

<b>Subject:</b>	<b>Review of Members' Allowances</b>	
<b>Date of Meeting:</b>	<b>20 September</b>	<b>Governance Committee</b>
	<b>20 October</b>	<b>Council</b>
<b>Report of:</b>	<b>Independent Remuneration Panel</b>	
<b>Contact Officer:</b>	<b>Name: Angela Woodall</b>	<b>Tel: 29-1354</b>
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<b>Ward(s) affected:</b>	<b>All</b>	

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Full Council at its meeting on 26 May 2011 retained and adopted the current Members' Allowances Scheme and asked the Independent Remuneration Panel to undertake a short focused review, reporting again later in 2011.
- 1.2 The Panel has been asked to consider:
  - (a) Methodology and levels of the Leaders' Allowances
  - (b) Special Responsibility Allowances for Deputy Chairs
  - (c) Dependants' Carers' Allowance (childcare)
  - (d) Dependants' Carers' Allowance (other dependants)

**2. RECOMMENDATIONS:**

- 2.1 That the Special Responsibility Allowances for the Leaders' positions be payable as outlined in paragraphs 3.1 – 3.8 and Appendix 1 to this report.
- 2.2 That the Special Responsibility Allowances for the Deputy Chairs of Planning and Licensing Committees be payable as outlined in paragraphs 3.9 – 3.15 and Appendix 2 to this report.
- 2.3 That the Dependants' Carers' Allowance be payable as outlined in paragraphs 3.16 – 3.32 and Appendices 3 and 4 (childcare), and 3.33 – 3.37 and Appendix 5 (dependant care).
- 2.4 That the 26 Special Responsibility Allowances set out at Appendix 6 to this report be approved as the full list of duties which constitutes Schedule 1 to the new Members' Allowances Scheme.
- 2.5 That it be noted the Basic Allowance of £11,463 has been retained and that all other allowances listed in the Scheme, other than those detailed in 2.1 – 2.4 above remain unchanged.
- 2.6 That the Members' Allowances Scheme 2011 set out at Appendix 7 be recommended to full Council for approval on 20<sup>th</sup> October 2011 with a proposal that the new scheme should take effect from 21<sup>st</sup> October 2011.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

#### Leaders' Allowances:

- 3.1 In our last report we proposed a radical change to the way in which the Leaders' Allowances were calculated. Although the Leader of the Council's Allowance was still to be used as a basis for setting the other Special Responsibility Allowances in the Scheme, we suggested introducing a new rationale in which Opposition Group Leaders' allowances were to be set at levels which reflected the number of councillors in their groups, as well as their "liaison" roles. It was our intention that these allowances should reflect the dual-aspect of these positions. However, Council did not approve this recommendation at its meeting on 26 May 2011 and they asked us to look into the matter again.
- 3.2 With this in mind, we have worked with Leaders and Deputies from each of the political groups to find a solution which we feel will work well and which provides a fair and equitable allowance for the positions held. On reflection we feel that the formula we suggested earlier may not necessarily have resulted in an allowance that demonstrated the true level of responsibility undertaken in these positions, nor the amount of work undertaken by each of the post-holders. We are keen to address this issue and to recommend an appropriate methodology for these important functions.
- 3.3 Having considered the matter in some detail, we wish to retain the formula identified by the Institute of Local Government Studies at the University of Birmingham (INLOGOV) which has been approved and used at Brighton and Hove since 2003. This takes into account the number of additional hours worked by the Leader of the Council each week, the hourly rate of pay for corporate managers in the south-east and incorporates a public service discount.
- 3.4 In some of our past reviews salary/wage inflation has also been added as a way of keeping the allowances at a realistic level and in line with other comparable authorities. The INLOGOV methodology has been recognised by other local councils across England.
- 3.5 Having looked at all this information and the levels of allowances paid for the same position in other authorities (Appendix 1), we feel that the Leader of the Council's allowance is set at an appropriate level and we wish to recommend the retention of the Leader's allowance at £28,758 pa.
- 3.6 If the council approves the Panel's recommendation to retain this formula for calculating the allowance for the Leader of the Council, we remain of the view that the role of the Minority Group Leader should receive greater recognition. At the close of the 2008/10 review we expressed our concern about this issue and sought a suitable solution. With the retention of this methodology, we propose that the Minority Group Leader's allowance should be increased to 25% of the Leader of the Council's allowance, bringing it in line with the allowance paid to the Deputy Leaders of the Opposition, at £7,188 pa.
- 3.7 We feel that the allowances paid to the Leader of the Opposition and the Deputy Leaders of the Opposition should remain unchanged at the current time.

