

Council

24 January 2024

Independent Remuneration Panel – Report on Members’ Allowances Scheme

Portfolio Holder: Councillor Vince Maple, Leader of the Council

Report from: Richard Hicks, 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. Recommendations

- 1.1 It is recommended that the Council approves:
- 1.2 The Panel’s recommendations that paragraphs 1, 2, 3, 4, 5 and 6 of the Members’ Allowances Scheme remain unchanged.
- 1.3 The Panel’s recommendations relating to the formula for the calculation and indexing of the basic allowance as set out in paragraphs 9.4-9.16 of their report.
- 1.4 The Panel’s recommendations set out in paragraph 10.3 of their report, that the benchmark for the SRA relating to cabinet portfolio holders be increased from 150% to 160%.
- 1.5 The Panel’s recommendations set out in paragraphs 10.4 and 10.5 of their report that the benchmark for the SRA for Chairpersons of Overview & Scrutiny Committees is increased from 100% to 120%.
- 1.6 The Panel’s recommendations set out in paragraphs 10.6 and 10.7 of their report that an annual SRA is paid to an Independent Person if appointed to the Audit Committee at a benchmark of 10%.
- 1.7 The table below showing the benchmarks for each SRA against the basic allowance that take effect from 1 April 2024 until 31 May 2027.

| POSITION (and number of Councillors entitled to receive allowance) | BENCHMARK AS % OF BASIC ALLOWANCE | |
|--|--|--|
| Basic Allowance (59) | 100 | |
| Leader of the Council (1) | 300 | |
| Deputy Leader (1) | 200 | |
| Cabinet Portfolio Holder (8) | 160 | |
| Chairperson of Planning Committee (1) | 120 | |
| Opposition Group Leader (more than 20% of members) (1) | 120 | |
| Chairperson of Health & Wellbeing Board (1) | 120 | Only payable if held by Councillor who is not Cabinet member |
| Chairperson, Overview & Scrutiny Committee (4) | 120 | |
| Chairperson of Audit Committee (1) | 70 | |
| Deputy Opposition Group leader (more than 20% of members) (1) | 60 | |
| Overview & Scrutiny Spokespersons (group more than 20% of members) (4) | 60 | |
| Opposition Group Leader (more than 10% of members) (0) | 60 | Not currently payable |
| Vice-Chairperson of Planning Committee (1) | 50 | |
| Opposition Group Spokesperson for Planning Committee (>20% of members) (1) | 50 | |
| Chairperson of Employment Matters Committee (1) | 35 | |
| Vice-Chairperson of Overview & Scrutiny Committee (4) | 35 | |
| Ruling Group Whip (1) | 15 | |
| Opposition Group Whip (>20% of members) (1) | 10 | |
| Independent Person on Audit Committee | 10 | |
| Mayor (1) | 125 | |
| Deputy Mayor (1) | 60 | |

- 1.8 The Panel's recommendation set out in paragraphs 11.1 and 11.2 of their report that the SRA to the Chairperson of Licensing & Safety Committee and members of the Licensing Hearing Panel and Licensing 1982 Panel Hearings from 1 April 2024 continue to be index-linked to the median Council staff hourly pay until 31 May 2027.
- 1.9 The Panel's recommendation set out in paragraph 1.5 of their report that paragraph 7.1.2 of the Scheme relating to what the basic allowance is intended to cover remains unchanged.
- 1.10 The Panel's recommendations set out in paragraphs 17.1 – 17.4 of their report that Councillors on the Fostering Panel receive an SRA from 1 April 2024 and that the SRA be the equivalent of, and index-linked to, the median Council staff hourly pay until 31 May 2027.

- 1.11 The Panel's recommendations set out in paragraphs 10.6 and 10.7 of their report that if the Council agrees to appoint an Independent Person to Audit Committee and wish to pay that person an allowance to reflect the time and effort involved, an annual allowance benchmarked at 10% of the basic allowance against which it should be index-linked to the median Council staff hourly pay until 31 May 2027.
- 1.12 The Panel's recommendation set out in paragraph 12.1 of their report that a Member of the Council is only entitled to receive one Special Responsibility Allowance at any one time.
- 1.13 The Panel's recommendations set out in paragraphs 13.1 – 13.8 in their report relating to dependent carer's allowance such that (a) Councillors may claim the actual expenses incurred including the existing provision to cover up to one hour travel time and that appropriate proof of payment is provided; and (b) that the existing requirement that the allowance does not apply where the carer is a member of the Councillors' own household still applies; and (c) the existing provisions in the Scheme setting out the maximum that can be claimed in any one 24 hour period while attending a conference is removed.
- 1.14 The Panel's recommendations set out in paragraph 14 that (a) paragraphs 7.3 and 7.3.1 and 7.3.2 of the Scheme, the list of duties that qualify for travelling and subsistence allowances in Appendix 1 and the subsistence rates set out in Appendix 2 remain unchanged and be indexed against those payable to Council staff for a maximum of four years to 31 May 2027; and (b) Appendix 3 setting out the rates per mile be amended to indicate that the rate for use of all models of electric cars is £45p; and (c) the mileage rates be indexed against the HMRC Approved Mileage Allowance Payment (AMAP) rate until 31 May 2027.
- 1.15 The Panel's recommendation set out in paragraph 15 of their report that paragraphs 8, 9, 10 and 11 of the Members' Allowances Scheme relating to Conference expenses, duties for which allowances can and cannot be claimed and how to claim remain unchanged.
- 1.16 That the Assistant Director, Legal & Governance 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.

