

## **COUNCIL**

**10 OCTOBER 2019**

### **INDEPENDENT REMUNERATION PANEL – REPORT ON MEMBERS’ ALLOWANCES SCHEME**

Portfolio Holder: Councillor Rupert Turpin, Business Management  
Report from: Neil Davies, Chief Executive  
Author: Jane Ringham, Head of Elections and Member Services

#### **Summary**

The report and recommendations of the Independent Remuneration Panel (the Panel) are submitted for Members’ consideration.

#### **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 The Panel has undertaken a comprehensive review of the Members’ Allowances Scheme, following the local elections earlier this year, including the Basic Allowance, Special Responsibility Allowances (SRAs), subsistence and travel allowances, rates for childcare and dependent care, as well as the annual up rating index. The Panel have also reviewed the allowances payable to the Mayor and Deputy Mayor even though they are not formally covered by the Scheme.
- 2.2 As required by law, copies of the Panel’s report have been made available for inspection and a notice has been published 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 The Panel's report, published in September 2019, which provides information on its membership, terms of reference and approach to the review and sets out its recommendations is attached as Appendix 1.
- 3.2 A Diversity Impact Assessment (DIA) has been undertaken and the outcome was there is unlikely to be an adverse impact on any of the characteristic groups.
- 3.3 A copy of the full DIA is attached as Appendix 2.
- 3.4 The existing Members' Allowances Scheme is attached as Appendix 3.
- 3.5 The Panel benchmarked the current allowances paid in Medway against a comparator group of local authorities of similar size and functions and found that the current basic allowance is the lowest amongst the comparator group; the picture across the range of SRAs was noted to be more varied, with Medway paying at or below the average across the comparator group in respect of 3 SRAs and paying the highest in the case of 6 of the SRAs. The Panel took the general view that Medway's allowances should be brought more in line with the average of the comparator group. The Panel noted that none of the Members' Allowances Schemes of other authorities in the comparator group allow a councillor to receive more than one SRA at a time.

#### **Basic Allowance**

- 3.6 The Panel have identified what they believe to be is a coherent and robust future proofed and transparent formula for calculating the basic allowance and hope that it is seen to be fair from the perspective of Councillors and Council staff and can be easily explained to the public and readily uprated as appropriate.
- 3.7 Whilst the Panel recognises that the current level of basic allowance is low compared to others, they are also aware that neither the current economic situation nor the evidence from the questionnaire or discussions with Councillors, justifies a large increase in the Basic Allowance. However, the Panel feels that some increase is required in order to start to bring Medway into line with the comparator group (details of which are set out in Section 8 of the Panel's report). The revised formula, therefore, results in a modest increase that lifts Medway from being the bottom of the comparator group.

#### **Special Responsibilities Allowances (SRAs)**

- 3.8 The Panel has tried to simplify the Scheme so that there are fewer benchmark figures used and recommends that each of the positions attracting an SRA are calculated as a multiplier of the basic allowance rather than derived from the Leader's SRA as is current practice.

- 3.9 The Panel have taken the opportunity to rationalise and simplify the SRAs whilst recognising the responsibility and complexity of the different roles and concluded that the fairest, most transparent way was to set them as a multiplier of the basic allowance which mirrors the method used by a broad range of other local authorities.
- 3.10 The Panel concluded that the current level of the Leader's SRA does not adequately reflect the level and complexity of work involved and recommends a sum that more adequately reflects the complexity of the role. This brings the Leader's proposed SRA within the average range of the comparator group.
- 3.11 The Panel feel that their recommendations for the Deputy Leader's SRA more accurately and fairly reflects the role of the but still recognises its relative seniority to other Cabinet Members particularly.
- 3.12 In recognition that the SRA to the Chairman of the Planning Committee is low and well below the average of the comparator group of authorities, the Panel have recommended a benchmark that better reflects the responsibility and complexity of this role in particular and its comparison with the SRAs of the Chairmen of the Overview and Scrutiny Committees which currently receive a higher SRA.
- 3.13 To bring the Medway Scheme into line with those of the comparator group the Panel are recommending that Councillors are only entitled to receive one SRA at any one time, with the exception of those in receipt of an SRA from Medway and/or the Kent Police and Crime Panel or Kent Fire and Rescue Authority and those receiving the allowance in respect of their role as the Mayor or Deputy Mayor. They felt that the public perception could be that the skills and abilities of all Councillors might not be recognised and, if some are receiving two SRAs, that some roles that attract an SRA are not necessarily being shared or that Councillors sought additional duties simply to receive an SRA.