3.8 Over the summer we have studied regional employment statistics from the Office of National Statistics (ONS) as we wish to recommend earnings figures which have been based on latest trends and we have looked again at the level of public service discount applied (PSD). Each of these components makes up a part of the INLOGOV formula and it continues to be a statutory requirement for local authorities to recognise the concept of public service by applying a discount to their allowances.

Deputy Chairs:

3.9 As part of our last review the Panel considered the roles of each of the Deputy Chairs of Regulatory and Overview & Scrutiny Committees and their specific duties and responsibilities. At that time, we met with the majority of the Deputy Chairs and also made comparisons with the same positions in other local authorities in order to gather the widest possible evidence. Having looked at the matter in detail, we were of the view that there was insufficient data to support the payment of a Special Responsibility Allowance for any of these roles, and we made our recommendation to that effect.

3.10 Councillors from different Groups made it clear at full Council on 26 May they felt that the Deputy Chairs fulfilled a number of additional duties as well as chairing meetings in the absence of the Chairman. These positions were also seen by some as functions which could usefully be used by the political groups for training and development purposes. In the light of these comments, the Panel was asked to reconsider its recommendation.

3.11 In June this year we invited councillors to meet informally with us and to talk about their roles and responsibilities. Whilst Deputy Chairs' positions continue to be viewed by some as mentoring and supporting roles, the Panel remains of the opinion that mentoring, training and development are not valid reasons for the payment of a Special Responsibility Allowance.

3.12 The Panel is always keen to ensure that its recommendations are sound, that these are in line with other authorities and that they can be justified in the face of public scrutiny. We have not received evidence to demonstrate significant responsibilities for some of these roles.

3.13 In order to expand on what we have learnt, we have sought role descriptions for individual Deputy Chair's positions from other local authorities and we have used these to tease out anything we might have missed. We have also looked to a number of different authorities to see if there is significant evidence of other councils paying allowances for these positions. We have learnt that 55% of all the authorities which completed the South-East Employers (SEE) survey in 2010/11 pay an allowance to the Deputy Chair of Planning and 44% do so for Licensing Committee. A sample from the full SEE survey is shown at Appendix 2.

3.14 With regard to these two committees, we are of the opinion that Special Responsibility Allowances should continue to be paid to these Deputy Chairs. We feel there should be proper recompense for the work they do, recognising their heavier remit and the complexities they face in carrying out their duties.

- 3.15 However, there is a lack of evidence of significant duties for the Deputy Chairs of the Overview & Scrutiny Committees and the Governance and Audit Committees and we have struggled to find anything tangible for which an additional allowance should be paid. In view of this position we are not recommending a Special Responsibility Allowance for these posts at the current time but we will reconsider the responsibilities of the new post-holders at a future review and therefore the matter will remain open to discussion and debate.

