

COUNCIL

22 November 2018

*PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: MEMBERS' ALLOWANCES SCHEME 2019/20
REPORT OF THE SERVICE DIRECTOR: LEGAL AND COMMUNITY
EXECUTIVE MEMBER – LEADER OF THE COUNCIL (COUNCILLOR MRS. L. A. NEEDHAM)

1. EXECUTIVE SUMMARY

1.1 The Council is required on an annual basis to adopt a Members' Allowances Scheme (the Scheme) which comes into effect from 1 April each year. The recommended Scheme appended at B is based on the last Independent Remuneration Panel's ('the Panel') recommendations for 2017/18 at Appendix A, for the reasons set out in the report. The Council is also ask to consider the payment of a proposed Honorarium to Panel members to assist with recruitment/ or where possible, the appointment of neighbouring authorities' members to the NHDC Panel.

2. RECOMMENDATIONS

That the Council:

- 2.1 agrees the Scheme for financial year 2019/20 as set out in Appendix B¹;
- 2.2 agrees to the payment of an Honorarium of £500 to each member of the Panel, for any year that a Panel reviews and prepares a report on Members' Allowances.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that the Council meets statutory requirements. Improve the possibility of having a Panel to review Members' allowances.

4. ALTERNATIVE OPTIONS CONSIDERED

Recommendation 2.1:

- 4.1. Under the relevant legislation (detailed below), prior to the beginning of the (financial) year the Council must approve a Scheme of basic and other prescribed Member's Allowances².
- 4.2. In making or amending a Scheme the Council shall have regard to the recommendations made by the Panel. The last time the Panel considered and made recommendations was in 2016 for 2017/18 (as approved by Full Council in January 2017). The minimum number of Panel members is three and the Council currently only has one Panel member; therefore, there is no Panel at NHDC who can legally consider this issue. The Council undertook a recruitment exercise in September/ October 2018, however, it did not receive any applications. See also consultations with Group Leaders under section 5.

¹ Amended as per the tracked changes.

² Regulation 10 The Local Authorities (Members' Allowances) (England) Regulations 2003

- 4.3. Otherwise, the only recommendations that can be considered are those recommended to Council in January 2017 for 2017/18. The only potential variation to the Scheme at Appendix B relates to the redistribution of the Cabinet Members allowances as detailed under section 7 of the report, namely the allowance of £7000 between the then seven Executive Members could become £8,166 between six Executive Members, as per section 9.4 of Appendix B, and the further changes that apply due to Group Membership numbers for the Opposition and Third Party Leaders.

Recommendation 2.2:

- 4.4. In respect of recommendation 2.2, the Council does not currently pay an allowance/ Honorarium and could chose to continue not to do so. However, given the recent recruitment exercise, it is envisaged that this would limit the Council's ability to appoint sufficient Panel members. It is therefore not advised.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1. All Group Leaders were consulted on the issue of the Scheme potentially remaining at the 2017/18 levels, *prior to the final recruitment outcome being confirmed*. It is understood that they further consulted their Groups and confirmed that they were prepared for the Members Allowances to effectively remaining at 2017/18 levels. The Council has, however, subsequently been unable to recruit sufficient Panel members in any event to undertake the necessary review. Therefore the annual Scheme can only be made with reference to the last Panel recommendations for 2017/18.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan, as this is a decision of full Council.

7. BACKGROUND

- 7.1. The Council is required under the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) to agree on an annual basis a Scheme of Allowances payable to Members' for the following financial year. Under the Regulations, when making or amending a Scheme, the Council is required to have regard to the recommendations of an Independent Remuneration Panel (Regulation 19). The Regulations state that before the beginning of each year the authority shall make a Scheme for the allowances for that year. The Members Allowance Scheme is comprehensive and includes Basic Allowances, Special Responsibility Allowances (for posts which carry specific responsibilities) and other allowances and expenses that may be claimed.
- 7.2. A Panel last made recommendations following a review in 2016 and these were approved by Full Council on 19 January 2017³. The recommendations of the Panel at the time were based upon comparisons with other local authority Schemes, and were

³ [Appendix B - Draft Members' Allowances Scheme 2017/18 based on the advice of the Panel](#)

set out in the Appendix to the 2017 report⁴. Minor errors at the time were corrected by Full Council and the approved Scheme was made available on the Council's website⁵.

