

London Borough of Lambeth Members Allowance Scheme: additional guidance note for Councillors and co-opted members

Dated: 26.05.10

Allowances are paid directly into the Members' bank accounts by Lambeth Payroll Services on a monthly basis.

National Insurance Contributions

The basic, telephone, special responsibility, travel, and subsistence allowances are treated as taxable emoluments and will be subject to deduction of Class 1 National Insurance Contributions (NIC) to the extent that they fall within the statutory range of earnings levels. Dependant Care Allowance is paid as a contribution to costs, rather than a full reimbursement. Allowances paid towards childcare or dependant care costs incurred by an elected member are subject to Income Tax and NIC, even if the costs are unavoidably incurred as a result of carrying out Council duties. Members must certify that the costs have been actually and necessarily incurred and the allowance shall be paid as a reimbursement of incurred expenditure against receipts.

National Insurance Contributions will be assessed on the basis of a monthly earning period and at the current Non-contracted-out Class 1 rate. However, if Councillors join the Pension Scheme then contributions will be assessed at the Contracted out rate.

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Each month's allowance will be dealt with separately. i.e. contributions are not calculated on a cumulative basis as in the case of PAYE Income Tax. Thus, if a member's allowances exceed the threshold in one month, but fall below it in the next month, she/he will pay contributions on the whole amount for the first month and none for the second and vice versa.

In order that Members' contributions may be properly allocated to their credit by the Department of Works and Pensions (DWP) it may be necessary for the appropriate officer to request details of their National Insurance numbers.

Certain married women and widows who have made the appropriate arrangements with the DWP may be liable only to reduced rate National Insurance contributions. In both the above cases the Member concerned should lodge with the appropriate officer an exemption certificate obtained from their local DWP office (form CA72) when the first claim is submitted or when status changes.

Other employment undertaken by a Member will not be relevant in terms of National Insurance, because each employment is dealt with separately for National Insurance Contributions. The amounts contributed through one employment does not effect those payable through another.

If contributions from all employments exceed the current annual maximum contributions, a refund of the excess will be made by the DWP. Anyone aware that their contributions from other employments already reach the statutory annual maximum may make arrangements for Members allowances to be exempted from NI by contacting their local DWP office.

If the Council supplies the telephone/ broadband, the line is used exclusively for Council business, and all invoices are submitted in the name of the Council, (not Councillor) there is no liability for NIC.

Income Tax

The Council is required to deduct Income Tax when making payments of basic, telephone, special responsibility or subsistence allowances. Such expenses may have to be declared on form P11D or P9D by the Council to the Inland Revenue. Dependent Care Allowance is not subject to tax provided it is wholly, exclusively and necessary to the performance of the duties of being a councillor.

Subsistence and Dependent Care Allowances are normally treated for tax purposes as earnings and are subject to Tax and National Insurance.

Travel Expenses are not taxable as they are treated as out of pocket expenses provided the member is necessarily obliged to incur them in performing the duties of his/her office and are not for home to work travel costs.

Financial Loss Allowance is not taxable at source but must be declared on Schedule D returns by self-employed people.

A member may be entitled to relief from Income Tax on such part of his/her allowances as may be recognised by the Inspector of Taxes as necessary expenses of office e.g. postage, stationery, use of a room at home as an office etc. Anyone wishing to claim such relief should write to the Inspector of Taxes at the address given below.

Members who have no other employment may already be in possession of a P45 form, which they can pass to the appropriate officer. If not they should apply for allocation of a tax code which will enable their personal tax free allowance to be offset before deduction of tax. The Council holds stocks of the application form P46.

Form P46 is returnable to the Council and is of particular value to members without other employment, as it enables, in appropriate cases, a basic allowance to be operated immediately.

If the Council supplies the telephone/ broadband, the line is used exclusively for Council business, and all invoices are submitted in the name of the Council (not Councillor), there is no tax liability. There will be tax implications if telephone/broadband is not held in the name of the Council and is used for private purposes. The advice therefore is that Council business telephone/broadband should be installed in the name of Lambeth Council.