Dependants' Carers' Allowance (childcare):

- 3.16 Councillors have made it known to us that they felt the childcare element of the Members' Allowances Scheme did not work well for them. They felt it was inflexible and outdated. Despite having carried out extensive work throughout our 2008/10 review, they expressed the opinion that it did not provide the robust support necessary to enable councillors with young children to carry out their duties without detriment or discrimination. They asked the Panel to look for ways in which it could be improved. In addition, newer councillors raised concerns over the provision of maternity/paternity pay and maternity/paternity leave for councillors and sought clarification. They were referred to paragraph 3.6.2(d) of our report to Governance Committee dated 1 February 2011 which set out the advice we have received on these matters.
- 3.17 Tasked with looking at these issues again, the Panel invited individual councillors with parental responsibilities, as well as those with a wider interest in the matter, to meet informally with them. Since the Spring, seven of them have done so. In addition to those meetings, six councillors met with officers from the council's Family Information Service to learn more about the At Home Childcare Scheme and other forms of childcare available to them across the city. The Chair of the Panel also met with these officers so that he too had an understanding of what the issues were, the availability of different services and the likely costs of care provision.
- 3.18 From our discussions with individual councillors, we are aware that councillors' childcare needs differ depending largely on their personal circumstances, the number and ages of their children and the meetings they attend. We recognise too that over a period of time their circumstances will change and so will their childcare requirements. Whilst there is no such thing as "one size fits all", the scheme should embrace as many of these matters as possible and be effective for use by those with children of all ages.
- 3.19 We have spent some time looking into the difficulties faced by councillors wishing to make childcare claims and we have sought advice from HM Revenue & Customs (HMRC), the Department for Communities and Local Government (DCLG), SEE, SW Councils (SEE equivalent in the south-west) and national experts in order to pull together a childcare scheme that is open and transparent but which offers greater flexibility to its claimants. National childcare vouchers (also known as salary sacrifice) are one such matter but it has been agreed by everyone consulted that no form of salary sacrifice can be applied to councillors whether it be for childcare, cycle2work schemes or any other benefit.

- 3.20 The Panel is aware that the penalties HMRC may levy for non-compliance are the tax and national insurance that should have been collected plus penalties of up to £3,000 for each error or omission. In effect this could render both the council and councillor/s liable to financial penalty.
- 3.21 We are able to report that officers have written to HMRC outlining the difficulties councillors face and asking them to reconsider the matter. That response is still awaited, but the Panel intends to report to Council again should the position change at any point in the future. We suggest also that the council adds weight to the matter by requesting a meeting with the appropriate Government office emphasising the support that is necessary to enable them to carry out their various roles. In the meantime we wish to place on record our support for the Councillors' Commission in its 2007 report which stated that "councillors should be offered access to the national childcare salary sacrifice scheme".
- 3.22 We remain of the view that the council should continue with a claims-based scheme because this is open, transparent and accountable and claims can be submitted for the approved duties laid down in Schedule 2 to the Members' Allowances Scheme. It is also in line with the majority of other local authorities that operate childcare schemes in England. However, we have recognised a need for greater flexibility in the way the scheme works currently, its accessibility and application, as we have worked to find suitable solutions. The Panel's proposals are set out in paragraph 2.3 of this report, in more detail below and at Appendices 3 and 4.
- 3.23 We are pleased to recommend some positive changes to the childcare arrangements, although it is for the council to decide whether it wishes to explore other avenues which could help support councillors with caring responsibilities. We feel there are several ways these could be achieved such as adopting a flexible approach to meeting times and reconsidering the venues used. However, as these matters are outside our remit, we leave those decisions to the council and make our own recommendations in line with current legislation and by having regard to good practice.
- 3.24 In a move towards greater flexibility and in line with our 2008/10 report, we recommend that when councillors attend approved duties, they be reimbursed for their childcare costs up to the maximum rate/s set out in the Scheme. We recognise that this may make it administratively easier for councillors and that it could go some way towards breaking down the barriers they currently face. However, by making this change councillors will face a disincentive as tax and national insurance will be deducted by the council at source.
- 3.25 Councillors will need to decide for themselves whether they wish to retain that part of the current scheme in which the carer they employ is paid retrospectively for the childcare provision, or whether they consider they have greater flexibility by directly claiming and receiving reimbursement themselves. Councillors should also decide whether the greater flexibility of receiving the payment direct outweighs any financial disadvantage.
- 3.26 In our 2008/10 report we also recommended that childcare be reimbursed at an hourly rate of £7.00 per hour, an increase from the national minimum wage. As part of the latest review we have consulted other local authorities, particularly