- 7.3. On 18 January 2018 Members' Allowances were considered again by Full Council when a proposal was put forwards to increase the 2017/18 Allowances by 2% for implementation on 1 April for 2018/19 (as a form of indexation). In order for the Council to approve such an increase, however, this would have had to be approved in the original report of 2016, or by way of a mini review prior to implementation. The Panel at the time was unwilling to consider the situation due to the timescales and therefore in the absence of such approval the 2% increase could not legally be paid.
- 7.4. Members were notified via the Member Information Service on 29 March 2018 that the allowances that they thought they had approved could not be paid. Full Council subsequently considered the issue at its April meeting following a motion by the Leader of Council, noting that the decision of 18 January 2018 had been improperly made and that the adopted Scheme for 2017/18 would remain in place without amendment for 2018/19⁶.

8. RELEVANT CONSIDERATIONS

Adoption of a Scheme for 2019/20

- 8.1. The Council only has one current Panel member (whose term ends on or about 1 January 2020). A recruitment exercise was started in late September (including a press release and adverts in the Royston Crow and Comet), with proposed close and interview dates in October. During this time, discussions also took place with all Group Leaders regarding allowances and the possibility that these would remain at the level approved for 2017/18. All Group Leaders confirmed that this proposal could be put forward to Council. Subsequently, the Council received no applications for Panel membership and therefore does not have sufficient members to undertake a further review of Members' allowances at this time in any event.
- 8.2. The Council has to consider and approve a Scheme annually, and as indicated that can only be approved having considered the recommendations of a Panel (which was last made in 2016 for 2017/18). The recommendations and approved Scheme for 2017/18 are Appended at A and B (B showing proposed changes for 2019/20).
- 8.3. Members should note, however, that pensions are referred to in the 2017/18 Scheme. As from 1 April 2014, Councillors in England were unable to join the Local Government Pension Scheme (LGPS). Those Members in England who were in the Scheme on the 31 March 2014 were able to remain in the Scheme until the end of their current term of office. Councillors in England are not able to re-join the LGPS in any subsequent term of office in which they served⁷.
- 8.4. As per the Panel report (Appendix A), the following are therefore potentially payable in terms of the Basic and Special Responsibility Allowances:

⁴ [Appendix A - The advice of the Independent Remuneration Panel](#); & [Annex 1 to Appendix A](#), NB at the 2017 meeting an Errata was tabled to correct: Paragraph 4.6 - The survey results (Annex1) referred to are attached to this note; & Paragraph 17 - Cabinet Members: should read: £7,000

⁵ [Members' Allowances Scheme 2017/18](#)

⁶ Full motion and minutes on: <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=136&MId=155&Ver=4>

⁷ LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

The Basic Allowance £5000

The Special Responsibility Allowance (SRA):

- **Leader: £15,000**
- **Deputy Leader: £1,500**
- **Cabinet: £8166**

[Note at 9.4 of the report, the Panel indicated that should the number of NHDC Cabinet Members be reduced it would be “appropriate to consider sharing the Allowance amongst the remaining roles”. There is currently one less Executive Member and therefore the amount above reflects 6 Executive Members].

- **Opposition Leader & Leader of the Third Party:** £3,500 for the Leader of the Opposition and an allowance of £1750 per annum for the Leader of the Liberal Democrats. *Note this is variable according to size of the Group at £250 per Group member and part year payment applicable.*
- **Chairmen of Planning Control, Overview and Scrutiny, and Finance, Audit and Risk**
 - a) **Chairman of Planning Control: £6,000 per annum.**
 - b) **Chairman of Overview and Scrutiny: £3,500 per annum.**
 - c) **Chairman of Finance Audit and Risk: £3,000 per annum.**
- **Area Committee Chairmen: £2,000 per annum.**

Subsistence Allowances: were also dealt with the original Panel report at paragraph 14, and this has been included in the proposed Scheme at Appendix B.

Other Allowances are as set out under Appendix B. Payments under the Scheme are subject to income tax and national insurance.

- 8.5. Whilst this Scheme would be the adopted Scheme for 2019/20, should Group Membership numbers change, then there is flexibility within the current arrangements to re-align payments for the Opposition and Third party group Leaders.

