

09 December 2022

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## **WLGA MILEAGE POLICY**

### **PURPOSE**

1. The purpose of this report is to propose changes to the WLGA travel and subsistence provisions within the WLGA Agile Working Policy in respect of mileage claims for business journeys and seek approval from members. There are two distinct propositions:
  - a. To make a permanent change to the mileage policy in respect of how commuting mileage is managed.
  - b. To make a temporary amendment to the mileage policy to apply the interim mileage rate protocol agreed through the WLGA Executive Board.

### **INTRODUCTION**

2. A new WLGA Agile Working Policy was agreed by members at the WLGA Management Sub-Committee on 20 August 2021. It was recognised that the new policy would result in permanent major changes to the way in which WLGA staff work and this included some significant changes to some conditions of service.
3. The new policy was introduced by the WLGA in September 2021 and amongst its provisions included revised arrangements for travel and subsistence (car mileage, meals and overnight accommodation).
4. The new policy was reviewed in February 2022 and the outcomes submitted in a report to the WLGA Management Sub-Committee on 29 March 2022. The assessment by staff at that point was positive, with staff welcoming the flexibilities afforded by the new agile working arrangements, however the paper did acknowledge that it was too early to assess the impact of the travel and other expense claims, as staff were working predominantly from home. It was suggested that this be kept under review for a further 12 months.
5. Since the introduction of the new policy and the subsequent review, the WLGA has witnessed significant change as Covid restrictions were removed and business as usual returned, albeit characterised by a new normal in which many staff continue to work from home or remotely by choice and online meetings remain popular. The WLGA office at One Canal Parade has re-opened fully, some meetings have taken place face to face and there is renewed interest in undertaking some in person meetings.
6. Aspects of the new policy and in particular the travel and subsistence element are now being tested as staff look to undertake business journeys to attend in person meetings. This has exposed an issue with the mileage element of the

policy as currently drafted, specifically the requirement to deduct commute mileage from business journeys and a permanent change is proposed to address this aspect of the mileage policy.

7. In addition, a temporary mileage protocol was recently supported by the WLGA Executive Board and this has since been considered by individual councils, with only some choosing to adopt its provisions. The protocol provides for a temporary increase of 5p per mile to a maximum of 50p per mile as a measure to address recent increases in fuel as one of a number of cost of living pressures. It is proposed that WLGA adopt the provisions and terms within the protocol as a temporary amendment to the mileage policy to enable staff to claim an additional 5p per mile until 31 March 2023.

## PROPOSALS

**(a.) To make a permanent change to the mileage policy in respect of how commuting mileage is managed.**

### **The deduction of ordinary commuting mileage from business journeys**

8. The WLGA Management Sub-Committee agreed when the WLGA Agile Working Policy was introduced that all staff would have the new offices at One Canal Parade (OCP) designated as their fixed place of work (please see below), but with the choice, through the new agile working arrangements to work remotely or from home when business demands allowed. The reality is that with the prevalence of online meetings, many employees regularly work remotely and rarely attend the office. This flexibility to choose their work location has proved popular with staff and this was acknowledged in the review.

*OCP will be the new designated fixed place of work for all WLGA staff (other than existing contracted home workers) for the purpose of conditions of service. All staff with OCP as their designated base will be expected to attend at OCP to carry out work which it has been agreed should best be undertaken at the new office. Contracted home workers will also be expected to attend at OCP, or elsewhere, from time to time, as has previously been the case. Staff may, of course, attend at OCP on a more frequent basis, or on a full-time basis, if they so wish.*

*All such employees will continue to be responsible for travelling from their home to their fixed place of work, and return, at their own expense, when required to do so.*

*As a key principle, please always carefully consider whether each planned business journey is necessary.*

*The total **authorised** business journey mileage travelled by an employee in his/her private motor vehicle which starts and finishes at the employee's fixed place of work may be claimed by the employee.*

*Within an agile work setting, there will be occasions when an employee travels during the working day from home to one or more other locations on WLGA*

*business, which may or may not include a visit to One Canal Parade. Where this occurs, a mileage claim may be submitted only in relation to any additional mileage travelled by the employee. The additional mileage will be calculated by deducting the employee's normal home to fixed place of work mileage (return) from the total miles travelled on that day. **Only the excess mileage may be claimed by the employee.***

*Source: Report to WLGA Management Sub-Committee 20 August 2021*

9. The travel and subsistence aspect of the policy provides that mileage cannot be claimed for commuting journeys to and from OCP (please see below), which is consistent with the HMRC guidance, however, it also requires staff to deduct their ordinary commute mileage from any business journeys undertaken and to only claim any excess mileage.

