



Subject Daily Attendance Allowance of Professional Conduct Committee Legally Qualified Chairs

Purpose For Decision

From Remuneration and Appointments Committee

If you have any enquiries on this paper, please contact Simon Howard at Simonh@arb.org.uk or on 020 7580 5861

1. Summary

Following a review of the remuneration of the Professional Conduct Committee (PCC) legally qualified Chairs, a recommendation was presented to the Remuneration and Appointments Committee on 14 February 2020 seeking agreement to make a recommendation to the Board at its March meeting to agree to an increase in the daily attendance allowance for current and future PCC legal chairs, backdated to the first date on which the legal clerk was removed from hearings, to £595.

On 19 February 2020 the Committee unanimously agreed that the Recommendation be presented to the Board for proposal.

2. Recommendations

It is recommended that the Board:

- i) Agree to increase the daily attendance allowance for Professional Conduct Committee legal chairs from £495 per day to £595 per day with immediate effect.
- ii) Agree to backdate the increase to May 2019, being the first date on which the legal clerk was removed from hearings.

3. Open Session

4. Contribution to the Board's Purpose and Objectives

In delivering the Act, ARB's objectives are:

- Protect the users and potential users of architects' services
- Support architects through regulation

5. Background

- i. Towards the end of last year, an area of risk arose in regard to the continuity of tenure of the legally qualified panel chairs of the Professional Conduct Committee (PCC). Following a review of the PCC Rules, the previous Board had agreed that the role of the legal clerk would be dispensed with, and that the panel chairs (in addition to their existing roles of chairing the hearing and drafting the determination) would thenceforth be entirely accountable for the provision of legal advice. This change was implemented in May 2019.

- ii. During the course of the discussions about this change, a difference of opinion arose in respect of additional remuneration that might be paid to compensate the chairs for the additional duties. The chairs were clearly of the view that there would be additional remuneration, whilst the Executive view was that the commitment was only one of review in due course.
- iii. The hiatus in governance and other priorities of the Board meant that this issue only came to a light when the Chair of the PCC made representations on the matter to the Chair of the Board, and a fuller exploration of the matter was then undertaken. A commitment has been made to explore this issue in depth as part of the wider remuneration review that the Committee has commissioned and which will report its findings at the April meeting.
- iv. A further issue has now arisen which indicates that this arrangement may no longer be appropriate. There are forthcoming vacancies on the PCC will need to be filled in anticipation of the departure of two of the current panel chairs who have already had their terms extended beyond the normal length expected (as an expediency caused by the governance hiatus last year) and will complete their extended terms in September 2020. In order to avoid any further hiatus in scheduling PCC hearings, the Executive wish to commence the process of recruitment at the earliest available opportunity. Leaving matters of remuneration until after the Board has had the opportunity to review any recommendations the Committee might make after it has received the consultants' report is not a viable timescale.
- v. The Chair therefore commissioned a minimal benchmarking exercise to establish the disparity between the ARB approach and those other regulators who have a similar role for their legally qualified chairs-this paper sets out the outcome of that benchmarking and proposes an immediate way forward in response.
- vi. The table referenced in [Annex A](#) shows the results of the benchmarking exercise for legally qualified panel chairs (there are actually very few organisations which adopt this model: most regulators use the services of a legal assessor to provide legal advice)
- vii. It can be seen from the table in [Annex A](#) that the rate for the additional work of drafting the determination appears to be about £100 per day (the evidence is quite clear from the table). Not entirely surprisingly therefore, our legal chairs (who like most who work in this space also provide services elsewhere) make the point that they are likely to deprioritise work for the ARB when they can command a premium by working elsewhere. This is likely not only to put pressure on the scheduling of existing hearings, but also on the quality of candidates who might apply when we advertise for new legal chairs in the forthcoming recruitment exercise (referred to above).
- viii. The conclusion to be drawn is that the day rate should be revised upwards to £595 with immediate effect. Further, given the deterioration in relationships which this situation has caused, It seems appropriate for the increase in day rate to be

backdated to the date on which this new arrangement was first implemented.

- ix. It should also be noted that the remuneration of non-executives more widely will be reviewed as part of the wider remuneration review which has been commissioned.

6. Resource implications

The cost of backdating the pay increase would be £8,000. The estimated ongoing annual cost of this increase is £10,000. That cost can be balanced against the savings that ARB has been making by the removal of the legal clerk from the process. Since the clerks were removed from the process mid-way through 2019, an estimated £25,000 has been saved. This saving in 2020 and beyond has already been factored into budgeting, but the additional costs of this proposal for this year can be funded from the efficiencies brought about by the legal services tender.

7. Risk Implications

It is important that we continue to attract and retain high quality individuals who deliver this key role, in the most efficient and effective manner and that the policy support this without placing any significant financial burden upon the organisation.

8. Communication

The Board needs to ensure that its policies for payment of attendance allowances are set at a level where it attracts the skills and expertise required by the Board.

9. Equality and Diversity Implications

These are considered within the above paper as the attendance allowance must ensure that all appropriately qualified people can participate whatever their income or circumstances. Those with caring responsibilities may, for example, face an additional burden in seeking to contribute to ARB's work; however, ARB continues to pay an attendance allowance to assist those wishing to participate.

10. Further Actions

Once approved, the legally qualified chairs will be advised of the increase so that they can claim the correct amount going forward. Back dated pay will be made to individuals in the April 2020 payroll process run.

The updated rate will be reflected within the Attendance, Travel and Subsistence guidance with immediate effect.

The new rate of £595 will be used for the recruitment campaign for the Professional Conduct Committee which is planned for later in 2020.