

## **COUNCIL**

**25 JULY 2013**

### **MEMBERS' ALLOWANCES - REPORT OF THE INDEPENDENT REMUNERATION PANEL AND AMENDMENT TO MEMBERS' ALLOWANCES SCHEME**

Portfolio Holder: Councillor Rodney Chambers, Leader  
Report from: Neil Davies, Chief Executive  
Author: Jane Ringham, Head of Elections & Member Services

#### **Summary**

The report and recommendations of the Independent Remuneration Panel (the Panel) are submitted for Members' consideration along with some changes to the Members' Allowances Scheme to reflect changes in legislation.

#### **1. Budget and Policy Framework**

- 1.1 The duty to approve or amend the Members' Allowances Scheme is a matter which cannot be determined by Cabinet under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). Therefore, this is a matter for Council.

#### **2. Background**

- 2.1 When Council approved the establishment of the Health and Wellbeing Committee (HWB) as a formal Committee of the Council on 25 April 2013 it also agreed that it would bring forward a further report on the payment of Special Responsibility Allowances (SRAs) to the Chairman and Vice Chairman of the Board. The Independent Remuneration Panel (IRP) has therefore been asked to consider this issue. Similarly, in the light of the increasing significance of the Employment Matters Committee, the IRP has also been asked to consider whether the position of Committee Chairman should attract an SRA and if so, at what level.
- 2.2 Amendments are necessary to the Members' Allowances Scheme to reflect changes to the regime for Councillors' conduct.

- 2.3 As required by law, copies of the Panel's report have been made available for inspection and a notice has been published in a local newspaper stating that the Council has received recommendations from the Panel about their scheme of allowances and describing the main features of the Panel's recommendations including the amounts of allowances the Panel has recommended should be payable to elected Members.

### **3. The Panel's report and recommendations**

- 3.1 There were difficulties in convening the Panel, and therefore with the agreement of the Chairman an experienced consultant from South East Employers (SEE) was engaged to undertake the general analysis of the data available and to draw up proposals for consideration. SEE has extensive experience in supporting Councils across the south east both in the role of Chairing and as a member of a number of IRPs. SEE also undertakes an annual Members' allowances survey for the south east. The approach and findings of the SEE consultant were validated by the Chairman of the Panel and the recommendations set out in this report and presented to the Council have been agreed and endorsed.
- 3.2 The Panel suggest that in the light of these difficulties that the Council review the composition of the IRP and a further report will be submitted for consideration to Members on this issue in due course.
- 3.3 Having analysed comparative data across the South East region, London and other Unitary authorities the Panel are recommending that both positions warrant an SRA; they recommend that the SRA for the Chairman of the HWB is set at 40% of the benchmark, currently £7326.68 and that the SRA for the Chairman of Employment Matters Committee is set at 20% of the benchmark, currently £3663.34.
- 3.4 The Panel recognises that HWBs are still being embedded and anticipate that the approach to allowances will evolve as the role and responsibilities of the HWBs change and new responsibilities are placed on the HWBs. In the light of this, and in particular the potential for the Board to be given financial responsibilities, the Panel recommends that this SRA be reviewed in twelve months to allow time for the Board to establish its role and as potential proposals to increase the responsibilities of the HWB become clearer. At that stage consideration will be given to an SRA for the Vice Chairman.
- 3.5 It is proposed that if approved, the payment of the SRAs be backdated to the date on which the current postholders were appointed to the positions.
- 3.6 Council is recommended to adopt the revisions to the Members' Allowances Scheme with effect from 16 May 2013.

- 3.7 The Panel's report, including the recommendations, is attached as Appendix 1.

#### **4. Implications of Localism Act 2011**

- 4.1 Part III of the Local Government Act 2000 (England) has been revoked and all the old Standards regime on which this provision was based, has been replaced by the Localism Act 2011.
- 4.2 The existing Members' Allowances Scheme, contained in Section 6 of the Constitution, contains a provision whereby payment of any Allowance that is due or has already been made in respect of any period during which the Councillor concerned is suspended or partially suspended from his/her responsibilities or duties as a member of the Authority in accordance with Part III of the Local Government Act 2000, the Authority may withhold the payment of an Allowance for that period.
- 4.3 The most severe penalty the new Councillor Conduct Committee can impose is a censure so it is necessary to amend this provision to remove reference to the suspension or partial suspension. It is therefore recommended that sub-paragraph (a) is removed and the remaining provisions (b) and (c) renumbered accordingly. The proposed revised version is shown in Appendix 2.