**22. Car Mileage, Meals & Overnight Accommodation** - the new policy primarily updates and modernises longstanding travel and subsistence etc. arrangements.

23. One specific significant change, though, relates to the following provision - Paragraph 18.8 - "a mileage claim may be submitted only in relation to any additional mileage travelled by the employee. The additional mileage will be calculated by deducting the employee's normal home to fixed place of work mileage (return) from the total miles travelled on that day"

24. This new arrangement takes into account the pre-covid WLGA situation where a significant number of employees regularly travelled on WLGA business direct to remote locations from their home rather than from Local Government House. WLGA business travel is currently minimal, but - as the covid situation improves - it is anticipated that an even smaller proportion of journeys to remote locations will be from the WLGA's office.

25. The trade unions have been reassured that this proposed arrangement will be kept under review in the light of operational experience

*Source: Report to WLGA Management Sub-Committee 20 March 2022*

10. The mileage provisions within the policy as drafted are being highlighted as placing those who reside outside of Cardiff at a detriment, when compared to those who live in Cardiff, by requiring staff to deduct their commute from any business journeys and only allowing a claim for excess mileage. For example, staff living in Cardiff can claim the majority if not all of their business mileage as the commute mileage is minimal, whilst staff living outside of Cardiff and further afield, after deducting their commute mileage, can claim significantly less or maybe no business mileage at all. To illustrate the point:

4 employees, from Cardiff, Ynys Mon, Powys and Pembrokeshire, each travel to the same 10 councils to conduct WLGA business.

- Blaenau Gwent (NP23 6DN)
- Cardiff (CF10 4UW)
- Conwy (LL32 8DU)
- Carmarthenshire (SA31 1JP)
- Newport (NP20 4UR)
- Powys (LD1 5LG)
- Pembrokeshire (SA61 1TP)
- Swansea (SA1 3SN)
- Isle of Anglesey (LL77 7TW)
- Wrexham (Clwyd)

The table below illustrates how much they can claim in business mileage and the financial impact.

Employee Lives	Commute to One Canal Parade	Total number of miles for all 10 journeys	Of the 10 journeys, how many are claimable	Across all journeys how many miles are claimed	Across all journeys how much @ 45p per mile	Financial Impact on employee
CF11 Cardiff	1.2 miles	894	9	881.8	£394.81	-£5.49
LL61 Ynys Mon	188.2 miles	1158.8	1	8.3	£3.74	-£517.73
SY21 Powys	117 miles	897.3	1	4.6	£2.07	-£401.72
SA61 Pembrokeshire	88.6 miles	876.8	4	186.5	£83.94	-£270.77

**NB** Cardiff (CF10 4UW) is considered not claimable for any employee due to its close proximity to One Canal Parade.

11. It has been suggested that only being able to claim excess mileage rather than the full business mileage for legitimate business journeys that originate from home, results in members of staff subsidising the work of the Association by default and can leave them out of pocket.

## HMRC Guidance

12. The deduction of commute mileage from business mileage is one of a number of mechanisms by which a mileage policy can differentiate between ordinary commuting journeys and business journeys.
13. Business mileage is eligible for Approved Mileage allowance Payments (AMAPs) which are tax free whilst ordinary commuting, that is travel between someone's home and their permanent place of work, in the case of WLGA this would be OCP, is not eligible.
14. If it is accepted, as per the report to WLGA Management Sub-Committee on 20 August 2021, that OCP will be the new designated fixed place of work for all staff, the main principles of the HMRC guidance suggest that whilst the

commute to and from the office is not eligible and thus cannot be claimed as business mileage, other journeys that are for 'a temporary purpose' or required in the performance of one's duties, such as a meeting or event, should ordinarily be able to be claimed as business mileage whether the journey originates from the office or from one's home.