State Benefits

Receipt of basic, telephone, special responsibility, travel and subsistence allowances can reduce entitlement to Unemployment and some other State Benefits. Dependent care allowance may attract child care disregard, provided the rules set out above are complied with, as well as additional conditions such as the number of hours actually worked which determine whether a disregard can be applied, for example:

- a lone parent would need to be working 16 hours per week
- a couple both working over 16 hours

The number of hours must be evidenced in the form of contract of employment or payslips. The maximum weekly child care disregard is set at £175 for one child, or £300 for more than one. These costs must also be evidenced and can only be disregarded up to the amount actually paid.

Councillors are entitled to allowances, subject to satisfying the appropriate conditions, whether they are claimed or not. If a claimant has not been paid an allowance when payment could be expected, for example, when this has been renounced, Housing Benefit assessment should consider taking an amount into account as notional income. This may reduce a

member's entitlement to benefit as this is treated as part of their overall income whether the amount is actually received.

The impact of the receipt of benefits is very much dependent upon an individual's total income and capital, number of members within the household, receipt of other benefits, rent and council tax liability. Those adversely affected should discuss their optimum strategy with the Benefits Office.

Statutory Sick Pay and leave

Those allowances that are subject to National Insurance contributions give entitlement to Statutory Sick Pay (SSP).

Generally, a Member whose Allowances for the preceding eight weeks exceed the threshold level for National Insurance contributions for that period will become entitled to receive SSP in respect of any sickness which prevents him/her from carrying out Member's duties for four or more days.

Members with other employment may find themselves entitled to SSP both from the Council and their main employer. However, dual entitlement might lead to delay of transfer to State Sickness Benefits available to Members apart from these provisions.

There are no sick fund benefits available to members apart from these provisions.

Maternity and paternity leave

There is no provision for maternity and paternity leave.

Insurance

The insurance policies arranged by the council extend to include the work carried out by members in connection with the council. This includes indemnity to members for claims made against them (liability) in connection with their work for the council. For the purposes of employers liability insurance, members are classed as employee's of the council whilst working for or in connection with the council.

Any equipment that is owned by the council and provided to members for their use will be insured by the council under its insurance policies. Personal items owned by members will remain the responsibility of members to insure.

Members working from home on behalf of the council should ensure that their home insurers are notified of that fact. Members using their own private vehicle for council business should also ensure that they have the appropriate business use cover if required by their insurer.

The Tax Office:

H.M. Inspector of Taxes
Lothian Area
Saughton House
Broomhouse Drive
Edinburgh, EX11 3XG.

General Enquiries: - 0131 519 7400
Personal Enquiries:- 0845 302 1409

Lambeth PAYE Ref: 846/LLB9A

Council Contacts:

Claim Forms and general enquiries to:

Helen Lee
Legal & Democratic Services
Finance & Resources
Lambeth Town Hall (Room 200)
Brixton Hill
London SW2 1RW
Tel: 020 7926 2170
Fax: 020 7926 2361
Email: hlee@lambeth.gov.uk

Tax implications & HM Revenue & Customs matters:

Tony Otokito
Group Manager (Taxes & Capital Finance)
Finance & Resources
1st floor, Olive Morris House
London SW2 1RL
Tel: 020 7926 9462
Email: totokito@lambeth.gov.uk

All other enquiries:

Tim Stephens, Democratic Services Manager
Legal & Democratic Services,
Finance & Resources
Lambeth Town Hall (Room 200)
Brixton Hill
London SW2 1RW
Tel: 020 7926 2754
Fax: 020 7926 2361
Email: tstephens@lambeth.gov.uk

Payroll, National Insurance and Pensions enquiries:

Paul Liddard
Human Resources: Payroll
Office of the Chief Executive
Phoenix House, 8th floor
10 Wandsworth Road
London, SW8 2LL
Tel: 020 7926 9525
Email: pliddard@lambeth.gov.uk

State benefit matters:

Tim Hillman-Brown
Benefits Team
Finance & Resources
Olive Morris House
London SW2 1RL
Tel: 020 7926 0901
Email: thillman-Brown@lambeth.gov.uk

APPENDICES – CLAIM FORMS

- A. Member: Travel & Subsistence Expenses
 - B. Member: Dependant Care Allowance
 - C. Co-opted Member: Travel & Subsistence and Financial Loss Allowance
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