#### **5. Financial implications**

- 5.1 Changes to the composition of the Cabinet made in May 2013 will achieve a saving of £10,990 in a full year. In the remainder of 2013-14 the savings are in the order of £9,616. The proposals in this report, if approved, will cost £9,586 over the remainder of the current financial year. These costs, in addition to the expenditure incurred on the SRAs before the changes to Cabinet were made, result in a total cost in 2013-14 of £10,960. Savings of £1,314 have been identified in the Members' Services revenue budget to cover the shortfall, from vacancies that will not be filled at least until 2015.

#### **6. Legal implications**

- 6.1 The Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") make provision for the payment of allowances to Members of the Council.
- 6.2 The Regulations require the Council to prepare schemes for the payment of allowances to Members. The schemes should make provision for the payment of a basic allowance, and may also provide for the payment of special responsibility allowance, dependants' carers' allowance, travelling and subsistence allowance and co-optees' allowance.

- 6.3 The Council must establish and maintain an Independent Remuneration Panel whose function is to make recommendations to the Council concerning allowances. The Council must have regard to the panel's advice/recommendations.
- 6.4 After receiving a report from the Independent Remuneration Panel which sets out the Panel's recommendations, local authorities must ensure that copies of the report are available for inspection at their principal office at all reasonable hours. Local authorities must also, as soon as reasonably practicable after they receive the report, publish a notice in at least one newspaper circulating in their area which:
- a) states that the authority have received recommendations from an Independent Panel about their scheme of allowances;
  - b) describes the main features of the Panel's recommendations including the amounts of allowances the Panel has recommended should be payable to elected Members.
- 6.5 The Council must ensure that such a notice is published every 12 months even if the scheme has not been amended since the last notice.

## **7. Risk management**

- 7.1 There are no risk management implications arising from this report.

## **8. Recommendations**

- 8.1 The Council is asked to approve that the Members' Allowances Scheme is amended as follows:
- 8.1.1 That the role of Chairman of the Health and Wellbeing Board be awarded an SRA and that it should be at 40% of the benchmark, currently £7326.68 eligible from 15 May 2013.
  - 8.1.2 That the SRA to the Chairman of the Health and Wellbeing Board (HWB) be reviewed in twelve months to allow time for the HWB to establish its role and as potential proposals to increase the responsibilities of the HWB become clearer.
  - 8.1.3 That the position of Chairman of Employment Matters is brought in to alignment with other positions that attract an SRA and that the SRA be no more than 20% of the benchmark, currently £3663.34 eligible from 15 May 2013.
  - 8.1.4 That payment of these new SRAs to the current postholders are made with effect from the date of their appointment, and are index-linked to officer pay awards for the same period, as are the other SRAs in the Members' Allowances Scheme.

8.1.5 That the Members' Allowance Scheme be amended as indicated in Appendix 2, to reflect changes to the code of conduct for Councillors and the Standards regime.

8.1.6 That officers bring back a report reviewing the composition of the Independent Remuneration Panel for consideration by Members.

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### **Background papers**

<b>Description of Background Papers</b>	<b>Contact details</b>
None	Jane Ringham, ext 2864, 3 <sup>rd</sup> Floor Gun Wharf



# **MEDWAY COUNCIL**

# **REPORT OF INDEPENDENT REMUNERATION PANEL**

July 2013

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## **1. Summary of Recommendations**

- 1.1 That the role of Chairman of the Health and Wellbeing Board (HWB) does warrant a Special Responsibility Allowance (SRA) and that it should be at 40% of the benchmark, currently £7326.68.
- 1.2 That the SRA to the Chairman of the HWB be reviewed in twelve months to allow time for the HWB to establish its role and as potential proposals to increase the responsibilities of the HWB become clearer.
- 1.3 That the position of Chairman of Employment Matters is brought in to alignment with other positions that attract an SRA and that the SRA be no more than 20% of the benchmark, currently £3663.34
- 1.4 That the Council review the composition of the Independent Remuneration Panel (IRP).