15. The only exception to this is that the HMRC guidance makes explicit that it is not possible to turn an ordinary commuting journey into a business journey simply by arranging a business appointment somewhere on the way and similarly, an employer cannot turn an ordinary commuting journey into a business journey by asking an employee to stop off on the way to carry out business tasks.
16. The HMRC does not suggest that ordinary commuting mileage should be deducted from the total mileage of a legitimate business journey, only that ordinary commuting is in itself not eligible to be claimed as business mileage and as above, it is not possible to turn an ordinary commuting journey into a business journey by arranging an appointment nearby or on the way.

### **Local Authority practice**

17. Policies differ between local authorities, some include a requirement to deduct commute mileage, whilst others have updated policies and introduced changes since the increase in agile working and working from home.
18. Recent examples provided to the Association of updated policies include making staff home workers as their permanent workplace or alternatively making business journeys eligible without the need to deduct ordinary commuting mileage but expressly excluding journeys to or near to their permanent place of work.
19. A significant factor when comparing the WLGA policy with local authority policies, is the requirement for WLGA staff to travel across Wales in the performance of one's duties.

### **Recruitment and retention**

20. The WLGA with an All-Wales remit seeks to recruit its employees from across Wales. Pre-pandemic the majority of staff lived within a commutable distance of Cardiff and regularly attended the office, there were few who lived further afield. Since the pandemic and the availability of agile working, interest has grown from candidates across the length and breadth of Wales and the WLGA is recruiting increasing numbers of staff who live further afield.
21. The increase in the numbers of staff being recruited from across Wales is to be welcomed as this enables the Association to recruit quality candidates from a more diverse pool, that better reflects those we serve. Agile working is proving an attractive proposition to candidates no longer constrained by the commute and at a time when recruitment and retention are proving to be major challenges for local government, it enables the Association to increase

its appeal to candidates from across Wales, have staff located across Wales within the local authorities that we serve and address key skills gaps, such as increasing the number of staff able to communicate through the medium of Welsh.

22. There are two recent examples whereby the WLGA has successfully recruited and made an employment offer to successful candidates who live a significant distance from Cardiff. However, in both cases the candidates are not content to conclude their contract negotiations, challenging the mileage policy as placing them at a disadvantage as their role, like others at the WLGA, requires travel across Wales in the performance of their duties.
23. Failing to address the issue raised in respect of the mileage policy could impact both the current contract negotiations and future recruitment exercises, constrain the pool from which the WLGA is able to recruit, increase skills gaps or otherwise make vacancies hard to fill.

### **Proposed policy changes**

24. It is suggested that whilst the Association could look to identify some staff as homeworkers as one mechanism to address the issues raised with the mileage policy, this would need criteria established from which to objectively determine who is eligible as a homeworker. In exploring this option it became clear that in doing so there would be some staff who could then claim all of their travel and still others subject to the existing policy who could not, and depending on where the geographical line were drawn, those eligible and not eligible could in fact still live in close proximity to each other, thus creating a post code lottery and further exacerbating the inequity that gave rise to the issue being raised in the first instance.
25. It is therefore considered preferable to provide a universal solution for all staff as a fairer and more equitable solution by changing the mileage policy. The proposal is that the policy be changed so that:
  - a. OCP remain as the designated fixed or permanent place of work for all staff.
  - b. That ordinary commuting journeys to OCP and its locality, deemed to be Cardiff City Centre, to be ineligible for business mileage.
  - c. All business journeys to other locations whether from home or from the office, that are for a 'temporary purpose' or otherwise required in the performance of one's duties but not ordinary commuting, to be eligible for business mileage, without the need to deduct ordinary commuting mileage, so not restricted to excess mileage only.
  - d. That a clear and compelling business reason is needed to warrant undertaking a business journey in the first instance, now that effective alternatives such as virtual meeting arrangements are well established and routine.
26. The detail of any change to the policy will need to be consulted upon with staff and trade unions and it is proposed that this is delegated to the WLGA Workforce SMT to take forward.

