
The Council will need to extend the amount of Pool Cars it has for staff who work outside of core hours (8am-6pm) as the Car Club cars may not be available during these hours as the public will be able to book them.	1	<i>The Club Car scheme is currently being looked at.</i>
How does the consultation process work?	2	<i>All comments will be captured and reported back to members who will ultimately make the decision on car allowances and any changes to it. A report is planned to go to GP&L in July 2015.</i>
The proposed changes are discriminatory as they only affect once part of the work force.	2	<i>The c£300K savings form part of wider savings that will come from all areas of the Council to make up the £50m savings needed over the next four years. All areas of the Council are being looked at.</i>
Has an Equality Impact Assessment been carried out in relation to the proposed changes?	1	<i>No. The profile of users reflects the profile of the organisation.</i>
Would staff have to pay to be in the Car Club?	1	<i>No, the costs are met within the service.</i>
We other staff terms and conditions looked as well as the changes to essential car user allowance?	1	<i>All terms and conditions were looked at and are regularly reviewed. At present this is the only proposed change the Council is making.</i>

This is a pay cut for all essential car users.	1	<i>It is not a pay cut, the proposed changes are about fairly reimbursing staff.</i>
Will the Car Club cost more to implement than the current essential car user allowance payments?	1	<i>The Car Club is just one option at present and costs are still being analysed by colleagues in the ECS department. It is thought the introduction of Car Club is the most cost effective option.</i>
Was the decision to delay the implementation of the proposed changes until April 2016 due to the fact the Council had not sought legal advice on the implications?	1	<i>Legal advice was previously sought, however Members recognised the impact the changes could have on staff and so took the decision to delay by 12 months.</i>
As a commissioning authority is the Council making these changes so that staff become a 'cheaper' proposition to any potential outsourcing company?	1	<i>This is not a factor in the proposed changes, the only factor in making these proposed changes is the finding savings due to the unprecedented savings the Council needs to make.</i>