#### **Dependent carer's allowance**

- 3.14 The Panel is conscious that the current dependent carer's allowance does not reflect the actual rate for an ad hoc childminder or those with caring responsibilities who may need specialist care, and is therefore, recommending two maximum hourly rates – one based on the Real Living Wage for child care costs and one based on the Council's commissioning hourly home care rate for those requiring adult care or for children with special needs.

#### **Travel and subsistence**

- 3.15 The Panel is recommending several relatively minor changes to the travel and subsistence rates; in particular they are recommending that the mileage rate is increased to match the HMRC Approved Mileage Allowance Payment ("AMAP") rate which is currently 45p.

### **Sickness, maternity, paternity and adoption absence**

- 3.16 On reviewing the Scheme, the Panel noted that there are currently no provisions setting out the entitlement to the Basic allowance or Special Responsibilities Allowances on the occasion that Councillors are absent from their duties due to sickness or due to maternity, paternity, adoption or shared parental leave. They are therefore recommending the inclusion of such provisions simply to clarify the situation.

### **Mayor and Deputy Mayor allowances**

- 3.17 Of the comparator authorities (including Medway), the Panel found that Medway's current Mayoral allowance is the highest and that in terms of the Deputy Mayors allowance, Medway is paying nearly double the average. The Panel noted that the Mayoral allowance is currently higher than the SRA paid to Cabinet Members and that similarly the Deputy Mayor's allowance is more than the SRA for the Chairman of the Audit Committee. The Panel recommends that both allowances are only adjusted to a minor degree to more adequately reflect their level of responsibility in comparison to posts that attract an SRA.

### **Adoption and Fostering Panels**

- 3.18 The Panel were asked by one Councillor to consider introducing an SRA for the Councillor representatives on the Adoption and Fostering Panels to recognise the amount of time required to read and digest lengthy and complex paperwork as well as the time commitment. The Panel is not convinced that the complexity or volume warrants a specific allowance for the Councillor representatives on the Adoption or Fostering Panels. However, to ease the burden on the current Councillor representative on the Adoption Panel the Panel suggests that the Council consider the feasibility for more Councillors to be appointed to the Adoption Panel to share the workload and time commitment.

### **Part-year entitlement to allowances in Local election years**

- 3.19 The Panel has noticed that the current provisions for the payment of allowances in Local election years do not fully reflect the legal position and are recommending some changes to resolve this issue.

### **Implementation of recommended changes**

- 3.20 Generally the Panel is recommending that the changes to the allowances are backdated to 9 May 2019. However, in recognition that some Councillors will see reductions in the allowances payable to them as a result of the Panel's recommendations, they are recommending that for any Councillor who has a net decrease in what they receive, the Council does not seek repayment and that the change, for those specific Councillors, takes effect from 1 April 2020.

3.21 The Panel is recommending that the changes to the Scheme in relation to the dependant carers allowance, travel allowance, the revised provisions in the year of Local Elections and sickness, maternity, paternity and adoption absence come into effect on the date of the Council decision.

#### 4. Risk management

4.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. The following table shows any significant risks arising from the matters in this report.