## **2. Introduction**

- 2.1 Medway Council has established this Independent Remuneration Panel to make recommendations about the financial allowances to be paid to Councillors.
- 2.2 The Panel made initial recommendations for a scheme of allowances in August 2001 and the Council adopted these recommendations in September 2001.
- 2.3 The Panel subsequently reviewed the scheme in October 2002, July 2003, in March 2005, and March, April and May 2006 taking into account changes to the political management arrangements, new responsibilities and the evolution of the overview and scrutiny function.
- 2.4 The Panel reviewed some specific parts of the Scheme in November 2007, relating to Special Responsibility Allowances and in 2009 made recommendations to the Council about:
  - updating the Members Allowances scheme to reflect provisions that should have been included
  - clarifying the Basic Allowance
  - amendments to the Dependant Carers Allowance
  - subsistence and travel allowance rates
  - the introduction of a cycling allowance
  - Councillors not being able to join the Local Government Pension Scheme
  - The introduction of a provision for members of Schools Admission and Exclusion Appeals Panels to claim subsistence, travel and dependent carers' allowances
  - members of Schools Admission and Exclusion Appeals Panels not being compensated for loss of earnings (or benefits)

- 2.5 The Panel was due to undertake a full review of Special Responsibility Allowances in 2009 but unfortunately the timing of the European Parliamentary and then General Election in 2010 meant the support provided by the Head of Elections and Member Services was not available. Thereafter it was decided that the review should be postponed until after the Local Elections in May 2011.
- 2.6 The Panel were asked in 2012 to consider amendments to the Members Allowances Scheme in 2013 to take account of a 5% reduction in the budget that had been agreed by Councillors. The Panel made recommendations to the Council on this that were agreed and it was not felt appropriate to undertake the full review of the Scheme as was originally planned.
- 2.7 Following the Council's decision on 25 April 2013 to establish a Health and Wellbeing Board and to receive a further report back on the payment of an SRA to the Chairman of the Board, the Panel have now been asked to consider whether it is appropriate for SRAs to be paid to the Chairman of the Health and Wellbeing Board and Employment Matters Committee and if so, at what level.

### **3. Background**

- 3.1 The Local Government Act 2000 and subsequent regulations require every local authority to establish and maintain an Independent Remuneration Panel to make recommendations about the financial allowances to be paid to Councillors. New regulations came into force in May 2003 that require the Panel to make recommendations on travel and subsistence allowances, pensions, and co-opted members' allowances.
- 3.2 Medway Council decides its own scheme of allowances for Councillors and the amounts to be paid under that scheme. However, it must first have regard to the advice of this Independent Remuneration Panel and must make the report and recommendations of the Panel widely available for public inspection.

### **4. Appointment of the Panel**

- 4.1 Independent Remuneration Panels must have at least three members. Medway Council decided to set up a Panel of 7 members consisting of 4 people drawn from the Medway Citizens Panel and one each from the Medway Voluntary Sector Forum, the Medway Black and Ethnic Minority Forum and the Medway Economic Advisory Forum.
- 4.2 All members of the Panel have been asked to declare that they are not connected to a political party or associated with any Councillors serving on Medway Council or any of its Parishes through friendship or any other personal association.

4.3 The Panel members are as follows:

Medway Citizens Panel

Paul Newman  
Andrew Wilson

Medway Black and Ethnic Minorities  
Forum

Bill Bhatia

Medway Voluntary Sector Forum  
Vacant

Medway Economic Advisory Forum  
Steve Gregory

**5. Terms of reference**

5.1 The terms of reference of the Panel set by the Council are:

- to make recommendations to the authority as to the amount of basic allowance that should be payable to its elected Members
- to make recommendations to the authority about the roles and responsibilities for which a special responsibility allowance should be payable and as to the amount of each such allowance
- to make recommendations as to whether the authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and, if such a recommendation is made, the amount of this allowance and the means by which it is determined
- to make recommendations about which Members of the Council should be entitled to pensionable remuneration subject to further regulations
- to provide informal advice, as requested by the Council, on other allowances payable under the Local Government Act 1972 (ie travel and subsistence allowance and allowances for attendance at certain meetings and conferences)
- to make recommendations on travel and subsistence allowances, Councillor membership of the Local Government Superannuation Scheme, and allowances for co-opted members of committees.

