

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Maxine O'Mahony, Executive Director Strategy & Governance

To: South Holland District Council, 17 January 2018

Author: Neil Fordham, Payroll & HR Systems Manager (Breckland Council)

Subject: Shared Officer Travel Scheme

Purpose: To seek approval to introduce a new Shared Officer Travel Scheme to address an unanticipated tax and National Insurance liability

Recommendation(s):

- 1) That Council agrees to implement a new Shared Officer Travel scheme for qualifying Officers to take effect from 01 February 2018
- 2) That delegated authority is given to the Chief Executive to designate new and existing posts as qualifying for the Shared Officer Travel Scheme (based on qualifying criteria), to include the discretionary placement of such posts within the scheme's management level tiers

1.0 BACKGROUND

- 1.1 For the purpose of this paper and the proposed 'Shared Officer Travel Scheme', the definition of a Shared Officer is one where an Officer's written statement of particulars (employment contract) states that they are "...required to travel between the sites of Breckland District Council and South Holland District Council", and also a current Essential Car User.
- 1.2 Following a review of practices regarding travel expense/mileage claims for Shared Officers, and subsequent specialist advice from KPMG (specialist tax advisors), it became clear that the Council(s) would need to change the way certain mileage claim payments were subjected to Tax and National Insurance contributions (NICs) to ensure HMRC compliance. Such changes would have a significant impact on Shared Officers' take-home pay when applied.
- 1.3 Whilst mileage payments paid in respect of business related trips to and from 'Temporary workplaces' can benefit from the 45p/mile 'Approved Mileage Allowance Payment' (AMAP) element of a mileage rate on a 'free from Tax and NICs' basis, travel to and from what is deemed to be a 'Permanent workplace' should be fully subject to both Tax and NICs.
- 1.4 KPMG's specialist advice confirmed that where Shared Officers undertake such common journeys to and from the Dereham and Spalding offices (where the Officer naturally drives directly from their home) these offices would be seen to be 'Permanent workplaces' under HMRC rules, essentially seen as a commute rather than a business related journey. Normal business related journeys could continue to benefit from the tax/NIC free AMAP element.
- 1.5 Given the distance and the frequency of journeys that Shared Officers routinely undertake to fulfil their role at the secondary office, subjecting such mileage claims fully to tax and NICs would create a significant additional financial detriment to those individuals. HR were tasked with providing some workable solutions to deal with staff retention and recruitment issues which could occur as a result; the principle of such solutions should be that as far as possible they should be delivered as 'benefit/cost neutral' to individuals i.e. the effect on an Officers

net pay should not be significantly different than before the forced change in tax/NIC treatment of the mileage payments.

- 1.6 Options have been presented to EMT and are now brought to Council for determination. The main solutions consisted of either increasing/grossing-up the mileage rate for these specific 'in-scope' journeys (those to the Permanent workplace and the subsequent return journey) to compensate for the additional Tax/NIC, or payment of a new Travel related allowance for Shared Officers. Either option should be seen as compensation (for the additional personal tax/NIC liability) rather than simply enhancing remuneration packages.

1.6.1 Shared Officer Mileage Rate

Given the complications with differing marginal tax rates (some officers paying tax at Basic Rate, some at Higher Rate), calculating one single 'Shared Officer Mileage rate' would not adequately deal with the issue and deliver equality. One option to partially counter this issue would be the introduction of two different Shared Officer mileage rates, each calculated to try and address the tax implications at the different rates of tax. For the purpose of this option the assumption was used that the EMT Management Level (Grades 1 to 3b) are higher rate tax payers, and other Shared Officers being Basic Rate tax payers. Using the most common mileage rate of 50.5p/mile this would mean new rates of 82p/mile for the EMT group and 71p/mile for other Shared Officers to attempt to avoid financial detriment. This 'assumed tax band' approach however is itself imperfect, potentially under-compensating some Non-EMT individuals categorised as Basic Rate tax payers when paying the lower mileage rate; it would however be administratively impractical to continually monitor and adjust individual mileage rates for those who may be borderline Basic/Higher rate tax payers.

1.6.2 Shared Officer Travel Allowance

The approach taken for a potential Shared Officer Travel Allowance was more in line with how the (now closed) lease car scheme apportioned allowances based on Grades, or in this context management tier. The suggested option is to introduce a 3-tiered monthly lump-sum allowance structure for Shared Officers (required to travel to secondary office), which would replace the existing Essential Car User Allowance for those qualifying Officers. Under this proposal the mileage rate payable would remain unchanged, although fully subjected to Tax/NICs for in-scope journeys. The allowance-amounts proposed at each tier were calculated following a modelling exercise using a 12 month sample of mileage data (to get an average monthly mileage claim), with the Travel Allowance element adjusted to, as far as mathematically possible, return a similar monthly net pay result to prior to the change in Tax/NIC treatment. Similar to the option involving increasing the mileage rates, the 3-tiered approach does also attempt to take into account differing tax rates but also the increased expectation of Senior Officers when it comes to actual in-scope mileage and visibility at the secondary office.