2. Budget and Policy Framework

- 2.1 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.

3. Background

- 3.1 The Panel has undertaken a 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 adult 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.
- 3.2 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.

4. The Panel's report and recommendations

- 4.1 The Panel's report, published in December 2023, which provides information on its membership, terms of reference and approach to the review and sets out its recommendations is attached as Appendix 1.
- 4.2 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. A copy of the full DIA is attached as Appendix 2.
- 4.3 The existing Members' Allowances Scheme is attached as Appendix 3.
- 4.4 The Panel benchmarked the current allowances paid in Medway against a comparator group of local authorities of similar size and functions and found compares favourably with a basket of authorities of a similar population size. It also compares favourably with the average across 95 other local authorities of varying populations and types of authority. The picture across a range of SRAs shows a similar position, with Medway paying at or above the average across the comparator group with similar populations. The Panel took the general view that Medway's basic and SRA allowances are broadly in line with appropriate comparator authorities.

Basic Allowance

- 4.5 The Panel previously identified in 2019 what they believe continues to be a coherent and robust future proofed and transparent formula for calculating the basic allowance and hope that it is continued to be seen to be fair from the perspective of Councillors and Council staff and can be easily explained to the public and readily updated as appropriate.
- 4.6 The formula is set out in paragraphs 9.4 to 9.16 of the Panel's report and as set out there, the Panel took the view that neither the average weekly hours on ward work, the hourly rate, or the public service discount should be amended as there was no clear evidence that any of those factors had changed drastically since 2019. The Panel are therefore not recommending any change in the formula or the indexing of the basic allowance against the median hourly rate for Council staff.

Special Responsibilities Allowances (SRAs)

- 4.7 Although the Panel took into consideration the views of the Conservative group and the Leader of the Labour & Co-operative Group that some specific SRAs should be increased, the Panel are not recommending that any of those changes are made since they felt the benchmarks were balanced fairly in comparison with other roles.
- 4.8 However the Panel are recommending that the benchmarks for the Cabinet portfolio holders and Chairpersons of Overview & Scrutiny Committees are increased to better reflect their roles and responsibilities. The Panel's commentary is set out in paragraphs 10.3 -10.5 of their report.
- 4.9 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.
- 4.10 In anticipation of the Council possibly appointing an Independent Person to the Audit Committee, the Panel are recommending that in light of the technical guidance and support that person will provide to the Committee, that if such a person is appointed, they should be paid an annual SRA on the basis of 10% of the basic allowance, which is uplifted each time the basic allowance is uplifted.
- 4.11 The Panel are not recommending any other changes to the benchmark ranking of SRAs or that any other roles receive SRAs other than as outlined above. Similarly they are not recommending any changes to the session rates or indexing arrangements for those who sit on Licensing Hearing Panels and 1982 Licensing Hearing Panels. They are recommending that the SRAs continue to be calculated as percentages of the Basic allowance and uplifted annually accordingly and that the existing rule that Councillors may only be in receipt of one SRA at any one time, continues.

Dependent carer's allowance

- 4.12 In the light of evidence that the cost of childcare and particularly care for adults and children with special needs is expensive and that these allowances can lead to a wider range of people being encouraged to service as Councillors, the Panel are recommending that the current hourly rates for both childcare and dependent adult care and children with special needs are removed and that Councillors can claim the actual expenses incurred. The Panel are also recommending no change to the existing provisions that the allowance does not apply where a carer is a member of the Councillors' own household and the removal of the maximum that can be claimed in any one 24 hour period while attending a conference.

Subsistence, travel and other allowances

- 4.13 The Panel is not recommending any changes to the current provisions for payments to co-optees and members of Education School Admission and Exclusion Appeals Panels or the list of duties that qualify for traveling and subsistence allowances. Despite the Approved Mileage Allowance Payment (AMAP) rate for car mileage having been increased, the Panel are conscious that there are tax implications for Councillors if their rate is increased and also that there was no overwhelming evidence from Councillors that they sought an increase. The Panel are therefore not recommending an increase in the rate from 45p per mile but are recommending that Councillors may claim for the use of electric vehicles at the same rate as other vehicles and the rates be continued to be indexed against the AMAP rate.
- 4.14 The Panel are not recommending any other changes to any other provisions in the current Scheme relating to travel.
- 4.15 The Panel are recommending that Councillors are encouraged to claim travel related to Approved Duties rather than worry about public perceptions; although the amounts claimed are relatively small they can make a difference in the current financial climate and influence more people to become and remain a Councillor.