5.2 The principal tasks of the Panel were to consider (1) the appropriateness of an SRA to the Chairman of the Health and Wellbeing Board and to the Chairman of Employment Matters Committee (2) the appropriate level of such SRAs.

- 5.3 Difficulties were experienced in convening the Panel in the timescales available for the consideration of the issues outlined above. In these circumstances, in agreement with the Chair of the Panel, an experienced consultant from South East Employers (SEE) was engaged to undertake the general analysis of the data available and to draw up proposals for consideration. SEE has extensive experience in supporting Councils across the south east both in the role of Chairing and as a member of a number of IRPs. SEE also undertakes an annual Members' allowances survey for the south east.
- 5.4 In the light of these difficulties the Panel suggest that the Council review the Panel's composition to increase the capacity of the Panel to respond to such requests.

## **6. The Panel's approach to its task**

- 6.1 In formulating its recommendations the Panel has taken account of statutory guidance from the relevant government department.
- 6.2 In addition, the Panel considered comparative information relating to allowances paid by other local authorities, particularly other Unitary authorities in the South East, London Boroughs and Kent County Council. The Panel also received documents outlining the role of the Health and Wellbeing Board and the workload of the Employment Matters Committee and the role profile for the Chairman of that Committee. SEE had also been asked to undertake a survey of authorities in the South East to ascertain whether they were considering paying an SRA to the Chairman of their HWBs and if so at what amount. That information was provided to the Panel.
- 6.3 The approach and findings of the SEE consultant were validated and endorsed by the Chairman of the Panel and the recommendations set out in this report and presented to the Council have been agreed and endorsed.

## **7. Chairman of Health and Wellbeing Board**

- 7.1 The Panel noted that HWBs are a requirement for all upper tier councils as part of the Health and Social Care Act 2012. Established as a Committee of the Council from April 2013 they are still being embedded and the approach to allowances will it is anticipated evolve as the role and responsibilities of the HWBs change and new responsibilities are placed on the HWBs. Medway has decided that the Chairman of HWB should be appointed from among the Councillors serving on the Board, and the recently elected Chairman is not the Leader or a Portfolio Holder.

- 7.2 The Panel analysed the comparative data on SRAs from the other Unitary Authorities across the South-East region as well as the London Boroughs and Kent County Council, and noted that in the vast majority of Councils the Chairman of the HWB is predominantly the Leader of the Council or the Cabinet Member with designated responsibility for this area. Generally only one authority had included an SRA for the Chairman of the HWB in their Schemes but this will be because their Schemes only allow a Member to receive one SRA at a time, and they would already be in receipt of an SRA as Leader or Portfolio Holder.
- 7.3 The Panel are of the view that Medway Council has taken the forward-looking decision to appoint the Chairman of the HWB from outside of the leadership and Cabinet. As the role of the HWB evolves with greater responsibilities both financial and non financial drawing on ever more time and resources of the Chairman then the approach taken by Medway Council to have a dedicated Member with these responsibilities will we anticipate be viewed as sensible; and one that is followed by many other Councils. However, at the moment it does mean that there is limited data to support benchmark comparisons.
- 7.4 The Panel has given consideration to the fact that this is a new role, the role and responsibilities of the HWB are likely to evolve and the intention is to ensure that the total budget for Members' allowances does not increase. With this in mind we recommend that the role does warrant an SRA and that it should be at 40% of the benchmark, currently £7326.68. The Panel recommends that this SRA be reviewed in twelve months to allow time for the HWB to establish its role and as potential proposals to increase the responsibilities of the HWB become clearer. Should the HWB be given financial responsibilities (it currently has no financial responsibilities) in respect of the funding to support integrated health and social care then the level of the SRA should be reviewed. In the light of significant changes to the responsibilities of the HWB then a case could be made for the SRA to be in line with that of the Chairs of Overview and Scrutiny, currently £9158.35, at 50% of the benchmark. At this stage a SRA for the Vice Chairman will be considered.