Risk	Description	Action to avoid or mitigate risk	Risk rating
No decision is made or it is delayed beyond 31 March 2020	No formal mechanism in place to index the allowances and other payments in the Scheme for uprating after 31 March 2020.  Non-payment of allowances to Councillors after 31 March 2020 as current Scheme expires.	Group Leaders offered the opportunity to review recommendations and discuss with Independent Remuneration Panel	D2

#### 5. Financial implications

5.1 The total full year costs of the proposals by the Independent Remuneration Panel if implemented are shown in the table below, and compared to the 2019-20 budget represent a pressure of £165,487. This pressure was not reflected in the R1 Revenue Budget Monitoring reported to Cabinet in August and has not been reflected in the Medium Term Financial Strategy reported to Cabinet in September, due to the timing of this report. Should the Council approve the recommendations of the Panel, it will be necessary to reflect this pressure in the draft budget for 2020/21 and for the Council to identify savings in order to fund this.

	2019-20 Budget Including On-costs £	Estimated Full Year Cost Of IRP Proposal Including On-costs £	Estimated Pressure/(Saving) against 2019/20 Budget For Full Year Effect Of IRP Proposals £
Basic allowance	494,495	597,334	102,839
SRAs	251,995	319,112	67,117
Mayor/Deputy Mayor	21,666	21,869	203
Licensing Panels	6,297	2,016	(4,281)
	<b>774,453</b>	<b>940,331</b>	<b>165,878</b>
Travel	6,400	6,000	(400)
	<b>780,853</b>	<b>946,331</b>	<b>165,478</b>

5.2 If the recommendations are approved and backdated with effect from 9 May 2019, the pressure in the 2019/20 year would be less than the full year effect as set out in the table. While it is difficult to calculate this exactly due to Councillors' individual circumstances, it is estimated that the pressure in 2019/20 would be in the region of £59,000 less than the full year effect, at around £106,478.

## **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 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. Recommendations**

7.1 That the Council considers the report of the Independent Remuneration Panel and approves the recommendations in that report as shown below:

7.1.1 That the Basic Allowance paid to all Councillors be £10,421 per year and be linked to the median Council staff hourly pay for the next four years. This will begin to address the current situation where Medway is the lowest of the comparator authorities.

7.1.2 That the levels of other special responsibility allowances (SRA) be as follows, and be linked to the basic allowance as shown by the benchmark % for the next four years. The basic allowance to be linked to the median Council staff hourly pay as described in 7.1.1 above.

<b>POSITION</b>	<b>£</b>	<b>BENCHMARK AS % OF BASIC ALLOWANCE</b>	
Leader of the Council	31263	300	
Deputy Leader	20842	200	
Cabinet Portfolio Holder (8)	15632	150	
Chairman of Planning Committee	12505	120	
Opposition Group Leader (more than 20% of members)	12505	120	
Chairman of Health & Wellbeing Board	12505	120	Only payable if held by Councillor who is not Cabinet member
Chairman, Overview & Scrutiny Committee (4)	10421	100	
Chairman of Audit Committee	7295	70	
Deputy Opposition Group leader (more than 20% of members)	6253	60	
Overview & Scrutiny Spokespersons (group more than 20% of members) (4)	6253	60	
Opposition Group Leader (more than 10% of members)	6253	60	Not currently payable
Vice-Chairman of Planning Committee	5211	50	
Opposition Group Spokesperson for Planning Committee (>20% of members)	5211	50	
Chairman of Employment Matters Committee	3647	35	
Vice-Chairmen of Overview & Scrutiny Committee	3647	35	
Ruling Group Whip	1563	15	
Opposition Group Whip (>20% of members)	1042	10	

7.1.3 That the changes to the Basic Allowance and SRAs are backdated to 9 May 2019, but if, as a result of the changes, any Councillor has a net decrease in what they receive, that the Council does not seek repayment and the change, in those circumstances, takes effect 1 April 2020.

7.1.4 That the Allowances payable to the Mayor and Deputy Mayor be as follows: Mayor £13026 (125% of the basic allowance) and Deputy Mayor £6253 (60% of the basic allowance) and that they be linked to the basic allowance for the next four years which itself is linked to the median Council staff hourly pay.