Conference expenses, duties for which allowances can and cannot be claimed and how to claim, Sickness, maternity, paternity and adoption absence

- 4.16 The Panel are not recommending any changes to paragraphs 8-11 of the current Scheme.

Mayor and Deputy Mayor allowances

- 4.17 The current benchmarks for the Mayor and Deputy Mayor allowances compare favourably with the compactor authorities and therefore the Panel is not recommending any changes to these.

Adoption and Fostering Panels

- 4.18 The Panel were asked 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. Having heard evidence about the level of time commitments and the work involved, the Panel are recommending that Councillors on the Fostering Panel receive an SRA at the median Council staff hourly pay, which is currently £14.71 and that the SRA is index-linked to the median Council staff hourly pay until 31 May 2027. This is the same rate paid to those who sit on the Licensing Hearing Panel with which the Panel heard the work is on a par.

Foregoing and suspension of allowances and part-year entitlement to

- 4.19 The Panel is not recommending any changes to the provisions in the current Scheme, set out in paragraphs 4, 5 and 6. Of the Scheme.

Implementation of recommended changes

- 4.20 The Panel is recommending that the changes to the allowances as set out in their report are implemented with effect from 1 April 2024 in recognition that the allowances have been uplifted already in this financial year and backdated to 1 April 2023. The index-linking of the allowances is being recommended to continue until 31 May 2027 to allow time after the Local elections scheduled for May 2027 for any changes in the Administration to settle and the Panel to be convened to review the Scheme again.

5. Risk management

- 5.1 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 2024 | No formal mechanism in place to index the allowances and other payments in the Scheme for uprating after 31 March 2024. Non-payment of allowances to Councillors after 31 March 2024 as current Scheme expires. | Group Leaders offered the opportunity to review recommendations and discuss with Independent Remuneration Panel | DIII |

For risk rating, please refer to the following table:

| Likelihood | Impact: |
|---------------|----------------|
| A Very likely | I Catastrophic |
| B Likely | II Major |
| C Unlikely | III Moderate |
| D Rare | IV Minor |

6. Climate change implications

- 6.1 There are no climate change implications.

7. Financial implications

7.1 The total full year costs of the proposals by the Independent Remuneration Panel if implemented cannot be predicted with precision because they are index-linked to the Council staff median hourly rate which reflects whatever pay award is made. Council staff pay awards are the subject of negotiations with the Unions, which have not concluded for 2024/25 at the time of preparing this report. The revisions to benchmarks and introduction of new SRAs, set out in the Panel's report and in the recommendations 1.2 – 1.13, if approved, will come into effect on 1 April 2024.

7.2 The table below sets out what the projected cost of the proposals in this report, with the new SRAs and amendments to existing SRAs representing a pressure of £22,764.83. Then each 1% uplift to the staff cost of living award that the Council may agree for 2024/25 would result in an estimated cost of £11,316.57 therefore should the increase be 5% for instance, the cost to the Council of increased Member allowances would be five times that set out in the table below at £56,582.85. The total cost of the proposals in this report at a 1% uplift would therefore be £34,081.40 rising to £79,347.68 if a 5% uplift were to be agreed. The 2024/25 Draft Budget does not include any provision for increases as the recommendations of the IRP were not known at that time. The impact of the final proposals agreed by Council in January will need to be reflected in the Proposed Budget to Cabinet and Council in February.

| | Estimated full year cost of IRP proposals to introduce new SRAs, and amendments to existing SRAs £ | Estimated Full Year Cost Of IRP proposal based on 1% COLA agreed for staff in 2024-25 £ |
|---------------------------------------|---|--|
| Basic allowance | | 7,175.40 |
| SRAs | 20,075.31 | 3,883.32 |
| Mayor/Deputy Mayor | | 230.95 |
| Independent Person on Audit Committee | 1,248.72 | 12.49 |
| Fostering Panels | 1,440.80 | 14.41 |
| Total | 22,764.83 | 11,316.57 |

7.3 Should Council decide to backdate the uplifts proposed in this report to the start of the term of the current administration, there would be a pressure on the Member Allowances budget for 2023/24 which does not feature in the current year budget monitoring position forecast. The 2023/24 budget monitoring does however already forecast a pressure of £126,000 on Member Allowances; this has been addressed in the budget build for 2024/25.

8. Legal implications

8.1 The Local Authorities (Members' Allowances)(England) Regulations 2003 ("the Regulations") make provision for the payment of allowances to Members of the Council.

- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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.

Lead officer contact

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Appendices

1. Report of Medway Independent Remuneration Panel December 2023
2. Diversity Impact Assessment
3. Existing Members' Allowances Scheme

Background papers

Report of Medway Independent Remuneration Panel December 2023