1.6.2.1 The proposed allowances are as follows:

	No. of Officers	Annual Allowance	Annual increase	Approximate Additional Annual Cost (exc NICs)
Tier 1	8	£3,300	£2,061	£16.5k
Tier 2	12	£3,000	£1,761	£21.1k
Tier 3	7	£2,160	£921	£6.4k
			TOTAL (60/40 cost share)	BDC: £26.4k SHDC: £17.6k

- 1.7 The introduction of a 'Shared Officer Travel Allowance' scheme is the recommended option.
- 1.8 Delegated authority to award entitlement of the Shared Officer Travel allowance, to new or existing positions, and the placement of such posts into one of the three 'Tiers', is recommended to be given to the Chief Executive.

2.0 **OPTIONS**

- 2.1 Introduce a 'Shared Officer Travel Allowance' scheme as outlined at 1.6.2
- 2.2 Increase mileage rates for Shared Officer 'in-scope' journeys as outlined at 1.6.1
- 2.3 Do nothing i.e. do not introduce any compensatory scheme to account for the additional tax/NIC liability to Shared Officers when undertaking in-scope journeys to the secondary office.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 Following the specialist tax advice the Council(s) need to change the way it treats mileage claims, for Tax/NICs purposes, for journeys to and from Permanent workplaces. This change is an enforced change which would, if no compensatory scheme was introduced, have substantial detrimental financial effects to individuals concerned, to allow them to continue to fulfil their shared roles.
- 3.2 If no compensatory scheme is introduced the Council(s) risk immediate retention and recruitment challenges along with damaging goodwill of its shared officers.

4.0 **EXPECTED BENEFITS**

- 4.1 Ensuring on-going HMRC compliance.
- 4.2 Demonstration of the Council(s) commitment to deliver a shared management model whilst investing in those carrying out those roles.

5.0 **IMPLICATIONS**

5.1 **Constitution & Legal**

- 5.1.1 Introduction of new terms and conditions / allowance schemes are required to be approved by Full Council.
- 5.1.2 Delegated authority is given to the Chief Executive to apply.
- 5.1.3 The report recommends giving delegated authority to the Chief Executive to designate posts as qualifying for the proposed Shared Officer Travel Allowance, and, where appropriate, apply discretion over which Tier of allowance such posts should receive.

5.2 **Financial**

- 5.2.1 Including on-costs, the additional annual cost for SHDC is circa £20,000.

5.3 Staffing

5.3.1 None

5.4 Stakeholders / Consultation / Timescales

5.4.1 Unison and affected staff have been consulted on the proposed new Travel Scheme.

5.4.2 All parties were supportive of the proposed new scheme, and its intention of compensating the Council's shared staff for the additional tax/NICs liability.

5.4.3 Unison questioned why the scheme was only being proposed for Essential Car Users and not Casual car users, who could be being penalised as a result. At the time of publication there were no officially Shared Officers who were Casual Car Users, and who would be in-scope of non-compliance under HMRCs definition of a Permanent workplace. Unison were reminded that the proposed scheme was a compensatory scheme not one to introduce an enhanced benefit i.e. the proposed scheme would be introduced to attempt to avoid financial detriment to shared officers. In the event of the need to travel to the secondary office location, Officers not in-scope of this scheme would continue to claim any mileage under their existing mileage scheme for such temporary purpose visits. If arrangements were to develop into a more regular pattern then individual cases can be reviewed accordingly.

5.4.4 Clarification was provided to both Unison and individual staff as to how the tiers were calculated and how individuals were allocated into tiers. Unions have requested going forward that costs are reviewed and monitored.

5.4.5 Clarification was also sought regarding specific arrangements for the claiming of mileage for these in-scope journeys going forward. Parties were informed that KPMG will be providing the Council with further advice to maximise tax-efficiency when undertaking such claimable journeys whilst ensuring on-going HMRC compliance.

5.5 Other

5.5.1 None

6.0 WARDS/COMMUNITIES AFFECTED

6.1 None

7.0 ACRONYMS

7.1 NIC: National Insurance Contribution

7.2 HMRC: Her Majesty's Revenue & Customs

7.3 AMAP: Approved Mileage Allowance Payment

7.4 HR: Human Resources

7.5 EMT: Executive Management Team

Background papers:- None

Lead Contact Officer

Name and Post: Neil Fordham, Payroll & Reward Manager

Telephone Number: 01362 656828

Email: neil.fordham@breckland.gov.uk

Key Decision: No

Exempt Decision: No

This report refers to a Non-Mandatory Service

Appendices attached to this report:

None