## **Financial considerations**

27. There is likely to be an increase in the number of journeys undertaken in future to attend in person meetings, but this is unlikely to reach pre-pandemic levels given the prevalence of agile working and online or virtual meetings as an effective alternative. Costs are therefore not anticipated to reach those pre pandemic.
28. The change in policy will enable more staff to claim business mileage and this will come at a cost, using the example at point 10 of ten journeys each undertaken by four members of staff, the cost would increase from £484.56 by £1195.71 to £1680.27. However, the overall number of business journeys undertaken by staff is anticipated to remain low.

### **(b.) To make a temporary amendment to the mileage policy to apply the interim mileage rate protocol agreed through the WLGA Executive Board.**

29. The interim mileage rate protocol (Appendix 1) was agreed by group leaders, this followed initial discussion and agreement at the WLGA Executive Board on 29 July 2022.
30. The protocol provides for an additional 5p per mile to be claimed by staff as a temporary provision until 31 March 2023, in recognition of the increased cost of fuel and cost of living pressures.
31. Tax and national insurance will need to be paid on the additional 5p per mile and arrangements will be needed with Cardiff payroll to administer this including the issue of the relevant P11D documents.
32. The administration will place an additional burden on Cardiff as our payroll provider but the number of journeys and the number of staff undertaking those journeys is anticipated to be low in the period 01 January 2023 to 31 March 2023.

## **Proposed policy changes**

33. For the WLGA to formally adopt and implement the protocol, a temporary amendment will be needed to the mileage policy. The approval of members of the WLGA Management Sub-Committee is needed to enable the WLGA to both adopt the terms of the protocol and also progress the amendment to the mileage policy.
34. The amendment will enable staff to claim an additional 5p per mile between 01 January 2023 and 31 March 2023 as a temporary provision, the protocol and amendment will expire on 31 March 2023.
35. The detail of any change to the policy will need to be consulted upon with staff and trade unions and it is proposed that this is delegated to the WLGA Workforce SMT to take forward.

## **Financial considerations**

36. The number of business journeys being undertaken is minimal at present at and so a limited impact is anticipated in terms of costs between 01 January 2023 and the 31 March 2023.

## **STAFF AND TRADE UNION CONSULTATION**

37. If the proposed policy changes are accepted by members, the next phase will involve staff and trade union consultation on both proposals including the detail of any revisions to the mileage policy.
38. It is suggested that members delegate the consultation and the detail required within the policy revisions to the WLGA Workforce SMT to progress in consultation with staff and through recognised trade unions.

## **RECOMMENDATIONS**

It is **RECOMMENDED** that –

- (a) The WLGA mileage policy to be permanently amended as proposed, with the requirement to deduct ordinary commuting mileage from business mileage removed and journeys to OCP or its locality, to be specified as Cardiff City Centre, regarded as ordinary commuting and ineligible for business mileage.
- (b) The WLGA mileage policy to be temporarily amended as proposed and the interim mileage rate protocol adopted to enable staff to claim an additional 5p per mile until 31 March 2023.
- (c) That if the proposals are accepted in principle, that the revised detail in the mileage policy for both amendments be delegated to the WLGA Workforce SMT to determine in consultation with our recognised trade unions.

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**06 December 2022**

### **Joint Protocol**

#### **Mileage Rates in Local Authorities in Wales**

This is a joint protocol between Leaders of local authorities in Wales, facilitated through the WLGA Executive Board and the trades unions of the Joint Council for Wales, to introduce a measure that provides for a temporary increase in mileage reimbursements costs in the short term to address current market volatility in fuel rates.

The protocol is intended to cover staff directly employed by local authorities in accordance with local policies and is a temporary arrangement through to 31 March 2023 or until there is an increase in the HMRC determined AMAP rate, whichever is the sooner. This protocol will be automatically superseded by any increase in the HMRC AMAP rate.

#### **Introduction**

Both employers and trades unions recognise the impact of the current cost of living crisis on the workforce and the immediate pressures presented as a consequence of unprecedented increases in fuel costs.

The agreed rate of reimbursement for mileage rates for local government employees is determined locally by each local authority and the majority of local authorities in Wales adopt the HMRC AMAP rates.

The HMRC AMAP rate provides approved rates for the reimbursement of mileage without incurring tax or national insurance. However, the rate has remained static since 2011/12 and an argument has been presented to the Joint Council for Wales that this has not kept pace with current fuel costs.