7.1.5 That the changes to the allowances to the Mayor and Deputy Mayor come into effect from the date of the Annual Council meeting in 2020.

7.1.6 That the SRA to the Chairman of Licensing & Safety Committee and members of the Licensing Hearing Panel and Licensing 1982 Panel Hearings be at the rate of £40 per day and be index-linked to the median Council staff hourly pay for the next four years based on a 3 hour session and that the changes comes into effect from 9 May 2019;

7.1.7 That the current provisions in the Members Allowances Scheme for discounting a subsequent SRA (paragraph 7.1 Note 1) be amended so that

Councillors are only entitled to receive one SRA at any one time, with the exception of those in receipt of an SRA from Medway and/or the Kent and Medway Police & Crime Panel or Kent and Medway Fire and Rescue Authority who should have the second and any subsequent Medway SRA discounted as described in the current Scheme (paragraph 7.1 Note 2) and that this revision comes into effect from 1 April 2020.

- 7.1.8 That the Members' Allowance Scheme (paragraph 7.2) be amended (a) to provide two maximum hourly rates for dependent care costs- £9 an hour per child for child care index-linked against the Living Wage Foundation rate for the next four years and £16.06 per hour per person for adult care or children with special needs, index-linked against the Council's commissioned hourly home care rate for the next four years; (b) to show the revised maximum for child care and adult care relating to conference attendance; (c) to contain a provision that gives the Head of Elections and Member Services some flexibility to assist Councillors who need specialist care that costs more than the rates approved (d) to remove the requirement for any childcare to be provided by a childminder registered with Medway; the revisions to come into effect from date of the Council decision.
- 7.1.9 That the current provisions for payments to co-optees and members of Education Schools Admission and Exclusion Appeals Panels as set out in the Scheme (paragraph 7.3) are retained without amendment
- 7.1.10 That the provisions for subsistence allowance set out in paragraph 7.3.1 of the Members Allowances Scheme remain unaltered but that the rates of subsistence allowance claimable as set out in Appendix 3 be indexed against those payable to Council staff for a maximum of four years.
- 7.1.11 That the existing list of duties that qualify for travelling and subsistence allowances in Appendix 1 to the Members' Allowances Scheme remain unchanged.
- 7.1.12 That the rate for journeys by car for Councillors should be increased to 45p per mile for all engine sizes and indexed against the Approved Mileage Allowance Payment (AMAP) rate for the next four years (paragraph 7.3.2 of current Scheme). This brings the rate into line with the vast majority of other local authorities.
- 7.1.13 That the travel allowances scheme is also amended as follows to bring it into line with the Council staff scheme against which the scheme provisions should be indexed (paragraph 7.3.2) and Appendix 3:
- No additional 1p per mile is paid for passengers
  - All journeys by car are paid at the same flat rate of 45p rather than a differential rate for the first 60 miles being paid at 40p and 20p per mile thereafter.
  - The rate for travel by motor cycles should be 21.3p per mile
  - Travel by bicycle should continue to be at 20p per mile
- 7.1.14 That the revisions to the travel allowances come into effect on the date of the Council decision.
- 7.1.15 That the other provisions in the Scheme relating to travel set out in existing paragraph 7.3.2 remain unchanged.

7.1.16 That paragraph 8 of the Members' Allowances Scheme relating to Conference expenses, duties for which allowances can and cannot be claimed and how to claim remain unchanged.