those from the south-east. We have had regard to the cost of childcare provision within the city and we understand that £7.00 per hour remains an average figure for childcare in Brighton and Hove. We recommend therefore that actual childcare costs be reimbursed up to a maximum of £7.00 per hour for a single child.

- 3.27 Where two or more children are being cared for, we recognise that additional costs may be incurred and we would like to go some way towards meeting that additional burden. We recommend a total supplement of up to £2.00 per hour be applied in respect of all children where additional costs have been incurred and can be proven. This will result in a total maximum hourly rate of £9.00.
- 3.28 Being mindful of the difficult financial climate facing all local authorities at the current time, yet balancing that with the need to encourage councillors to stand for election from all walks of life, we have considered the annual cap which is currently set at £1,200 pa per councillor and we have decided to leave it unchanged. We feel it would give the wrong impression if we were to recommend raising the overall platform, preferring instead to provide greater flexibility within the scheme itself. We continue to recommend setting the cap for childcare at £1,200 pa per councillor.
- 3.29 To be sure that this is a fair approach, we have calculated that a Cabinet Member will use approximately 50% of their annual childcare allowance for attending Cabinet Meetings and full Council. The balance is available for attendance at ad hoc approved duties undertaken either in their position of additional responsibility, or as part of their wider councillor remit.
- 3.30 Whilst we are not recommending the use of registered childcare be compulsory as we feel that should be a matter for personal choice, we note that Working Tax Credit may be claimable where Ofsted registered childcare is used.
- 3.31 The Panel feels that the minimum age for any carer should be 18 years and that restriction on councillors' family and other household members should continue to apply as a matter of good practice and in line with other local authority schemes such as Bracknell Forest and Southampton City Council.
- 3.32 Throughout this part of our review we have consulted Family Information Service officers who have acted as a check and balance on our proposals. Bearing in mind their comments, we are proposing raising the age for cared-for children to the Saturday following the 1 September after their 15<sup>th</sup> birthday. This is in line with the Government's eligibility requirements for the childcare element of Working Tax Credit.

#### Care of Dependants:

- 3.33 Historically, the Panel has refrained from recommending alterations to this part of the scheme as there have been no claims made from it, nor any expressions of interest in doing so. We have preferred to recognise that should they be necessary, changes will be introduced as and when they are required and needs can be more accurately quantified. Instead, we recommended a basic package only.

- 3.34 Since the new council formed in May this year, the council has considered the needs of its new and ongoing councillors and asked us to look again at the allowances paid for dependent care for adults and children with additional needs and to report back to them in the autumn. We understand there are a small number of councillors with responsibility for adult dependent relatives and we feel that this is an appropriate time to review and update the scheme if necessary.
- 3.35 The Panel invited councillors to come forward to talk about their individual needs, responsibilities and concerns, or alternatively to let them know of anything they felt relevant to the care package that was available to them as councillors.
- 3.36 It is apparent from our meetings and the discussions that have taken place throughout our review that everyone's situation is different, caring needs vary and state benefits apply in some if not all instances. We recognise also that there may be many sensitivities to consider, and in the current climate we believe there are additional or alternative ways in which the council can provide practical support to its councillors who have caring responsibilities. This may not necessarily be in the form of financial recompense. We suggest that adopting a "care for the carer" approach might be a useful mechanism which the council and councillor colleagues can introduce to support one another. As this is an area outside our remit, we leave the council to decide whether this is an acceptable option and how this should be implemented.
- 3.37 We recommend retaining the care package at current rates - £7.50 per hour, capped at £1,200.00 pa – and to bring this in line with the administration of childcare allowances. We consider that councillors should be reimbursed for their caring costs, rather than the care providers although we leave councillors to make the final choice. In the same way also, a tax disincentive will apply, however we feel that the flexibility this offers outweighs any financial disadvantage. A summary of this element of the Scheme is set out at Appendix 5.