This protocol does not replace current local arrangements but offers, through mutual agreement between local government employers and trades unions in Wales, a temporary arrangement that is triggered by an increase in fuel rates that exceed an agreed threshold, the arrangement is similarly removed when fuel rates reduce below that same threshold.

The arrangement, once triggered and until removed, will enable those eligible through existing local authority policies to claim an additional agreed sum per mile up to an agreed maximum, to mitigate against the impact of sustained high fuel costs. The additional payment will be subject to tax and national insurance.

## **The protocol**

The protocol will provide:

1. The agreed sum for reimbursement
2. The threshold at which an increase would come into force
3. An independent reference point to guide decision making
4. The point at which the threshold would need to be breached to trigger an increase or the point at which it would be removed
5. A summary of the threshold, reference point and rate for reimbursement

## **The agreed sum for reimbursement**

The ability to claim an additional payment of 5 pence per mile where tax and NI are paid and 3 pence per mile where tax and NI are not paid, with reimbursement up to a maximum of 50 pence per mile, when an agreed threshold is breached. The ability to claim the additional payment will be withdrawn when the HMRC advisory fuel rate assessment returns below this threshold.

## **Threshold**

The agreed threshold is £1.50 per litre or 15.2 pence per mile.

£1.50 per litre or 15.2 pence per mile as determined by the HMRC Advisory Fuel Rate Assessment, is the point at which the ability to claim the additional payment would be triggered and the point below which it would be removed.

## **Reference point**

The HMRC Advisory Fuel Rates assessment [Advisory fuel rates - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/hmrc-advisory-fuel-rates) will be used as the reference point.

The HMRC Advisory Fuel rates are different from the AMAP published rates, they are the advisory fuel rates for company car users and are calculated using the prevailing price of fuel on a quarterly basis.

The HMRC Advisory fuel rates are being used in this context as an objective measure to inform the agreed sum for reimbursement, the threshold and trigger points.

## Trigger points

The baseline has been set using the rate of reimbursement applied between 1 June 2021 and 31 August 2021 which was 13 pence per mile for a 1401 – 2000 cc vehicle running at 44.9 mpg. This equates to £5.84 per gallon or £1.28 per litre.

A tolerance level above the baseline of circa 15% provides for an upper level of £6.80 per gallon or £1.50 per litre and this is the point at which the trigger would come in and the point at which it would be removed.

That broadly equates to a 2 pence per mile increase above the AMAP rate. The ability to claim an additional 5 pence per mile at this point would, after 20% tax and NI, provide circa 3.5 pence and this would cover any further increases in the price of fuel as published under the HMRC Advisory Fuel Rates assessment of up to 17.9 pence per mile.

Should HMRC Advisory Fuel Rates Assessment reach or exceed a reimbursement of 18 pence per mile then a further review will be undertaken.

## Summary

Price of fuel pence per litre	pence per mile (ppm)	Reference point – HMRC Advisory Fuel Rate (ppm) – including date of publication	Agreed sum for reimbursement	Net increase
1.30 (baseline)	13.1	13 (06/21)	Up to 45 ppm	AMAP rate no tax or NI
At or above 1.50 (threshold)	15.2	15 (03/22) 17 (06/22)	Up to 50 ppm	Circa 3.5 ppm after tax and NI
		18	Trigger for a review	To be determined

## Application

The increase will apply for all fuel types including electric, hybrid and diesel cars.

## **Implementation**

Implementation will require local authorities to adopt the protocol and apply its provisions as a temporary arrangement within local policies on mileage rates.

## **Term**

This interim protocol will take effect from 26 September 2022 and will expire on 31 March 2023.

It is subject to review and can be amended by joint agreement. This includes the opportunity to reconsider the threshold as a part of any review.

## **Signed:**



**On behalf of the WLGA Executive Board**

Cllr Anthony Hunt

(Workforce Spokesperson and Chair, Joint Council for Wales)



**On behalf of the NJC Trades Unions**

Darron Dupre

(Trade Union Side Joint Secretary, Joint Council for Wales)

**Date: 23 September 2022**