## 8. **Chairman of Employment Matters Committee**

- 8.1 The Panel notes that the Employment Matters Committee is an established Committee of the Council dealing with all matters concerning the employment of Medway staff, their terms and conditions of employment. The Committee has a predominantly advisory role and also makes recommendations to the Cabinet and Business Support Overview and Scrutiny Committee. The position of Committee Chairman currently has no SRA and the intention is to bring the position into alignment with other positions that attract an SRA. The Committee has recently been required to lead the consideration and make recommendations to Council on major issues including withdrawal from the national pay agreement.

- 8.2 Analysis of the comparative data shows that of the 40 authorities from which comparative data had been obtained, 12 had awarded an SRA to the Chairman of the equivalent committee (30%) and that the average rate of the SRA was £2649. A high proportion of councils provide no SRA to this role.
- 8.3 The Panel nonetheless recommends that the position of Chairman of Employment Matters is brought into alignment with other positions that attract an SRA and that the SRA be no more than 20% of the benchmark, currently £3663.34.

## **9. Background Papers**

- South East Employers (SEE) Members' Allowances Survey May 2010– Unitary and District authorities
- Schedule showing 2012-13 SRAs paid to equivalent of Chairman of Employment Matters Committee for London Boroughs and several other Unitary Authorities and Kent County Council
- Schedule showing the positions held by Chairmen of Health and Wellbeing Boards across London and if any separate SRA paid
- Report to Council 25 April 2013 – Health and Wellbeing Board – establishment as a Committee of the Council and Council minute
- South East Employers mini-survey 2012 on extent of SRAs to Health and Wellbeing Board Chairmen
- New Council Constitution: Guidance on Regulation for Local Authority Allowances (OPDM)– extract of sections 70-76 re: Special Responsibility Allowances
- Schedule showing Medway current SRA's and basic allowances
- Medway elected Member Profile for Chairman of Employment Matters Committee
- The Terms of Reference for Employment Matters Committee and schedule of key issues considered 2012-13

## Extract from Chapter 6 of the Constitution - Members' Allowances scheme

### 4. Foregoing of allowances

A Councillor or a co-opted member may forego any part of his/her entitlement to an Allowance under this Scheme. Such a Councillor or co-opted member must put such a request in writing to the Head of Elections and Member Services.

### 5. Suspension of allowances

Where payment of any Allowance is due or has already been made in respect of any period during which the Councillor concerned ~~is~~

~~(a) suspended or partially suspended from his/her responsibilities or duties as a member of the Authority in accordance with Part III of the Local Government Act 2000, or regulations made under that Part; or~~

~~(b)~~ (a) ceases to be a member of the Authority; or

~~(c)~~ (b) is in any other way not entitled to receive the Allowance in respect of that period,

the Authority may withhold the payment of an Allowance for that period or, as the case may be, require that such part of the Allowance already paid as relates to any such period, be repaid to the Authority.

### 6. Part-year entitlement

6.1 If an amendment to this Scheme during any year changes the amount to which a Councillor is entitled in relation to the basic allowance or Special Responsibility Allowance, the entitlement to such a revised Allowance shall be to payment in proportion to the number of days that he/she has been entitled to the allowance during the period over which the revised amount comes into force.

6.2 Where the Scheme is amended as referred to in Paragraph 6.1 above, and the term of office of a Councillor does not continue throughout the period of the financial year, the entitlement of any such Councillor to a revised Basic Allowance shall be to the payment of such part in proportion to the number of days during which his or her term of office as a Councillor continues during the period over which the revised amount comes into force.

6.3 Where this Scheme is amended as mentioned in paragraph 6.1 and a Councillor has during part, but not throughout the whole, of any financial year been entitled to any Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of the

Allowance in proportion to the number of he or she has been entitled to the Special Responsibility Allowance during the period over which the revised amount comes into force.