#### The proposed Members' Allowances Scheme

- 3.38 For ease of reference, we have set out the Special Responsibility Allowances we are recommending at Appendix 6, together with the financial implications of our proposals and the savings that are likely to result. Whilst not strictly within our remit, we remain mindful that the council has set the Members' Allowances budget at £1,059,610 for 2011/12 and we consider that any recommendations we make as an independent panel should be sound, and that they should remain within this budget.
- 3.39 Taking into account the elements of the Scheme detailed in section 3.1 – 3.37 above, the proposed new Members' Allowances Scheme is set out in full at Appendix 7 to this report.
- 3.40 The proposed new Scheme has a total of 26 Special Responsibility Allowances in line with Members' Allowances guidance which stipulates that the number of SRA's should not exceed 50% of the number of councillors on the authority.
- 3.41 We propose that these recommendations be implemented from 21 October 2011, the day after the full Council meeting, which is in line with previous changes to the Members' Allowances Scheme.

3.42 Having undertaken this review we expect the Members' Allowances Scheme to continue until 2015 subject to any future changes which may result from the Localism Bill when its outcome is known in the autumn of 2012.

#### **4. CONSULTATION**

4.1 As part of this latest review the Panel has met with the Leaders, councillors and consulted regional organisations, government offices and other public bodies as well as experts in the field of Members' Allowances. We have also spoken with the council's own officers on matters such as childcare. In particular we have consulted HMRC and the DCLG.

4.2 Statistics have been obtained from the Office for National Statistics (ONS) and comparisons have been made with a number of other local authorities across the region.

4.3 The recommendations of the Independent Remuneration Panel are being reported to the Governance Committee where all party groups are represented, before being submitted to full Council on 20 October 2011.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

5.1 The Members' Allowances revenue budget for 2011/12 is £1,059,610.

5.2 The recommendations of the Independent Remuneration Panel can be accommodated within the existing budget and the financial implications and scheme details are set out in Appendix 6 and 7 of the report respectively.

*Finance Officer Consulted: Mike Bentley Date: 07/09/11*

##### Legal Implications:

5.3 The proposals in this report comply with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003 and associated guidance.

*Lawyer Consulted: Elizabeth Culbert Date: 07/09/11*

##### Equalities Implications:

5.4 The recommendations explicitly seek to encourage a wider cross-section of the community to become councillors and to continue in office by breaking down the barriers and financial disincentives which deter people from serving as elected members.

##### Sustainability Implications:

5.5 None arising directly from this report.



Crime & Disorder Implications:

5.6 None arising directly from this report.

Risk and Opportunity Management Implications:

5.7 None arising directly from this report.

Corporate / Citywide Implications:

5.8 None arising directly from this report.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Leaders' Allowances
2. Deputy Chairs of Planning and Licensing
3. Childcare costs
4. Dependants' Carers' Allowance (childcare)
5. Dependants' Carers' Allowance (dependants)
6. Proposed Special Responsibility Allowances
7. Proposed Members' Allowances Scheme 2011

### **Documents in Members' Rooms**

None

### **Background Documents**

1. The Local Authorities (Members' Allowances) Regulations 2003
2. Councillors' Tax and Benefits 2009 (Local Government Information Unit)
3. The Report of the Councillors' Commission, December 2007
4. South-East Employers' Survey of Members' Allowances 2010/11
5. Office for National Statistics earnings tables
6. Evidence provided by the Daycare Trust of childcare costs nationally, regionally and locally
7. Your childcare options (Family Information Service)