Further recruitment/ appointment & potential Honorarium:

- 8.6. The Council undertook a recruitment exercise in September/ October 2018 and unfortunately received no applications. The Council will need to recruit / appoint at least two further Panel members to complete a review and report in 2019 for 2020-21. It is possible to consider approaching other local authorities to see if their Panel members would consider becoming part of the NHDC Panel (and to be appointed accordingly) and/ or undertake a further recruitment exercise. In either situation it is anticipated that the payment of an Honorarium (to be payable for any years that the Panel review Members Allowances and make recommendations), *may* encourage applications, or a Panel member from another authority to be willing to undertake this role for NHDC. It is understood that one of the nearest local authorities (East Hertfordshire) pays an Honorarium to its Panel members of £250 each per annum (by way of an effective annual retainer). The appointment of Panel members is currently delegated to the Service Director: Resources having consulted the Monitoring Officer and Group Leaders as to any reason why member(s) are not independent⁸ .
- 8.7. It is proposed that following the Council's decision on this issue a further exercise will be undertaken, with the view that a more detailed review is carried out by the Panel (and the issue of indexation considered at the same time), during 2019.

⁸ Section 14.6.12(vi).

9. LEGAL IMPLICATIONS

- 9.1. The Local Government and Housing Act 1989, Local Government Act 2000 and the Local Authorities (Members' Allowances) (England) Regulations 2003/1021 (as amended) make provisions (as described) regarding the setting of Members Allowances. Regulation 10(1)-(2) provides that before the beginning of each year, an authority shall make the Scheme required for payment of basic and other allowances. The Scheme may also be amended at any time (following the advice of a Panel), but may only be revoked (when new Executive arrangements/ alternative arrangements are adopted) with effect from the beginning of the year (Regulation 10(4)). Where an amendment is made, it is possible under Regulation 10(6) for the Panel to recommend that an allowance payable in that year can be backdated to apply from the beginning of the year (Regulations 10(6)). Therefore, during 2019/20 once a Panel is appointed, it is possible for the Panel to review and consider any marked disparities that arise following the elections in 2019 / report, so that this can be "backdated".
- 9.2. In respect of the Honoraria: An authority may also pay the expenses incurred by a Panel for carrying out its functions and may pay the members of the Panel such allowances or expenses as the authority or authorities for which it makes recommendations may determine as per Regulation 20(2).
- 9.3. The adopted Scheme must be published in at least one or more newspapers "circulating" in the District area under Regulation 16.
- 9.4. The function of making any Scheme authorised or required by regulations under section 18 (Schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989, or of amending, revoking or replacing any such Scheme, is a Full Council responsibility, by virtue of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853. This is therefore detailed as a function and reserved to Full Council under section 4.4.1(i).

10. FINANCIAL IMPLICATIONS

- 10.1 The current base budget includes provision of £339, 600 for Members allowances. An additional amount is required to cover the payments to the Opposition and Third Party Leaders (to cover their increased membership of £1500) i.e. a base budget of £341,100.
- 10.2 Additionally as part of the budget-setting process for 2019/20, Council will be asked to agree a budget pressure of £1,500 per year on an ongoing basis. This will fund Honoraria for three panel members at £500 each per year.
- 10.3 The Scheme will have to be advertised in one or more local papers at a cost in the region of £200-400, which should be covered by existing budget provision.

11. RISK IMPLICATIONS

- 11.1 None contained within this report.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The inclusion of the dependent carers and childcare allowance continues to provide assistance to Councillors' to fulfil their responsibilities and provide recompense to them.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 Members allowances are paid by the payroll provider currently Serco and any changes need to be notified to the provider to ensure the correct rates are paid. Committee Services process councillors pay

15. APPENDICES

- 15.1. Appendix A - Report of IRP Panel for 2017/18 Allowances;
- 15.2. Appendix B - Allowances 2017-18 approved for 2018-19 and proposed for approval 2019-20 as amended.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 19 January 2017 Full Council page containing relevant reports, appendices and minutes: <https://democracy.north-herts.gov.uk/CeListDocuments.aspx?Committeeld=136&MeetingId=517&DF=19%2f01%2f2017&Ver=2>