7.1.17 That paragraphs 6.6 to 6.10 in the current scheme be replaced with the provisions set out below to bring them into line with the relevant legislation:

“6.6 In the year of Local Council elections:

- (a) Councillors who had been appointed as Mayor and Deputy Mayor, prior to the elections, shall be entitled to receive payment of their allowances until the date of the Annual Council Meeting held after the election even if they are not re-elected as Councillors;
- (b) The Councillor who held the position of Leader of the Council prior to the elections shall continue to receive payment of his/her Special Responsibility Allowance until the day of the Annual Council meeting even if he/she is not re-elected unless he/she resigns from office, is disqualified or otherwise removed from office;
- (c) The Councillor who held the position of Deputy Leader of the Council prior to the elections shall continue to receive payment of his/her Special Responsibility Allowance until the day of the Annual Council meeting unless he/she is no longer a Councillor, resigns from office or is removed from office by the Leader;
- (d) Any Councillor who had been appointed by the Leader as a Cabinet Member prior to the elections shall continue to receive payment of his/her Special Responsibility Allowance until the day of the Annual Council meeting unless he/she is no longer a Councillor, resigns from office or is removed from office by the Leader;
- (e) Special Responsibility Allowances payable to Councillors who were Opposition Group Leader(s) or Group Whip(s) prior to the election will cease to be payable from the day of retirement after the elections. Special Responsibility Allowances for Councillors appointed to these positions after the elections will be payable from the date on which formal notice of their appointment is received by the Chief Executive signed by all Members who wish to be treated as members of the relevant political group;
- (f) Councillors who had been entitled to any other Special Responsibility Allowances in the Scheme prior to the elections shall cease to be entitled to receive payment for the Special Responsibility Allowance from the date on which Councillors take up office after the election;
- (g) Those Councillors who are appointed to positions which are entitled to a Special Responsibility Allowance after the elections, other than those provided for in paragraphs 6(a) to (e) above, shall be entitled to receive such payments from the day after which they are formally appointed to the relevant position of Special Responsibility either by the Leader, the Council or relevant Committee;

- (h) Where a Councillor is in receipt of both a Special Responsibility Allowance from Medway Council and a Special Responsibility Allowance from the Kent & Medway Police and Crime Panel or Kent & Medway Fire & Rescue Authority, no deduction should be made to their Medway Special Responsibility Allowance until Medway Police and Crime Panel or Kent & Medway Fire & Rescue Authority have formally agreed their appointment to the position for which the SRA is payable by them. If the Kent & Medway Police and Crime Panel or Kent & Medway Fire & Rescue Authority Special Responsibility Allowance is backdated, the deduction from the Medway Special Responsibility Allowance shall be backdated to the same date.”

7.1.18 That the Members Allowance Scheme be amended to add the following provisions:

**“Sickness, maternity, paternity and adoption absence**

- All Councillors shall continue to receive their Basic Allowance in full for a period up to 6 months in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence.
- Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for a period up to 6 months, in the case of absence from their Councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence.
- Where, for reasons connected with sickness, maternity leave, adoption leave, paternity leave or shared parental leave a Councillor is unable to attend a meeting of the Council for a period of 6 months, a dispensation by Full Council can be sought in accordance with Section 85 of the Local Government Act 1972.
- If a replacement to cover the period of absence under these provisions is appointed by Council or the Leader (or in the case of party group position, the party group) the replacement will be entitled to claim an SRA pro rata for the period over which the cover is provided.
- If a Councillor stands down, or an election is held during the period when a Councillor is absent due to any of the above and the Councillor is not re-elected or decides not to stand for re-election, their basic allowance and any SRA will cease from the date they leave office.”

7.1.19 That no allowance is paid to the Councillor representative on the Fostering or Adoptions Panels but that the Council look at the feasibility of more Councillors being appointed to the Adoption Panel to share the workload and time commitment.

7.2 That the Chief Legal Officer is delegated authority to amend the Members’ Allowances Scheme as it appears in the Constitution in accordance with the decisions of this meeting of Full Council.

**Lead officer contact**

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**Appendices**

1. Report of Medway Independent Remuneration Panel September 2019
2. Diversity Impact Assessment
3. Existing Members' Allowances Scheme

**Background papers**

Report of Medway Independent Remuneration Panel September 2019